UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-FIFTH CONGRESS
OF THE UNITED STATES OF AMERICA

1978

AND

PROCLAMATIONS

VOLUME 92

IN THREE PARTS

PART 1

PUBLIC LAWS 95–224 THROUGH 95–472

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CONTENTS

PART 1

	Page
List of Bills Enacted Into Public Law	v
List of Public Laws	ix
List of Reorganization Plans	xli
List of Bills Enacted Into Private Law	xliii
List of Private Laws	xlv
List of Concurrent Resolutions	li
List of Proclamations	liii
Public Laws (95–224 Through 95–472)	3
Subject Index	A1
Individual Index	B1

PART 2

	Page
List of Bills Enacted Into Public Law	v
List of Public Laws	ix
List of Reorganization Plans	xli
List of Bills Enacted Into Private Law	xliii
List of Private Laws	xlv
List of Concurrent Resolutions	li
List of Proclamations	liii
Public Laws (95–473 Through 95–598)	1337
Subject Index	A1
Individual Index	B1

PART 3

	Page
List of Bills Enacted Into Public Law	v
List of Public Laws	ix
List of Reorganization Plans	xli
List of Bills Enacted Into Private Law	xliii
List of Private Laws	xlv
List of Concurrent Resolutions	li
List of Proclamations	liii
Public Laws (95–599 Through 95–633)	2689
Reorganization Plans	3781
Proposed Amendment to the Constitution	3795
Joint Resolution	3799
Private Laws	3803
Concurrent Resolutions	3865
Proclamations	3907
Subject Index	A1
Individual Index	B1

LIST OF BILLS ENACTED INTO PUBLIC LAW

THE NINETY-FIFTH CONGRESS OF THE UNITED STATES

SECOND SESSION, 1978

Bill No	Public Law No
H.R. 15	95-561
H.R. 50	95-523
H.R. 130	95-297
H.R. 185	95-362
H.R. 1337	95-458
H.R. 1920	95-423
H.R. 2176	95-320
H.R. 2329	95-616
H.R. 2540	95-264
H.R. 2719	95-230
H.R. 2777	95-351
H.R. 2931	95-368
H.R. 2960	95-260
H.R. 3185	95-585
H.R. 3447	95-317
H.R. 3454	95-237
H.R. 3489	95-323
H.R. 3532	95-357
H.R. 3702	95-397
H.R. 3755	95-318
H.R. 3813	95-250
H.R. 4018	95-617
H.R. 4270	95-324
H.R. 4319	95-583
H.R. 4544	95-239
H.R. 4727	95-540
H.R. 4979	95-265
H.R. 5029	95-520
H.R. 5037	95-619
H.R. 5054	95-228
H.R. 5146	95-620
H.R. 5176	95-303
H.R. 5263	95-618
H.R. 5289	95-621
H.R. 5322	95-227
H.R. 5383	95-256
H.R. 5493	95-299
H.R. 5646	95-597
H.R. 5798	95-231
H.R. 5981	95-259
H.R. 6503	95-475
H.R. 6669	95-367
H.R. 6693	95-266
H.R. 6782	95-279
H.R. 6975	95-251
H.R. 7101	95-587
H.R. 7161	95-358
H.R. 7296	95-525
H.R. 7305	95-527
H.R. 7320	95-628
H.R. 7442	95-234
H.R. 7577	95-568
H.R. 7581	95-345
H.R. 7691	95-224
H.R. 7744	95-269
H.R. 7749	95-541
H.R. 7766	95-235
H.R. 7814	95-390
H.R. 7819	95-393
H.R. 7843	95-486
H.R. 7971	95-586
H.R. 8112	95-378
H.R. 8149	95-410
H.R. 8200	95-598
H.R. 8331	95-283
H.R. 8336	95-344
H.R. 8342	95-365
H.R. 8358	95-261
H.R. 8389	95-560
H.R. 8394	95-469
H.R. 8397	95-361
H.R. 8423	95-292
H.R. 8471	95-359
H.R. 8533	95-502
H.R. 8588	95-452
H.R. 8638	95-242
H.R. 8755	95-500
H.R. 8771	95-366
H.R. 8803	95-248
H.R. 8811	95-472
H.R. 8812	95-418
H.R. 9005	95-288
H.R. 9169	95-257
H.R. 9179	95-268
H.R. 9214	95-435
H.R. 9251	95-615
H.R. 9375	95-240
H.R. 9471	95-382
H.R. 9701	95-595
H.R. 9757	95-321
H.R. 9851	95-245
H.R. 9945	95-453
H.R. 9998	95-483
H.R. 10126	95-437
H.R. 10161	95-516
H.R. 10173	95-588
H.R. 10343	95-581
H.R. 10368	95-241
H.R. 10392	95-286
H.R. 10532	95-226
H.R. 10569	95-336
H.R. 10581	95-433
H.R. 10587	95-514
H.R. 10730	95-316
H.R. 10732	95-354
H.R. 10787	95-352
H.R. 10822	95-428
H.R. 10823	95-304
H.R. 10878	95-376
H.R. 10884	95-300
H.R. 10898	95-611
H.R. 10899	95-369
H.R. 10965	95-473
H.R. 10982	95-254
H.R. 11002	95-563
H.R. 11003	95-570
H.R. 11005	95-430
H.R. 11035	95-493
H.R. 11055	95-258
H.R. 11209	95-564
H.R. 11232	95-322
H.R. 11291	95-422
H.R. 11302	95-477
H.R. 11318	95-507
H.R. 11370	95-291
H.R. 11400	95-434
H.R. 11401	95-401
H.R. 11465	95-308
H.R. 11504	95-334
H.R. 11518	95-252
H.R. 11567	95-425
H.R. 11579	95-353
H.R. 11657	95-295
H.R. 11658	95-505
H.R. 11662	95-290
H.R. 11671	95-542
H.R. 11686	95-509
H.R. 11713	95-315
H.R. 11773	95-599
H.R. 11777	95-313
H.R. 11778	95-307
H.R. 11779	95-306
H.R. 11832	95-338
H.R. 11877	95-331
H.R. 11886	95-479
H.R. 11945	95-517
H.R. 12026	95-450

Bill No.	Public Law No.
H.R. 12028	95-476
H.R. 12051	95-497
H.R. 12106	95-363
H.R. 12112	95-518
H.R. 12116	95-526
H.R. 12138	95-340
H.R. 12140	95-576
H.R. 12165	95-508
H.R. 12222	95-424
H.R. 12240	95-370
H.R. 12250	95-495
H.R. 12255	95-478
H.R. 12264	95-494
H.R. 12393	95-582
H.R. 12426	95-339
H.R. 12443	95-412
H.R. 12467	95-602
H.R. 12508	95-417
H.R. 12509	95-549
H.R. 12571	95-314
H.R. 12598	95-426
H.R. 12602	95-356
H.R. 12603	95-455
H.R. 12605	95-567
H.R. 12634	95-543
H.R. 12637	95-326
H.R. 12772	95-394
H.R. 12841	95-427
H.R. 12860	95-395
H.R. 12874	95-590
H.R. 12915	95-379
H.R. 12927	95-374
H.R. 12929	95-480
H.R. 12930	95-429
H.R. 12931	95-481
H.R. 12932	95-465
H.R. 12933	95-335
H.R. 12934	95-431
H.R. 12935	95-391
H.R. 12936	95-392
H.R. 13087	95-380
H.R. 13125	95-448
H.R. 13167	95-488
H.R. 13187	95-544
H.R. 13349	95-432
H.R. 13372	95-552
H.R. 13385	95-333
H.R. 13416	95-551
H.R. 13418	95-510
H.R. 13467	95-355
H.R. 13468	95-373
H.R. 13481	95-522
H.R. 13500	95-591
H.R. 13511	95-600
H.R. 13514	95-545
H.R. 13597	95-577
H.R. 13635	95-457
H.R. 13650	95-604
H.R. 13692	95-462
H.R. 13702	95-556
H.R. 13745	95-420
H.R. 13767	95-506
H.R. 13797	95-484
H.R. 13803	95-489
H.R. 13808	95-528
H.R. 13809	95-529
H.R. 13892	95-530
H.R. 13903	95-589
H.R. 13972	95-546
H.R. 13989	95-547
H.R. 13991	95-459
H.R. 14026	95-487
H.R. 14175	95-573
H.R. 14223	95-531
H.R. 14224	95-571
H.R. 14279	95-630
H.R. 14295	95-532
H.J. Res. 386	95-229
H.J. Res. 578	95-267
H.J. Res. 613	95-325
H.J. Res. 649	95-272
H.J. Res. 682	95-350
H.J. Res. 685	95-463
H.J. Res. 715	95-253
H.J. Res. 746	95-246
H.J. Res. 747	95-533
H.J. Res. 770	95-262
H.J. Res. 773	95-364
H.J. Res. 796	95-255
H.J. Res. 816	95-534
H.J. Res. 859	95-282
H.J. Res. 873	95-284
H.J. Res. 944	95-301
H.J. Res. 945	95-332
H.J. Res. 946	95-347
H.J. Res. 963	95-349
H.J. Res. 995	95-309
H.J. Res. 1007	95-419
H.J. Res. 1014	95-371
H.J. Res. 1024	95-330
H.J. Res. 1088	95-415
H.J. Res. 1139	95-482
H.J. Res. 1140	95-407
H.J. Res. 1147	95-513
H.J. Res. 1173	95-594
S. 9	95-372
S. 266	95-236
S. 274	95-610
S. 286	95-439
S. 409	95-436
S. 415	95-464
S. 425	95-438
S. 482	95-280
S. 553	95-614
S. 555	95-521
S. 661	95-281
S. 682	95-474
S. 703	95-593
S. 773	95-247
S. 785	95-337
S. 791	95-625
S. 838	95-243
S. 917	95-278
S. 920	95-342
S. 947	95-329
S. 976	95-562
S. 990	95-603
S. 995	95-555
S. 1029	95-569
S. 1081	95-496
S. 1103	95-387
S. 1185	95-515
S. 1214	95-608
S. 1215	95-471
S. 1265	95-416
S. 1267	95-440
S. 1291	95-327
S. 1315	95-539
S. 1318	95-490
S. 1340	95-238
S. 1360	95-233
S. 1403	95-550
S. 1487	95-575
S. 1509	95-232
S. 1566	95-511
S. 1568	95-285
S. 1582	95-328
S. 1585	95-225
S. 1617	95-273
S. 1626	95-519
S. 1633	95-375
S. 1640	95-296
S. 1671	95-249
S. 1678	95-396
S. 1792	95-293
S. 1816	95-592
S. 1829	95-629
S. 1835	95-580
S. 1896	95-403
S. 2033	95-310
S. 2049	95-535
S. 2075	95-572
S. 2076	95-244
S. 2093	95-612
S. 2220	95-277
S. 2247	95-579
S. 2249	95-456
S. 2351	95-311
S. 2358	95-499
S. 2370	95-289
S. 2376	95-470
S. 2380	95-302
S. 2391	95-405
S. 2399	95-633
S. 2401	95-319
S. 2403	95-536
S. 2411	95-503
S. 2424	95-346
S. 2450	95-622
S. 2452	95-270
S. 2463	95-343
S. 2466	95-623
S. 2474	95-626
S. 2493	95-504
S. 2507	95-414
S. 2522	95-613
S. 2534	95-559
S. 2539	95-566
S. 2543	95-360
S. 2553	95-298

Bill No.	Public Law No.
S. 2556	95-388
S. 2570	95-524
S. 2584	95-601
S. 2588	95-498
S. 2597	95-271
S. 2640	95-454
S. 2701	95-404
S. 2704	95-467
S. 2727	95-606
S. 2774	95-605
S. 2788	95-565
S. 2796	95-631
S. 2801	95-468
S. 2820	95-578
S. 2821	95-348
S. 2899	95-632
S. 2916	95-461
S. 2928	95-381
S. 2946	95-441
S. 2951	95-442
S. 2973	95-305
S. 2981	95-607
S. 3002	95-399
S. 3036	95-447
S. 3040	95-421
S. 3045	95-443
S. 3067	95-444
S. 3069	95-398
S. 3075	95-384
S. 3081	95-574
S. 3083	95-609
S. 3084	95-557
S. 3085	95-627
S. 3092	95-445
S. 3107	95-383
S. 3112	95-548
S. 3119	95-385
S. 3120	95-386
S. 3151	95-624
S. 3189	95-554
S. 3259	95-491
S. 3271	95-400
S. 3272	95-409
S. 3274	95-446
S. 3336	95-537
S. 3342	95-413
S. 3371	95-584
S. 3373	95-492
S. 3375	95-408
S. 3384	95-460
S. 3412	95-512
S. 3447	95-501
S. 3454	95-377
S. 3467	95-451
S. 3468	95-402
S. 3486	95-485
S. 3540	95-538
S. 3551	95-553
S. 3595	95-558
S.J. Res. 16	95-466
S.J. Res. 29	95-449
S.J. Res. 102	95-341
S.J. Res. 106	95-274
S.J. Res. 107	95-275
S.J. Res. 108	95-276
S.J. Res. 124	95-263
S.J. Res. 128	95-312
S.J. Res. 133	95-389
S.J. Res. 137	95-287
S.J. Res. 140	95-294
S.J. Res. 154	95-411
S.J. Res. 160	95-596
S.J. Res. 165	95-406

LIST OF PUBLIC LAWS

CONTAINED IN THIS VOLUME

Public Law		Date	Page
95-224	*Federal Grant and Cooperative Agreement Act of 1977.* AN ACT To distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes	Feb. 3, 1978	3
95-225	*Protection of Children Against Sexual Exploitation Act of 1977.* AN ACT To amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes	Feb. 6, 1978	7
95-226	*Emergency drought relief measures, construction extension.* AN ACT To amend Public Law 95-18, providing for emergency drought relief measures	Feb. 7, 1978	10
95-227	*Black Lung Benefits Revenue Act of 1977.* AN ACT To impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes	Feb. 10, 1978	11
95-228	*Executive agencies, apportionment requirement, repeal.* AN ACT To repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia	Feb. 10, 1978	25
95-229	*Bicentennial medals.* JOINT RESOLUTION To provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1777	Feb. 14, 1978	26
95-230	*Middle Rio Grande Conservancy District, N. Mex., payment contract.* AN ACT To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands	Feb. 15, 1978	28
95-231	*Rail Public Counsel, appropriation authorization.* AN ACT To amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978	Feb. 15, 1978	29
95-232	*Certain Indian pueblos, N. Mex., lands in trust.* AN ACT To provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes	Feb. 17, 1978	30
95-233	*National Forest Management Act of 1976, amendment, timber sales.* AN ACT To amend section 14(e) of the National Forest Management Act of 1976	Feb. 20, 1978	32
95-234	*Communications Act Amendments of 1978.* AN ACT To amend the Communications Act of 1934 to provide for the regulation of utility pole attachments	Feb. 21, 1978	33
95-235	*U.S. Postal Service. public air space use agreement with District of Columbia.* AN ACT To authorize the Mayor of the District of Columbia to enter into an agreement with the United States Postal Service with respect to the use of certain public air space in the District of Columbia	Feb. 21, 1978	37

Public Law		Date	Page
95-236	*Radiation exposure, remedial action.* AN ACT To authorize appropriations for financial assistance to limit radiation exposure to the public from uranium mill tailings used for construction, and for other purposes	Feb. 21, 1978	38
95-237	*Endangered American Wilderness Act of 1978.* AN ACT To designate certain endangered public lands for preservation as wilderness, and for other purposes	Feb. 24, 1978	40
95-238	*Department of Energy Act of 1978—Civilian Applications.* AN ACT To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes	Feb. 25, 1978	47
95-239	*Black Lung Benefits Reform Act of 1977.* AN ACT To amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes	Mar. 1, 1978	95
95-240	*Supplemental Appropriations Act, 1978.* AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	Mar. 7, 1978	107
95-241	*Federal Aviation Act of 1958, amendment.* AN ACT To amend the Federal Aviation Act of 1958 relating to eligibility for registration of aircraft	Mar. 8, 1978	119
95-242	*Nuclear Non-Proliferation Act of 1978.* AN ACT To provide for more efficient and effective control over the proliferation of nuclear explosive capability	Mar. 10, 1978	120
95-243	*Indian Claims Commission Act, amendment.* AN ACT To amend the Indian Claims Commission Act of August 13, 1946, and for other purposes	Mar. 13, 1978	153
95-244	*Grand Canyon National Park, Ariz., educational payments.* AN ACT To provide the Secretary of the Interior to make payments to appropriate school districts to assist in providing educational facilities and services for persons living within or near the Grand Canyon National Park on nontaxable Federal lands, and for other purposes	Mar. 14, 1978	154
95-245	*Federal Aviaton Act of 1958, amendment.* AN ACT To amend the Federal Aviation Act of 1958 to improve cargo air service	Mar. 14, 1978	156
95-246	*Southwestern Power Administration, supplemental appropriation.* JOINT RESOLUTION Making urgent power supplemental appropriations for the Department of Energy, Southwestern Power Administration for the fiscal year ending September 30, 1978	Mar. 15, 1978	157
95-247	*Wichita Indian Tribe of Oklahoma, claims against the U.S.* AN ACT Authorizing the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation, and for other purposes	Mar. 21, 1978	158
95-248	*National Trails System Act, amendment.* AN ACT To amend the National Trails System Act, and for other purposes	Mar. 21, 1978	159
95-249	*Absaroka-Beartooth Wilderness, Mont., designation.* AN ACT To designate the Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, in the State of Montana	Mar. 27, 1978	162
95-250	*Redwood National Park, expansion, employment program.* AN ACT To amend the Act of October 2, 1968, an Act to establish a Redwood National Park in the State of California, and for other purposes	Mar. 27, 1978	163

Public Law		Date	Page
95-251	*Hearing examiners reclassified as administrative law judges.* AN ACT To amend title 5, United States Code, to provide that hearing examiners shall be known as administrative law judges, and to increase the number of such positions which the Civil Service Commission may establish and place at GS-16 of the General Schedule	Mar. 27, 1978	183
95-252	*Public debt limit, temporary increase.* AN ACT To extend the existing temporary debt limit	Mar. 27, 1978	185
95-253	*Sun Day, proclamation authorization.* JOINT RESOLUTION Proclaiming May 3, 1978, "Sun Day"	Mar. 27, 1978	186
95-254	*Certain budget authority, rescission.* AN ACT To rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95-285), transmitted pursuant to the Impoundment Control Act of 1974	Apr. 4, 1978	187
95-255	*Supplemental appropriations, disaster relief.* JOINT RESOLUTION Making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978	Apr. 4, 1978	188
95-256	*Age Discrimination in Employment Act Amendments of 1978.* AN ACT To amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes	Apr. 6, 1978	189
95-257	*Fishing vessels, obligations for financing.* AN ACT To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel	Apr. 7, 1978	194
95-258	*Taxes, certain crop payments, State legislators' travel expenses.* AN ACT Relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978 but attributable to 1977, and to extend for one year the existing treatment of State legislators' travel expenses away from home	Apr. 7, 1978	195
95-259	*American Folklife Center, appropriation authorization.* AN ACT To amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such Act	Apr. 17, 1978	196
95-260	*Signers of Declaration of Independence, memorial.* AN ACT To authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia	Apr. 17, 1978	197
95-261	*Depository libraries, designation.* AN ACT To amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications	Apr. 17, 1978	199
95-262	*Education Day, U.S.A., designation authorization.* JOINT RESOLUTION To authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."	Apr. 17, 1978	200
95-263	*National Oceans Week, designation authorization.* JOINT RESOLUTION To authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week"	Apr. 17, 1978	201
95-264	*Umatilla Indian Reservation, Oreg., inheritance of trust or restricted lands.* AN ACT Pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation	Apr. 18, 1978	202

Public Law		Date	Page
95-265	*Mineral, Nev., land conveyance.* AN ACT To direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada	Apr. 24, 1978	203
95-266	*Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.* AN ACT To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes	Apr. 24, 1978	205
95-267	*National Architectural Barrier Awareness Week, designation authorization.* JOINT RESOLUTION Authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week"	Apr. 24, 1978	212
95-268	*Overseas Private Investment Corporation Amendments Act of 1978.* AN ACT To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation	Apr. 24, 1978	213
95-269	*Rivers and harbors, improvements.* AN ACT To amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes	Apr. 26, 1978	218
95-270	*Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act.* AN ACT To authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center	Apr. 27, 1978	220
95-271	*New York District Court relocation.* AN ACT To amend title 28, United States Code, to move the place for holding court for the district court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes	Apr. 28, 1978	221
95-272	*1979 White House Conference on the Arts Act.* JOINT RESOLUTION To authorize the President to call a White House Conference on the Arts, and to authorize the President to call a White House Conference on the Humanities	May 3, 1978	222
95-273	*National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.* AN ACT To establish a program of ocean pollution research, development, and monitoring, and for other purposes	May 8, 1978	228
95-274	*Smithsonian Institution, reappointment of A. Leon Higginbotham, Jr., as a citizen regent of the Board of Regents.* JOINT RESOLUTION To provide for the reappointment of A. Leon Higginbotham, Junior, as a citizen regent of the Board of Regents of the Smithsonian Institution	May 10, 1978	233
95-275	*Smithsonian Institution, reappointment of John Paul Austin as a citizen regent of the Board of Regents.* JOINT RESOLUTION To provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution	May 10, 1978	234
95-276	*Smithsonian Institution, appointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents.* JOINT RESOLUTION To provide for the appointment of Anne Legendre Armstrong as citizen regent of the Board of Regents of the Smithsonian Institution	May 10, 1978	235
95-277	*Library of Congress Trust Fund Board.* AN ACT To authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board	May 12, 1978	236

Public Law		Date	Page
95-278	*University of Nevada, land conveyance.* AN ACT To provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nevada, to the University of Nevada	May 12, 1978	237
95-279	*Wheat, feed grains, and upland cotton, emergency assistance.* AN ACT To provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes	May 15, 1978	240
95-280	*Zuni Indian Tribe, N. Mex., lands in trust.* AN ACT To direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe	May 15, 1978	244
95-281	*Indian tribes of Oklahoma, reinstatement.* AN ACT To reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes	May 15, 1978	246
95-282	*U.S. Railway Association, supplemental appropriation.* JOINT RESOLUTION Making supplemental appropriations for the United States Railway Association for the fiscal year ending September 30, 1978, and for other purposes	May 19, 1978	248
95-283	*Securities Investor Protection Act Amendments of 1978.* AN ACT To amend the Securities Investor Protection Act of 1970	May 21, 1978	249
95-284	*Supplemental appropriations for fiscal year 1978.* JOINT RESOLUTION Making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978, and for other purposes	May 21, 1978	276
95-285	*Lake Herbert G. West, memorial designation.* AN ACT To name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West"	May 25, 1978	277
95-286	*Woodrow Wilson Memorial Act of 1968, amendment.* AN ACT To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship	May 26, 1978	278
95-287	*North Atlantic Alliance.* JOINT RESOLUTION Reaffirming the unity of the North Atlantic Alliance commitment	May 30, 1978	280
95-288	*District of Columbia Appropriation Act, 1978.* AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes	June 5, 1978	281
95-289	*Volunteers in the National Forests Act of 1972, amendment.* AN ACT To remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972	June 5, 1978	289
95-290	*Lowell National Historical Park, Mass.* AN ACT To provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes	June 5, 1978	290
95-291	*Social Security Act, expenditure reimbursement, appropriation authorization.* AN ACT To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV-A, VI, X, XIV, and XVI of the Social Security Act	June 12, 1978	304

Public Law		Date	Page
95-292	*Social Security Act, amendment, end stage renal disease program.* AN ACT To amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that Act, and for other purposes	June 13, 1978	307
95-293	*Administrative Conference Act, amendment.* AN ACT To amend the Administrative Conference Act	June 13, 1978	317
95-294	*American University Press Day, designation authorization.* JOINT RESOLUTION To authorize and request the President to proclaim June 11, 1978, as "American University Press Day" to commemorate the centennial of university press publishing in America	June 14, 1978	318
95-295	*Central, Western, and South Pacific Fisheries Development Act, amendment.* AN ACT To amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the United States fisheries development effort, and to cooperate in the formation and research of the South Pacific regional fishery agency, and for other purposes	June 16, 1978	319
95-296	*Mike Monroney Aeronautical Center, Oklahoma City, Okla.* AN ACT To designate the Mike Monroney Aeronautical Center	June 19, 1978	321
95-297	*Petroleum Marketing Practices Act.* AN ACT To provide for the protection of franchised distributors and retailers of motor fuel and to encourage conservation of automotive gasoline and competition in the marketing of such gasoline by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers	June 19, 1978	322
95-298	*Maritime Appropriation Authorization Act for Fiscal Year 1979.* AN ACT To authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes	June 26, 1978	339
95-299	*Great Dismal Swamp and San Francisco Bay National Wildlife Refuges, appropriation authorization, extension.* AN ACT To extend until October 1, 1980, the appropriation authorizations for the Great Dismal Swamp and San Francisco Bay National Wildlife Refuges	June 26, 1978	341
95-300	*Council on Environmental Quality, appropriation authorization.* AN ACT To authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981	June 26, 1978	342
95-301	*Supplemental appropriations for fiscal year 1978.* JOINT RESOLUTION Making urgent grain inspection supplemental appropriations for the Department of Agriculture, Federal Grain Inspection Service, for the fiscal year ending September 30, 1978	June 26, 1978	343
95-302	*Intervention on the High Seas Act, amendment.* AN ACT To amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil, 1973	June 26, 1978	344
95-303	*Levulose, lower duty.* AN ACT To lower the duty on levulose until the close of June 30, 1980	June 29, 1978	346
95-304	*National Advisory Committee on Oceans and Atmosphere Act of 1977, amendment.* AN ACT To amend the National Advisory Committee on Oceans and Atmoshere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes	June 29, 1978	347

Public Law		Date	Page
95-305	*John F. Kennedy Center, appropriation authorization.* AN ACT Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes	June 29, 1978	348
95-306	*Renewable Resources Extension Act of 1978.* AN ACT To provide for an expanded and comprehensive extension program for forest and rangeland renewable resources	June 30, 1978	349
95-307	*Forest and Rangeland Renewable Resources Research Act of 1978.* AN ACT To direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, and for other purposes	June 30, 1978	353
95-308	*U.S. Coast Guard, appropriation authorization.* AN ACT To authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes	June 30, 1978	358
95-309	*National Brotherhood Day, proclamation authorization.* JOINT RESOLUTION To designate Sunday, June 25, 1978, as "National Brotherhood Day"	June 30, 1978	361
95-310	*Wenatchee National Forest, Wash., land conveyance.* AN ACT To provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture	June 30, 1978	362
95-311	*John L. McClellan Memorial Veterans' Hospital.* AN ACT To designate the proposed new Veterans' Administration hospital in Little Rock, Arkansas, as the "John L. McClellan Memorial Vetrans' Hospital", and for other purposes	June 30, 1978	363
95-312	*Free Enterprise Day, proclamation authorization.* JOINT RESOLUTION Designating July 1, 1978, as "Free Enterprise Day"	June 30, 1978	364
95-313	*Cooperative Forestry Assistance Act of 1978.* AN ACT To authorize the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes	July 1, 1978	365
95-314	*Fishery Conservation Zone Transition Act, amendment.* AN ACT To amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada	July 1, 1978	376
95-315	*Small Business Energy Loan Act.* AN ACT To create a solar energy and energy conservation loan program within the Small Business Administration, and for other purposes	July 4, 1978	377
95-316	*Marine Mammal Protection Act of 1972, amendments.* AN ACT To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981	July 10, 1978	380
95-317	*Civil service retirement annuities.* AN ACT To amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant	July 10, 1978	382
95-318	*Civil service employees.* AN ACT To provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes	July 10, 1978	384

Public Law		Date	Page
95-319	*Emergency Interim Consumer Product Safety Standard Act of 1978.* AN ACT To amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes	July 11, 1978	386
95-320	*Federal Banking Agency Audit Act.* AN ACT To amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes	July 21, 1978	391
95-321	*Public lands grazing fee, moratorium.* AN ACT To impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes	July 21, 1978	394
95-322	*Standard Reference Data Act, appropriation authorization.* AN ACT To authorize appropriations to carry out the Standard Reference Data Act, and to authorize appropriations for the National Bureau of Standards	July 21, 1978	395
95-323	*Merchant Marine Academy, appointments.* AN ACT To amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delgates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes	July 28, 1978	396
95-324	*Federico Degetau Federal Building, designation.* AN ACT To designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building"	July 28, 1978	397
95-325	*National Grandparents Day, designation authorization.* JOINT RESOLUTION To authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day"	July 28, 1978	398
95-326	*North Pacific Fisheries Act, amendments.* AN ACT To amend the North Pacific Fisheries Act of 1954	July 28, 1978	399
95-327	*Cheyenne-Arapaho Indian Tribes, Okla., lands in trust.* AN ACT To declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes	July 28, 1978	407
95-328	*Ak-Chin Indians, water right claims.* AN ACT Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.	July 28, 1978	409
95-329	*Indians, Creek Nation of Oklahoma, land in trust.* AN ACT To declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma	July 28, 1978	412
95-330	*Supplemental appropriations, 1978.* JOINT RESOLUTION Making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978	July 31, 1978	413
95-331	*Peace Corps Act Amendments of 1978.* AN ACT To authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act	Aug. 2, 1978	414

Public Law		Date	Page
95-332	*Black lung program, appropriations for FY 1978.* JOINT RESOLUTION Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978	Aug. 2, 1978	417
95-333	*Public debt limit, temporary increase.* AN ACT To provide for a temporary increase in the public debt limit	Aug. 3, 1978	419
95-334	*Agricultural Credit Act of 1978.* AN ACT To amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes	Aug. 4, 1978	420
95-335	*Department of Transportation and Related Agencies Appropriation Act, 1979.* AN ACT Making appropriations for the Department of Transporation and related agencies for the fiscal year ending September 30, 1979, and for other purposes	Aug. 4, 1978	435
95-336	*Alcohol and Drug Abuse Education Amendments of 1978.* AN ACT To amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act, and for other purposes	Aug. 4, 1978	451
95-337	*Paiute and Shoshone Tribes, Fallon Indian Reservation and Colony, Nev., lands in trust.* AN ACT To declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes	Aug. 4, 1978	455
95-338	*Arms Control and Disarmament Act, amendment, appropriation authorization.* AN ACT To authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes	Aug. 8, 1978	458
95-339	*New York City Loan Guarantee Act of 1978.* AN ACT To authorize the Secretary of the Treasury to provide financial assistance for the city of New York	Aug. 8, 1978	460
95-340	*Chet Holifield Building, Laguna Niguel, Calif.* AN ACT To name a certain Federal building in Laguna Niguel, California, the "Chet Holifield Building"	Aug. 11, 1978	468
95-341	*American Indian Religious Freedom.* JOINT RESOLUTION American Indian Religious Freedom	Aug. 11, 1978	469
95-342	*Lake Murray Recreational Demonstration Area Project, Okla.* AN ACT Relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma	Aug. 11, 1978	471
95-343	*Surface Mining Control and Reclamation Act of 1977, appropriation authorization.* AN ACT To amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes	Aug. 11, 1978	473
95-344	*Chattahoochee River National Recreation Area, Ga., establishment.* AN ACT To authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes	Aug. 15, 1978	474
95-345	*Internal Revenue Code of 1954, amendments.* AN ACT To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes	Aug. 15, 1978	481
95-346	*American Legion, eligibility for membership.* AN ACT To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein	Aug. 17, 1978	485

39-194 O—80—pt 1——2 QL3

Public Law		Date	Page
95-347	*National Guard Day, designation.* JOINT RESOLUTION To designate October 7, 1978, as "National Guard Day"	Aug. 18, 1978	486
95-348	*United States insular areas, appropriation authorization.* AN ACT To authorize appropriations for certain insular areas of the United States, and for other purposes	Aug. 18, 1978	487
95-349	*National P.O.W.-M.I.A. Recognition Day, designation.* JOINT RESOLUTION Designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day"	Aug. 18, 1978	497
95-350	*National Lupus Week, designation.* JOINT RESOLUTION To provide for the designation of a week as "National Lupus Week"	Aug. 18, 1978	498
95-351	*National Consumer Cooperative Bank Act.* AN ACT To provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes	Aug. 20, 1978	499
95-352	*Bureau of Land Management, appropriation authorization.* AN ACT To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management	Aug. 20, 1978	515
95-353	*Olin E. Teague Veterans' Center, Tex., designation.* AN ACT To designate the Veterans' Administration center located at 1901 South First Street, Temple, Texas, as the "Olin E. Teague Veterans' Center"; and for other purposes	Aug. 28, 1978	518
95-354	*Fishery Conservation and Management Act of 1976, amendments, appropriation authorization.* AN ACT To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes	Aug. 28, 1978	519
95-355	*Second Supplemental Appropriations Act, 1978.* AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	Sept. 8, 1978	523
95-356	*Military Construction Authorization Act, 1979.* AN ACT To authorize certain construction at military installations for fiscal year 1979, and for other purposes	Sept. 8, 1979	565
95-357	*Naval Observatory publication, change of name.* AN ACT To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers	Sept. 8, 1978	591
95-358	*Junior ROTC program, extension.* AN ACT To amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program	Sept. 8, 1978	592
95-359	*U.S.S. Wyoming, silver service and other articles, exhibition.* AN ACT To authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the United States Ship *Wyoming* without restriction as to the place of such exhibition.	Sept. 8, 1978	593
95-360	*Fraudulent solicitations through the mails, prevention.* AN ACT To amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails	Sept. 9, 1978	594

Public Law		Date	Page
95-361	*Papago Indian Tribe, lands in trust.* AN ACT To provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation	Sept. 10, 1978	595
95-362	*Coast Guard employees, transportation.* AN ACT To amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment	Sept. 11, 1978	596
95-363	*Independent Safety Board Act Amendment of 1978.* AN ACT To amend the Independent Safety Board Act of 1974 to authorize additional appropriations	Sept. 11, 1978	597
95-364	*National Port Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"	Sept. 15, 1978	598
95-365	*Federal employees, local withholding taxes.* AN ACT To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality	Sept. 15, 1978	599
95-366	*Civil Service Commission, annuities to spouses of retired Federal employees.* AN ACT To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes	Sept. 15, 1978	600
95-367	*National Climate Program Act.* AN ACT To establish a comprehensive and coordinated national climate policy and program, and for other purposes.	Sept. 17, 1978	601
95-368	*Federal employees, uniformity in health benefits, establishment.* AN ACT To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes	Sept. 17, 1978	606
95-369	*International Banking Act of 1978.* AN ACT To provide for Federal regulation of participation by foreign banks in domestic financial markets	Sept. 17, 1978	607
95-370	*Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979.* AN ACT To authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes	Sept. 17, 1978	626
95-371	*Days of Remembrance of Victims of the Holocaust, designation authorization.* JOINT RESOLUTION Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust"	Sept. 18, 1978	628
95-372	*Outer Continental Shelf Lands Act Amendments of 1978.* AN ACT To establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes	Sept. 18, 1978	629
95-373	*District of Columbia Appropriation Act, 1979.* AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes	Sept. 18, 1978	699

Public Law		Date	Page
95-374	*Department of Defense, appropriations.* AN ACT Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes	Sept. 18, 1978	707
95-375	*Pascua Yaqui Indians, Ariz., extension of Federal benefits.* AN ACT To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes	Sept. 18, 1978	712
95-376	*Fishermen's Protective Act of 1967, amendments.* AN ACT To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes	Sept. 18, 1978	714
95-377	*Armed Forces, Air Force grade extension; certain provisions of law, suspension.* AN ACT To amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes	Sept. 19, 1978	719
95-378	*Federal Records Council, abolishment.* AN ACT To repeal chapter 27 of title 44, United States Code	Sept. 22, 1978	723
95-379	*National Archives Trust Fund Board, amendment.* AN ACT To amend section 2301 of title 44, relating to the National Archives Trust Fund Board	Sept. 22, 1978	724
95-380	*Substitute Treasury checks without indemnity, authorization.* AN ACT To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require	Sept. 22, 1978	725
95-381	*International Investment Survey Act of 1976, amendments.* AN ACT To authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes	Sept. 22, 1978	726
95-382	*Japanese-Americans, civil service retirement credit.* AN ACT To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps	Sept. 22, 1978	727
95-383	*Bankruptcy, employees of referees, uniform supervision and control.* AN ACT To amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy	Sept. 22, 1978	729
95-384	*International Security Assistance Act of 1978.* AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes	Sept. 26, 1978	730
95-385	*District of Columbia Redevelopment Land Agency, transfer of U.S. property.* AN ACT To transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency	Sept. 26, 1978	749
95-386	*Temporary Commission on Financial Oversight of the District of Columbia, contractual authority, increase.* AN ACT To enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia	Sept. 26, 1978	750
95-387	*District of Columbia Reciprocal Tax Collection Act.* AN ACT To permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State	Sept. 27, 1978	751
95-388	*District of Columbia Bail Agency, change of name.* AN ACT To change the name of the District of Columbia bail agency to the District of Columbia Pretrial Services Agency	Sept. 27, 1978	753

Public Law		Date	Page
95-389	*National Good Neighbor Day, designation authorization.* JOINT RESOLUTION To authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day"	Sept. 29, 1978	754
95-390	*Federal Employees Flexible and Compressed Work Schedules Act of 1978.* AN ACT To authorize Federal agencies to experiment with flexible and compressed employee work schedules	Sept. 29, 1978	755
95-391	*Legislative Branch Appropriation Act, 1979.* AN ACT Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979, and for other purposes	Sept. 30, 1978	763
95-392	*Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979.* AN ACT Making appropriations for hte Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes	Sept. 30, 1978	791
95-393	*Diplomatic Relations Act.* AN ACT To complement the Vienna Convention on Diplomatic Relations	Sept. 30, 1978	808
95-394	*Ecola State Park, Oreg., land conveyance.* AN ACT To facilitate the exchange of certain lands in the State of Oregon, and for other purposes	Sept. 30, 1978	811
95-395	*Rhode Island Indian Claims Settlement Act.* AN ACT To settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes	Sept. 30, 1978	813
95-396	*Federal Pesticide Act of 1978.* AN ACT To amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended	Sept. 30, 1978	819
95-397	*Uniformed Services Survivors' Benefits Amendments of 1978.* AN ACT To amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes	Sept. 30, 1978	843
95-398	*Sisseton-Wahpeton Sioux Tribe, land conveyance.* AN ACT To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members	Sept. 30, 1978	850
95-399	*Salt River Pima-Maricopa Indian Reservation, Ariz., boundary revision.* AN ACT To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes	Sept. 30, 1978	851
95-400	*Food Stamp Act of 1977, amendment.* AN ACT To amend the pilot project workfare provisions of the Food Stamp Act of 1977	Sept. 30, 1978	856
95-401	*National Aeronautics and Space Administration Authorization Act, 1978.* AN ACT To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes	Sept. 30, 1978	857
95-402	*Cotton price support levels.* AN ACT To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities	Sept. 30, 1978	862

Public Law		Date	Page
95-403	*Hazardous Materials Transportation Act, appropriation authorization.* AN ACT To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979	Sept. 30, 1978	863
95-404	*Water Resources Planning Act, appropriation authorization.* AN ACT To amend the Water Resources Planning Act (79 Stat. 244, as amended)	Sept. 30, 1978	864
95-405	*Futures Trading Act of 1978.* AN ACT To extend the Commodity Exchange Act, and for other purposes	Sept. 30, 1978	865
95-406	*Federal Housing Administration, temporary authority extension.* JOINT RESOLUTION To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes	Sept. 30, 1978	879
95-407	*Export-Import Bank Act of 1945, amendment.* JOINT RESOLUTION To amend section 8 of the Export-Import Bank Act of 1945	Sept. 30, 1978	882
95-408	*Federal District Court Organization Act of 1978.* AN ACT To amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines	Oct. 2, 1978	883
95-409	*Packers and Stockyards Act, 1921, amendments.* AN ACT To amend the Packers and Stockyards Act, 1921, and for other purposes	Oct. 2, 1978	886
95-410	*Customs Procedural Reform and Simplification Act of 1978.* AN ACT To provide customs procedural reform, and for other purposes	Oct. 3, 1978	888
95-411	*International Petroleum Exposition, Tulsa, Okla.* JOINT RESOLUTION Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979	Oct. 5, 1978	906
95-412	*Immigration and Nationality Act, amendment.* AN ACT To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy	Oct. 5, 1978	907
95-413	*Standing Bear Lake, Nebr., designation.* AN ACT To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"	Oct. 5, 1978	910
95-414	*Smithsonian Institution, Museum of African Art, transfer.* AN ACT To authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes	Oct. 5, 1978	911
95-415	*New York City, financial assistance.* JOINT RESOLUTION Providing financial assistance for the city of New York	Oct. 5, 1978	914
95-416	*GSA, transferred records, relating to acceptance and use.* AN ACT To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services	Oct. 5, 1978	915
95-417	*Immigration and Nationality Act, amendments.* AN ACT To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children	Oct. 5, 1978	917

Public Law		Date	Page
95-418	*E. C. "Took" Gathings Building, Ark., designation.* AN ACT To name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"	Oct. 5, 1978	919
95-419	*Asian/Pacific American Heritage Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"	Oct. 5, 1978	920
95-420	*Sikes Act Amendments of 1978.* AN ACT To authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981	Oct. 5, 1978	921
95-421	*Amtrak Improvement Act of 1978.* AN ACT To amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes	Oct. 5, 1978	923
95-422	*Federal Fire Prevention and Control Act of 1974, amendments.* AN ACT To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration	Oct. 5, 1978	932
95-423	*Taxes, alcoholic beverages, excise tax refund.* AN ACT To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale	Oct. 6, 1978	935
95-424	*International Development and Food Assistance Act of 1978.* AN ACT To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes	Oct. 6, 1978	937
95-425	*Securities and Exchange Commission, appropriation authorization.* AN ACT To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes	Oct. 6, 1978	962
95-426	*Foreign Relations Authorization Act, Fiscal Year 1979.* AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.	Oct. 7, 1978	963
95-427	*Taxes, regulations on taxation of fringe benefits, prohibition.* AN ACT To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes	Oct. 7, 1978	996
95-428	*National sea grant program, appropriation authorization.* AN ACT To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes	Oct. 7, 1978	999

Public Law		Date	Page
95-429	*Treasury, Postal Service, and General Government Appropriations Act, 1979.* AN ACT Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes	Oct. 10, 1978	1001
95-430	*United States International Trade Commission, appropriation authorization.* AN ACT To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979	Oct. 10, 1978	1020
95-431	*Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979.* AN ACT Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes	Oct. 10, 1978	1021
95-432	*Immigration and Nationality Act, amendment.* AN ACT To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes	Oct. 10, 1978	1046
95-433	*Indians, judgment funds to certain Indian tribes.* AN ACT Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes	Oct. 10, 1978	1047
95-434	*National Science Foundation Authorization Act for Fiscal Year 1979.* AN ACT To authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds	Oct. 10, 1978	1049
95-435	*Bretton Woods Agreements Act, amendments.* AN ACT To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund	Oct. 10, 1978	1051
95-436	*Roman L. Hruska Meat Animal Research Center, Nebr., designation.* AN ACT To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center"	Oct. 10, 1978	1054
95-437	*Federal Employees Part-Time Career Employment Act of 1978.* AN ACT To amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service	Oct. 10, 1978	1055
95-438	*Lt. Gen. Ira C. Eaker, medal.* AN ACT To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired)	Oct. 10, 1978	1060
95-439	*Animal and plant quarantines, certain requirements repealed.* AN ACT To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes	Oct. 10, 1978	1061
95-440	*General Records Schedules to all Federal agencies, mandatory application.* AN ACT To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents	Oct. 10, 1978	1063
95-441	*Public lands relinquishment.* AN ACT To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control	Oct. 10, 1978	1064

Public Law		Date	Page
95-442	*Gifts and property, acceptance and administration by Secretary of Agriculture.* AN ACT To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs	Oct. 10, 1978	1065
95-443	*Farm credit loans, repayment, extension.* AN ACT To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products	Oct. 10, 1978	1066
95-444	*Civil Rights Commission Act of 1978.* AN ACT To extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes	Oct. 10, 1978	1067
95-445	*Humane Methods of Slaughter Act of 1978.* AN ACT To amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes	Oct. 10, 1978	1069
95-446	*Carl Hayden Bee Research Center, Ariz., designation.* AN ACT To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center"	Oct. 10, 1978	1071
95-447	*Susan B. Anthony Dollar Coin Act of 1978.* AN ACT To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes	Oct. 10, 1978	1072
95-448	*Agriculture, rural development, and related agencies appropriations, fiscal year 1979.* AN ACT Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes	Oct. 11, 1978	1073
95-449	*National Family Week, designation authorization.* JOINT RESOLUTION To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week"	Oct. 11, 1978	1094
95-450	*Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act.* AN ACT To create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness	Oct. 11, 1978	1095
95-451	*W. R. "Bob" Poage Pecan Field Station, Tex., designation.* AN ACT To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station"	Oct. 11, 1978	1100
95-452	*Inspector General Act of 1978.* AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Trasportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes	Oct. 12, 1978	1101

Public Law		Date	Page
95-453	*Indian Claims Commission, activities of Commissioners.* AN ACT To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office	Oct. 12, 1978	1110
95-454	*Civil Service Reform Act of 1978.* AN ACT To reform the civil service laws	Oct. 13, 1978	1111
95-455	*Great Lakes Pilotage Act of 1960, amendment.* AN ACT To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes	Oct. 13, 1978	1228
95-456	*Southwestern Power Administration, rate discrimination, prohibition..* AN ACT To prohibit discrimination in rates charged by the Southwestern Power Administration	Oct. 13, 1978	1230
95-457	*Department of Defense Appropriation Act, 1979.* AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes	Oct. 13, 1978	1231
95-458	*Internal Revenue Code of 1954, amendments.* AN ACT To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions	Oct. 14, 1978	1255
95-459	*Susanville Indian Rancheria, Calif., land in trust.* AN ACT To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land	Oct. 14, 1978	1262
95-460	*Agricultural Foreign Investment Disclosure Act of 1978.* AN ACT To require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes	Oct. 14, 1978	1263
95-461	*Drug Abuse Prevention and Treatment Amendments of 1978.* AN ACT To amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes	Oct. 14, 1978	1268
95-462	*Historic Chattahoochee Compact, Alabama-Georgia, consent of Congress.* AN ACT Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia	Oct. 14, 1978	1271
95-463	*Firefighters' Memorial Sunday, designation authorization.* JOINT RESOLUTION To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day"	Oct. 14, 1978	1276
95-464	*Anadromous Fish Conservation Act, amendment.* AN ACT To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn	Oct. 17, 1978	1278
95-465	*Department of the Interior and related agencies, appropriations, fiscal year 1979.* AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes	Oct. 17, 1978	1279

Public Law		Date	Page
95-466	*Jefferson F. Davis, citizenship restored posthumously.* JOINT RESOLUTION To restore posthumously full rights of citizenship to Jefferson F. Davis	Oct. 17, 1978	1304
95-467	*Water Research and Development Act of 1978.* AN ACT To promote a more adequate and responsive national program of water research and development, and for other purposes	Oct. 17, 1978	1305
95-468	*Henry R. Koen Forest Service Building, Ark., designation.* AN ACT To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building"	Oct. 17, 1978	1318
95-469	*Refuge Revenue Sharing Act, amendment.* AN ACT To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes	Oct. 17, 1978	1319
95-470	*Congressional employees, contributions to charitable organizations.* AN ACT To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations	Oct. 17, 1978	1323
95-471	*Tribally Controlled Community College Assistance Act of 1978.* AN ACT To provide for grants to tribally controlled community colleges, and for other purposes	Oct. 17, 1978	1325
95-472	*U.S. Tax Court, judges' retirement pay.* AN ACT To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court	Oct. 17, 1978	1332
95-473	*Interstate Commerce Act and related laws, enactment as title 49, Subtitle IV, U.S. Code.* AN ACT To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"	Oct. 17, 1978	1337
95-474	*Port and Tanker Safety Act of 1978.* AN ACT To amend the Ports and Waterways Safety Act of 1972, and for other purposes	Oct. 17, 1978	1471
95-475	*Intercoastal Shipping Act, 1933, amendment.* AN ACT To amend the Intercoastal Shipping Act, 1933, and for other purposes	Oct. 18, 1978	1494
95-476	*Veterans' Housing Benefits Act of 1978.* AN ACT To amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes	Oct. 18, 1978	1497
95-477	*Environmental Research Development, and Demonstration Authorization Act of 1979.* AN ACT To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes	Oct. 18, 1978	1507
95-478	*Comprehensive Older Americans Act Amendments of 1978.* AN ACT To amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes	Oct. 18, 1978	1513

Public Law		Date	Page
95-479	*Veterans' Disability Compensation and Survivors' Benefits Act of 1978.* AN ACT To amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes	Oct. 18, 1978	1560
95-480	*Departments of Labor and Health, Education, and Welfare Appropriations Act, 1978.* AN ACT Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes	Oct. 18, 1978	1567
95-481	*Foreign Assistance and Related Programs Appropriations Act, 1979.* AN ACT Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes	Oct. 18, 1978	1591
95-482	*Continuing appropriations, Fiscal Year 1979.* JOINT RESOLUTION Making continuing appropriations for the fiscal year 1979, and for other purposes	Oct. 18, 1978	1603
95-483	*Ocean Shipping Act of 1978.* AN ACT To provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes	Oct. 18, 1978	1607
95-484	*Fort Scott National Historic Site, Kans., establishment.* AN ACT To authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes	Oct. 19, 1978	1610
95-485	*Department of Defense Appropriation Authorization Act, 1979.* AN ACT To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes	Oct. 20, 1978	1611
95-486	*Federal district and circuit judges, additional appointments.* AN ACT To provide for the appointment of additional district and circuit judges, and for other purposes	Oct. 20, 1978	1629
95-487	*Indians, acquisition and retention of certain lands, Kake, Alaska.* AN ACT To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes	Oct. 20, 1978	1635
95-488	*Taxes, deductions for contributions to a black lung benefit trust.* AN ACT To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes	Oct. 20, 1978	1637
95-489	*Columbia Slough navigation project, Oreg., termination.* AN ACT To terminate the authorization of the navigation project on the Columbia Slough, Oregon	Oct. 20, 1978	1639

Public Law		Date	Page
95-490	*Hawaii, revenue or proceeds from disposition of certain lands, use.* AN ACT To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose	Oct. 20, 1978	1640
95-491	*Federal Information Centers Act.* AN ACT To authorize the permanent establishment of a system of Federal information centers	Oct. 20, 1978	1641
95-492	*Girl Scouts of America, transportation services.* AN ACT To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes	Oct. 20, 1978	1642
95-493	*United States Capitol Historical Society, incorporation.* AN ACT To incorporate the United States Capitol Historical Society	Oct. 20, 1978	1643
95-494	*Blackjack Springs Wilderness Area and Whiskey Lake Wilderness Area, Wisc., designation.* AN ACT To designate certain lands in the State of Wisconsin as wilderness	Oct. 21, 1978	1648
95-495	*Boundary Waters Canoe Area Wilderness, designation; Boundary Waters Canoe Area Mining Protection Area, establishment.* AN ACT To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes	Oct. 21, 1978	1649
95-496	*Indians, Osage Tribe, Okla.* AN ACT To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes	Oct. 21, 1978	1660
95-497	*Taxes, New York public employees, retirement systems.* AN ACT Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions	Oct. 21, 1978	1665
95-498	*Pueblo Indians of Santa Ana, N. Mex., lands in trust.* AN ACT To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands	Oct. 21, 1978	1672
95-499	*Pueblo Indians of Zia, N. Mex., lands in trust.* AN ACT To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands	Oct. 21, 1978	1679
95-500	*Machine parts, duty suspension.* AN ACT To make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes	Oct. 21, 1978	1683
95-501	*Agricultural Trade Act of 1978.* AN ACT To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities	Oct. 21, 1978	1685
95-502	*Internal Revenue Code of 1954, amendment.* AN ACT To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes	Oct. 21, 1978	1693
95-503	*Courts, transportation expenses.* AN ACT To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district	Oct. 24, 1978	1704

Public Law		Date	Page
95-504	*Airline Deregulation Act of 1978.* AN ACT To amend the Federal Aviation Act of 1958, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes	Oct. 24, 1978	1705
95-505	*Great Lakes vessels. financing.* AN ACT To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel	Oct. 24, 1978	1755
95-506	*Federal Property and Administrative Services Act of 1949, amendment.* AN ACT To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies	Oct. 24, 1978	1756
95-507	*Small Business Act and the Small Business Investment Act of 1958, amendment.* AN ACT To amend the Small Business Act and the Small Business Investment Act of 1958	Oct. 24, 1978	1757
95-508	*Metal articles, duty suspension.* AN ACT To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes	Oct. 24, 1978	1774
95-509	*Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979.* AN ACT To authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes	Oct. 24, 1978	1775
95-510	*Small Business Act, amendment.* AN ACT To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes	Oct. 24, 1978	1780
95-511	*Foreign Intelligence Surveillance Act of 1978.* AN ACT To authorize electronic surveillance to obtain foreign intelligence information	Oct. 25, 1978	1783
95-512	*Comptroller General Annuity Adjustment Act of 1978.* AN ACT To provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes	Oct. 25, 1978	1799
95-513	*Vietnam Veterans Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week"	Oct. 25, 1978	1802
95-514	*Public Rangelands Improvement Act of 1978.* AN ACT To improve the range conditions of the public rangelands	Oct. 25, 1978	1803
95-515	*Interstate Horseracing Act of 1978.* AN ACT To regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes	Oct. 25, 1978	1811
95-516	*Eastern Telephone Supply and Manufacturing, Inc., natural graphite, duty suspension.* AN ACT For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters	Oct. 25, 1978	1816
95-517	*Naval paintings, return to Federal Republic of Germany.* AN ACT To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II	Oct. 25, 1978	1817

Public Law		Date	Page
95-518	*Gathright Dam and Lake Moomaw, Va.* AN ACT Designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw	Oct. 25, 1978	1818
95-519	*Federal employees, certain legislative and judicial officers, leave status.* AN ACT To clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes	Oct. 25, 1978	1819
95-520	*Veterans' Administration Programs Extension Act of 1978.* AN ACT To amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes	Oct. 26, 1978	1820
95-521	*Ethics in Government Act of 1978.* AN ACT To establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes	Oct. 26, 1978	1824
95-522	*Frederick G. Payne Building, Maine, designation.* AN ACT To name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building"	Oct. 27, 1978	1886
95-523	*Full employment and Balanced Growth Act of 1978.* AN ACT To translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government	Oct. 27, 1978	1887
95-524	*Comprehensive Employment and Training Act Amendments of 1978.* AN ACT To amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes	Oct. 27, 1978	1909
95-525	*Charles A. Lindberg Federal Building, N.Y., designation.* AN ACT To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building"	Oct. 27, 1978	2022
95-526	*District of Columbia Self-Government and Governmental Reorganization Act, amendment.* AN ACT To amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes	Oct. 27, 1978	2023
95-527	*William L. Springer Building, Ill., designation.* AN ACT To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building"	Oct. 27, 1978	2025
95-528	*Omar Burleson Federal Building, Tex., designation.* AN ACT To designate the "Omar Burleson Federal Building"	Oct. 27, 1978	2026

Public Law		Date	Page
95-529	*George Mahon Federal Building, Tex., designation.* AN ACT To designate the "George Mahon Federal Building"	Oct. 27, 1978	2027
95-530	*U.S. attorneys and marshals, residence requirement, exemption.* AN ACT To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district	Oct. 27, 1978	2028
95-531	*Leslie C. Arends Building, Ill., designation.* AN ACT To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building"	Oct. 27, 1978	2029
95-532	*Paul G. Rogers Federal Building, Fla., designation.* AN ACT To designate the "Paul G. Rogers Federal Building"	Oct. 27, 1978	2030
95-533	*New Mexico Constitution, amendment.* JOINT RESOLUTION To consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State	Oct. 27, 1978	2031
95-534	*Federal Reserve banks, authority extension.* JOINT RESOLUTION To extend the authority of the Federal Reserve banks to buy and sell certain obligations	Oct. 27, 1978	2032
95-535	*U.S. Courts, fees, per diem and mileage expenses for witnesses.* AN ACT To establish fees and allow per diem and mileage expenses for witnesses before United States courts	Oct. 27, 1978	2033
95-536	*New Hampshire-Vermont Interstate School Compact, amendment.* AN ACT To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21	Oct. 27, 1978	2035
95-537	*Contract Services for Drug Dependent Federal Offenders Act of 1978.* AN ACT To enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner	Oct. 27, 1978	2038
95-538	*Justice William O. Douglas Federal Building, Wash., designation.* AN ACT To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building"	Oct. 27, 1978	2039
95-539	*Court Interpreters Act.* AN ACT To provide more effectively for the use of interpreters in courts of the United States, and for other purposes	Oct. 28, 1978	2040
95-540	*Privacy Protection for Rape Victims Act of 1978.* AN ACT To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims	Oct. 28, 1978	2046
95-541	*Antarctic Conservation Act of 1978.* AN ACT To implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes	Oct. 28, 1978	2048
95-542	*C. Bascom Slemp Building, Va., designation.* AN ACT To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building"	Oct. 28, 1978	2058
95-543	*Joe Skubitz Social Security Administration Center, Kans., designation.* AN ACT To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center"	Oct. 28, 1978	2059
95-544	*John J. Flynt, Jr., Federal Building, Ga., designation.* AN ACT To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building"	Oct. 28, 1978	2060

Public Law		Date	Page
95-545	*Joe Waggonner Federal Building, La., designation.* AN ACT To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building"	Oct. 28, 1978	2061
95-546	*Great Bear Wilderness, Mont., designation.* AN ACT To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana	Oct. 28, 1978	2062
95-547	*Food and Agriculture Act of 1977, amendment.* AN ACT To amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research	Oct. 28, 1978	2063
95-548	*Library of Congress James Madison Memorial Building, additional authorization.* AN ACT To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building	Oct. 30, 1978	2064
95-549	*Immigration and Nationality Act, amendment.* AN ACT To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes	Oct. 30, 1978	2065
95-550	*University of New Mexico, land conveyance.* AN ACT To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico	Oct. 30, 1978	2067
95-551	*U.S. Military Academy, N.Y., permanent faculty structure, modernization.* AN ACT To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes	Oct. 30, 1978	2069
95-552	*Migratory-bird hunting and conservation stamps, price increase.* AN ACT To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes	Oct. 30, 1978	2071
95-553	*North Pacific Fisheries Act of 1954, amendment.* AN ACT To make technical corrections in the North Pacific Fisheries Act of 1954	Oct. 30, 1978	2072
95-554	*Mineral Leasing Act of 1920, amendment.* AN ACT To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes	Oct. 30, 1978	2073
95-555	*Pregnancy sex discrimination, prohibition.* AN ACT To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy	Oct. 31, 1978	2076
95-556	*Territory of American Samoa, nonvoting delegate to U.S. House of Representatives.* AN ACT To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes	Oct. 31, 1978	2078
95-557	*Housing and Community Development Amendments of 1978.* AN ACT To amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes	Oct. 31, 1978	2080
95-558	*Rulemaking procedures report, filing deadline, extension.* AN ACT To amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures	Nov. 1, 1978	2130

Public Law		Date	Page
95-559	*Health Maintenance Organization Amendments of 1978.* AN ACT To amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations	Nov. 1, 1978	2131
95-560	*Mrs. Robert F. Kennedy, gold medal presentation, authorization.* AN ACT Authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy	Nov. 1, 1978	2142
95-561	*Education Amendments of 1978.* AN ACT To extend and amend expiring elementary and secondary education programs, and for other purposes	Nov. 1, 1978	2143
95-562	*Perishable Agricultural Commodities Act, amendment.* AN ACT To amend the Perishable Agricultural Commodities Act	Nov. 1, 1978	2381
95-563	*Contract Disputes Act of 1978.* AN ACT To provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies	Nov. 1, 1978	2383
95-564	*Communications Satellite Act of 1962, amendment.* AN ACT To provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services	Nov. 1, 1978	2392
95-565	*United States Railway Association Amendments Act of 1978.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes	Nov. 1, 1978	2397
95-566	*Middle Income Student Assistance Act.* AN ACT To amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students	Nov. 1, 1978	2402
95-567	*Public Telecommunications Financing Act of 1978.* AN ACT To amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes	Nov. 2, 1978	2405
95-568	*Economic Opportunity Amendments of 1978.* AN ACT To amend the Economic Opportunity Act of 1964, and for other purposes	Nov. 2, 1978	2425
95-569	*Smithsonian Institution, construction of support museum facilities.* AN ACT To authorize the Smithsonian Institution to construct support museum facilities	Nov. 2, 1978	2444
95-570	*White House Office and Executive Residence, personnel employment.* AN ACT To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes	Nov. 2, 1978	2445
95-571	*Minnesota Chippewa Indians, Mille Lacs Band, land acquisition.* AN ACT To authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians	Nov. 2, 1978	2452
95-572	*Jury System Improvements Act of 1978.* AN ACT To amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service	Nov. 2, 1978	2453

Public Law		Date	Page
95-573	*District courts.* AN ACT To amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York	Nov. 2, 1978	2458
95-574	*Federal Railroad Safety Authorization Act of 1978.* AN ACT To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes	Nov. 2, 1978	2459
95-575	*Cigarettes, sale and distribution racketeering, elimination.* AN ACT To amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes	Nov. 2, 1978	2463
95-576	*Federal Water Pollution Control Act, amendment.* AN ACT To amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act	Nov. 2, 1978	2467
95-577	*Rayburn Office Building and House Annex No. 2, solar collector installation.* AN ACT To authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes	Nov. 2, 1978	2470
95-578	*Reclamation Safety of Dams Act of 1978.* AN ACT To authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes	Nov. 2, 1978	2471
95-579	*Immigration and Nationality Act, amendment, Eugenia Cortes, relief.* AN ACT Amending section 312 of the Immigration and Nationality Act	Nov. 2, 1978	2474
95-580	*Rural Transportation Advisory Task Force, establishment.* AN ACT To establish a Rural Transportation Advisory Task Force, and for other purposes	Nov. 2, 1978	2475
95-581	*Marine Corps, Sergeant Major, retired pay recalculation.* AN ACT To provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967	Nov. 2, 1978	2478
95-582	*Subpoenas, nationwide service in certain suits.* AN ACT To provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes	Nov. 2, 1978	2479
95-583	*Federal employees, life and health insurance benefits.* AN ACT To amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes	Nov. 2, 1978	2481
95-584	*Religious corporations, limitation on land holdings, repeal.* AN ACT To repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States	Nov. 2, 1978	2483
95-585	*Miller Act, amendment.* AN ACT To amend the Act commonly known as the Miller Act to raise the dollar amount of contracts to which such Act applies from $2,000 to $25,000	Nov. 2, 1978	2484
95-586	*Land conveyances, validation.* AN ACT To validate certain land conveyances, and for other purposes	Nov. 3, 1978	2485
95-587	*Riverside County, Calif., land claims by U.S.* AN ACT To amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion, and for other purposes	Nov. 3, 1978	2496

Public Law		Date	Page
95-588	*Veterans' and Survivors' Pension Improvement Act of 1978.* AN ACT To amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes	Nov. 4, 1978	2497
95-589	*Uniformed Services University of the Health Sciences, members, Board of Regents, service after term expires.* AN ACT To amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed	Nov. 4, 1978	2512
95-590	*Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978.* AN ACT To provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies	Nov. 4, 1978	2513
95-591	*Presidential Records Act of 1978.* AN ACT To amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes	Nov. 4, 1978	2523
95-592	*Native Latex Commercialization and Economic Development Act of 1978.* AN ACT To amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States	Nov. 4, 1978	2529
95-593	*Overseas Citizens Voting Rights Act of 1975, amendment.* AN ACT To improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes	Nov. 4, 1978	2535
95-594	*96th Congress, first session.* JOINT RESOLUTION Relative to the convening of the first session of the Ninety-sixth Congress, and for other purposes	Nov. 4, 1978	2540
95-595	*Budget and Accounting Procedures Act of 1950, amendment.* AN ACT To amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes	Nov. 4, 1978	2541
95-596	*Pension Building, D.C., restoration and renovation.* JOINT RESOLUTION To initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes	Nov. 4, 1978	2544

Public Law		Date	Page
95-597	*Regional Rail Reorganization Act of 1973, amendment.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization	Nov. 4, 1978	2547
95-598	*Title 11, USC, bankruptcy.* AN ACT To establish a uniform Law on the Subject of Bankruptcies	Nov. 6, 1978	2549
95-599	*Surface Transportation Assistance Act of 1978.* AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes	Nov. 6, 1978	2689
95-600	*Revenue Act of 1978.* AN ACT To amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes	Nov. 6, 1978	2763
95-601	*Nuclear Regulatory Commission, appropriation authorization.* AN ACT To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes	Nov. 6, 1978	2947
95-602	*Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.* AN ACT To amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes	Nov. 6, 1978	2955
95-603	*Federal Physicians Comparability Allowance Act of 1978.* AN ACT To amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians	Nov. 6, 1978	3018
95-604	*Uranium Mill Tailings Radiation Control Act of 1978.* AN ACT To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes	Nov. 8, 1978	3021
95-605	*Toiyabe National Forest, Nev., boundaries extension.* AN ACT To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes	Nov. 8, 1978	3044
95-606	*Amateur Sports Act of 1978.* AN ACT To promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes	Nov. 8, 1978	3045
95-607	*Department of Transportation Act, amendment.* AN ACT To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes	Nov. 8, 1978	3059
95-608	*Indian Child Welfare Act of 1978.* AN ACT To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes	Nov. 8, 1978	3069

Public Law		Date	Page
95-609	*Quiet Communities Act of 1978.* AN ACT To extend provisions of the Noise Control Act of 1972 for one year, and for other purposes	Nov. 8, 1978	3079
95-610	*Armed Forces, union organizations, prohibition.* AN ACT To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes	Nov. 8, 1978	3085
95-611	*United States Railway Association, appropriation authorization.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979	Nov. 8, 1978	3089
95-612	*Exchange Stabilization Fund.* AN ACT To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses, and for other purposes	Nov. 8, 1978	3091
95-613	*Public Health Service Act, amendment.* AN ACT To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act	Nov. 8, 1978	3093
95-614	*Cibola National Forest, N. Mex., boundary extension.* AN ACT To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes	Nov. 8, 1978	3095
95-615	*Tax Treatment Extension Act of 1977.* AN ACT To change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes	Nov. 8, 1978	3097
95-616	*Fish and Wildlife Improvement Act of 1978.* AN ACT To improve the administration of fish and wildlife programs, and for other purposes	Nov. 8, 1978	3110
95-617	*Public Utility Regulatory Policies Act of 1978.* AN ACT To suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics	Nov. 9, 1978	3117
95-618	*Energy Tax Act of 1978.* AN ACT To provide tax incentives for the production and conservation of energy, and for other purposes	Nov. 9, 1978	3174
95-619	*National Energy Conservation Policy Act.* AN ACT For the relief of Jack R. Misner	Nov. 9, 1978	3206
95-620	*Powerplant and Industrial Fuel Use Act of 1978.* AN ACT To amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges	Nov. 9, 1978	3289
95-621	*Natural Gas Policy Act of 1978.* AN ACT For the relief of Joe Cortina of Tampa, Florida	Nov. 9, 1978	3350
95-622	*Community Mental Health Centers Act, amendments.* AN ACT To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes	Nov. 9, 1978	3412
95-623	*Health Services Research, Health Statistics, and Health Care Technology Act of 1978.* AN ACT To amend the Public Health Service Act to revise and extend the authorities under that Act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes	Nov. 9, 1978	3443

Public Law		Date	Page
95-624	*Department of Justice Appropriation Authorization Act, Fiscal Year 1979.* AN ACT To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes	Nov. 9, 1978	3459
95-625	*National Parks and Recreation Act of 1978.* AN ACT To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho	Nov. 10, 1978	3467
95-626	*Health Services and Centers Amendments of 1978.* AN ACT To amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes	Nov. 10, 1978	3551
95-627	*Child Nutrition Amendments of 1978.* AN ACT To extend and amend the special supplemental food program and the child care food program, and for other purposes	Nov. 10, 1978	3603
95-628	*Internal Revenue Code of 1954, amendment.* AN ACT To revise miscellaneous timing requirements of the revenue laws, and for other purposes	Nov. 10, 1978	3627
95-629	*Pennsylvania Avenue Development Corporation Act of 1972, amendment.* AN ACT To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes	Nov. 10, 1978	3635
95-630	*Financial Institutions Regulatory and Interest Rate Control Act of 1978.* AN ACT To extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions	Nov. 10, 1978	3641
95-631	*Consumer Product Safety Act, amendment.* AN ACT To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes	Nov. 10, 1978	3742
95-632	*Endangered Species Act Amendments of 1978.* AN ACT To amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions	Nov. 10, 1978	3751
95-633	*Psychotropic Substances Act of 1978.* AN ACT To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes	Nov. 10, 1978	3768

LIST OF REORGANIZATION PLANS

CONTAINED IN THIS VOLUME

Plan No.		Page
1	Equal Employment Opportunity	3781
2	Office of Personnel Management	3783
3	Federal Emergency Management Agency	3788
4	Employee Retirement Income Security Act Transfers	3790

LIST OF BILLS ENACTED INTO PRIVATE LAW

THE NINETY-FIFTH CONGRESS, SECOND SESSION

Bill No.	Private Law No.
H.R. 1392	95-82
H.R. 1396	95-63
H.R. 1400	95-83
H.R. 1402	95-84
H.R. 1405	95-126
H.R. 1406	95-85
H.R. 1420	95-48
H.R. 1422	95-158
H.R. 1427	95-54
H.R. 1428	95-127
H.R. 1432	95-31
H.R. 1436	95-41
H.R. 1445	95-60
H.R. 1446	95-64
H.R. 1449	95-65
H.R. 1450	95-128
H.R. 1552	95-37
H.R. 1748	95-159
H.R. 1750	95-86
H.R. 1751	95-42
H.R. 1753	95-146
H.R. 1775	95-160
H.R. 1777	95-129
H.R. 1779	95-87
H.R. 1787	95-161
H.R. 1798	95-130
H.R. 1931	95-88
H.R. 1936	95-89
H.R. 1938	95-90
H.R. 1939	95-32
H.R. 1940	95-156
H.R. 2253	95-91
H.R. 2256	95-131
H.R. 2259	95-147
H.R. 2291	95-162
H.R. 2292	95-132
H.R. 2369	95-92
H.R. 2553	95-93
H.R. 2555	95-43
H.R. 2558	95-133
H.R. 2658	95-134
H.R. 2662	95-66
H.R. 2756	95-94
H.R. 2758	95-95
H.R. 2759	95-96
H.R. 2761	95-33
H.R. 2939	95-97
H.R. 2940	95-67
H.R. 2944	95-98
H.R. 2945	95-44
H.R. 2952	95-53
H.R. 3081	95-34
H.R. 3090	95-135
H.R. 3215	95-28
H.R. 3217	95-99
H.R. 3307	95-163
H.R. 3460	95-55
H.R. 3613	95-148
H.R. 3618	95-100
H.R. 3625	95-101
H.R. 3835	95-102
H.R. 3994	95-39
H.R. 3995	95-45
H.R. 3996	95-40
H.R. 4401	95-35
H.R. 4404	95-136
H.R. 4530	95-137
H.R 4533	95-170
H.R. 4535	95-68
H.R. 4607	95-46
H.R. 4875	95-103
H.R. 5097	95-56
H.R. 5163	95-104
H.R. 5230	95-69
H.R. 5928	95-47
H.R. 5933	95-70
H.R. 6664	95-138
H.R. 6760	95-57
H.R. 6801	95-71
H.R. 6934	95-105
H.R. 7162	95-51
H.R. 7387	95-106
H.R. 7419	95-107
H.R. 7550	95-139
H.R. 7604	95-72
H.R. 7653	95-149
H.R. 7795	95-164
H.R. 8192	95-165
H.R. 8308	95-108
H.R. 8449	95-58
H.R. 8751	95-166
H.R. 8810	95-73
H.R. 8927	95-74
H.R. 9071	95-59
H.R. 9075	95-150
H.R. 9352	95-75
H.R. 9568	95-76
H.R. 9610	95-77
H.R. 9611	95-78
H.R. 9613	95-79
H.R. 10407	95-109
H.R. 10600	95-61
H.R. 12556	95-62
H.R. 13235	95-52
H.J. Res. 489	95-80
S. 142	95-140
S. 337	95-110
S. 391	95-154
S. 405	95-49
S. 422	95-38
S. 464	95-167
S. 579	95-111
S. 612	95-112
S. 833	95-29
S. 958	95-36
S. 973	95-113
S. 1006	95-141
S. 1110	95-114
S. 1135	99-30
S. 1154	95-115
S. 1165	95-116
S. 1166	95-117
S. 1335	95-50
S. 1401	95-151
S. 1484	95-81
S. 1562	95-157
S. 1563	95-118
S. 1618	95-119
S. 1826	95-155
S. 2079	95-168
S. 2248	95-120
S. 2294	95-121
S. 2349	95-169
S. 2379	95-142
S. 2446	95-122
S. 2509	95-143
S. 2671	95-144
S. 2687	95-145
S. 3042	95-123
S. 3051	95-124
S. 3066	95-152
S. 3106	95-153
S. 3109	95-125

LIST OF PRIVATE LAWS

CONTAINED IN THIS VOLUME

Private Law		Date	Page
95-28	*Olive M. V. T. Davies and children.* AN ACT For the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies	Feb. 2, 1978	3803
95-29	*Ah Young Cho Kwak.* AN ACT For for the relief of Ah Young Cho Kwak	Mar. 27, 1978	3803
95-30	*Young-soon Choi.* AN ACT For for the relief of Young-soon Choi	Mar. 27, 1978	3803
95-31	*Mrs. Desolina Sciulli.* AN ACT For the relief of Mrs. Desolina Sciulli	Mar. 27, 1978	3804
95-32	*Meda Abilay Florin.* AN ACT For the relief of Meda Abilay Florin	Mar. 27, 1978	3804
95-33	*Su-Hwan Choe.* AN ACT For the relief of Su-Hwan Choe	Mar. 27, 1978	3805
95-34	*Mrs. Chong Sun Yi Rauch.* AN ACT For the relief of Mrs. Chong Sun Yi Rauch	Mar. 27, 1978	3805
95-35	*Kwi Sok Buckingham (nee Kim).* AN ACT For the relief of Kwi Sok Buckingham (nee Kim)	Mar. 27, 1978	3805
95-36	*Ernesto F. Garcia, Jr.* AN ACT For the relief of Ernesto F. Garcia, Junior	May 12, 1978	3806
95-37	*Oh Soon Yi.* AN ACT For the relief of Oh Soon Yi	May 15, 1978	3806
95-38	*First Baptist Church of Paducah, Ky.* AN ACT For the relief of the First Baptist Church of Paducah, Kentucky	May 16, 1978	3807
95-39	*Charles P. Abbott.* AN ACT For the relief of Charles P. Abbott	June 10, 1978	3807
95-40	*Young Hee Kim Kang and children.* AN ACT For the relief of Young Hee Kim Kang and her children, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang	June 19, 1978	3807
95-41	*William H. Klusmeier.* AN ACT For the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Texas	June 26, 1978	3808
95-42	*Lucy Davao Jara Graham.* AN ACT For the relief of Lucy Davao Jara Graham	Aug. 3, 1978	3808
95-43	*Michelle Lagrosa Sese.* AN ACT For the relief of Michelle Lagrosa Sese	Aug. 3, 1978	3809
95-44	*Mrs. Amelia Doria Nicholson.* AN ACT For the relief of Mrs. Amelia Doria Nicholson	Aug. 3, 1978	3809
95-45	*Habib Haddad.* AN ACT For the relief of Habib Haddad	Aug. 3, 1978	3810
95-46	*William Mok.* AN ACT For the relief of William Mok	Aug. 3, 1978	3810
95-47	*Miss Coralia Raposo.* AN ACT For the relief of Miss Coralia Raposo	Aug. 3, 1978	3810
95-48	*Umberto Ruffolo.* AN ACT For the relief of Umberto Ruffolo	Aug. 4, 1978	3811
95-49	*Chong Cha Williams.* AN ACT For the relief of Chong Cha Williams	Aug. 28, 1978	3811
95-50	*Shin Myong Yo Purdom.* AN ACT For the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin	Aug. 28, 1978	3811
95-51	*Stephanie Johnson.* AN ACT For the relief of Stephanie Johnson	Sept. 8, 1978	3812
95-52	*James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire.* AN ACT For the relief of James Thomas Lantz, Junior, David D. Bulkley, and Arthur J. Abshire	Sept. 8, 1978	3812

Private Law		Date	Page
95-53	*M. Sgt. William E. Boone, USA (Ret.).* AN ACT For the relief of Master Sergeant William E. Boone, United States Army, retired	Sept. 17, 1978	3813
95-54	*Marie Grant.* AN ACT For the relief of Marie Grant	Sept. 30, 1978	3814
95-55	*William J. Elder and the estate of Stephen M. Owens, deceased.* AN ACT For the relief of William J. Elder and the estate of Stephen M. Owens, deceased	Sept. 30, 1978	3814
95-56	*Dr. Daryl C. Johnson.* AN ACT For the relief of Doctor Daryl C. Johnson	Sept. 30, 1978	3814
95-57	*Charles M. Metott.* AN ACT For the relief of Charles M. Metott	Sept. 30, 1978	3815
95-58	*Lourdes Marie Hudson.* AN ACT For the relief of Lourdes Marie Hudson	Oct. 5, 1978	3816
95-59	*John T. Knight.* AN ACT To confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight	Oct. 6, 1978	3816
95-60	*Cmdr. Edward White Rawlins, USN (Ret.).* AN ACT Conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired)	Oct. 10, 1978	3817
95-61	*Thomas Joseph Hunter and Rose Hunter.* AN ACT For the relief of Thomas Joseph Hunter and Rose Hunter	Oct. 18, 1978	3817
95-62	*Batavia Turf Farms, Inc.* AN ACT For the relief of Batavia Turf Farms, Incorporated	Oct. 21, 1978	3818
95-63	*Mrs. Sun Pok Winer.* AN ACT For the relief of Mrs. Sun Pok Winer	Oct. 27, 1978	3818
95-64	*Lester Bruce Priday.* AN ACT For the relief of Lester Bruce Priday	Oct. 27, 1978	3819
95-65	*Geoffrey Parnham.* AN ACT For the relief of Geoffrey Parnham	Oct. 27, 1978	3819
95-66	*Christopher Robert West.* AN ACT For the relief of Christopher Robert West	Oct. 27, 1978	3819
95-67	*Daniel Crowley.* AN ACT For the relief of Daniel Crowley	Oct. 27, 1978	3820
95-68	*Kazuko Nishioka Dowd.* AN ACT For the relief of Kazuko Nishioka Dowd	Oct. 27, 1978	3820
95-69	*Jung In Bang.* AN ACT For the relief of Jung In Bang	Oct. 27, 1978	3820
95-70	*Johathan Winston Max.* AN ACT For the relief of Jonathan Winston Max	Oct. 27, 1978	3821
95-71	*Hye Jin Wilder.* AN ACT For the relief of Hye Jin Wilder	Oct. 27, 1978	3821
95-72	*Margaret Somerville Jefferis.* AN ACT For the relief of Margaret Somerville Jefferis	Oct. 27, 1978	3822
95-73	*Kim In Hyung.* AN ACT For the relief of Kim In Hyung	Oct. 27, 1978	3822
95-74	*Monika Grantz.* AN ACT For the relief of Monika Grantz	Oct. 27, 1978	3822
95-75	*James William Dibben.* AN ACT For the relief of James William Dibben	Oct. 27, 1978	3823
95-76	*Renate Irene McCord.* AN ACT For the relief of Renate Irene McCord	Oct. 27, 1978	3823
95-77	*Raymond Vishnu Clemons.* AN ACT For the relief of Raymond Vishnu Clemons	Oct. 27, 1978	3823
95-78	*Craig Day.* AN ACT For the relief of Craig Day	Oct. 27, 1978	3824
95-79	*Eustace John D'Souza.* AN ACT For the relief of Eustace John D'Souza	Oct. 27, 1978	3824
95-80	*Certain aliens, permanent residence status.* AN ACT Granting the status of permanent residence to certain aliens	Oct. 27, 1978	3825
95-81	*Michael Bruce Holland.* AN ACT For the relief of Michael Bruce Holland	Oct. 27, 1978	3827
95-82	*Maria Miraflor Carabbacan.* AN ACT For the relief of Maria Miraflor Carabbacan	Oct. 28, 1978	3827
95-83	*Stefan Kowalik.* AN ACT For the relief of Stefan Kowalik	Oct. 28, 1978	3827

Private Law		Date	Page
95-84	*Rosario A. Calvin.* AN ACT For the relief of Rosario A. Calvin	Oct. 28, 1978	3828
95-85	*Lilia Araujo.* AN ACT For the relief of Lilia Araujo	Oct. 28, 1978	3828
95-86	*Anthony Rogers.* AN ACT For the relief of Anthony Rogers	Oct. 28, 1978	3829
95-87	*Gilberto Taneo Gilberstadt.* AN ACT For the relief of Gilberto Taneo Gilberstadt	Oct. 28, 1978	3829
95-88	*Juana Todd Atherley.* AN ACT For the relief of Juana Todd Atherley	Oct. 28, 1978	3829
95-89	*Lee So Ryung.* AN ACT For the relief of Lee So Ryung	Oct. 28, 1978	3830
95-90	*Santos Marquez Arellano.* AN ACT For the relief of Santos Marquez Arellano	Oct. 28, 1978	3830
95-91	*Ruben P. Din.* AN ACT For the relief of Ruben P. Din	Oct. 28, 1978	3831
95-92	*Natividad and Myrna Casing.* AN ACT For the relief of Natividad Casing and Myrna Casing	Oct. 28, 1978	3831
95-93	*Young Gun Kim.* AN ACT For the relief of Young Gun Kim	Oct. 28, 1978	3831
95-94	*Marlene Holder.* AN ACT For the relief of Marlene Holder	Oct. 28, 1978	3832
95-95	*Carmen Prudence Hernandez.* AN ACT For the relief of Carmen Prudence Hernandez	Oct. 28, 1978	3832
95-96	*Sealie Von Kleist Hernandez.* AN ACT For the relief of Sealie Von Kleist Hernandez	Oct. 28, 1978	3833
95-97	*Derrick Mariano Tan.* AN ACT For the relief of Derrick Mariano Tan	Oct. 28, 1978	3833
95-98	*Rickey Lee Trautvetter.* AN ACT For the relief of Ricky Lee Trautvetter	Oct. 28, 1978	3833
95-99	*Meeja Sa Foster.* AN ACT For the relief of Meeja Sa Foster	Oct. 28, 1978	3834
95-100	*Martha Castro Fitz Maurice.* AN ACT For the relief of Martha Castro Fitz Maurice	Oct. 28, 1978	3834
95-101	*Peter Neal Smith.* AN ACT For the relief of Peter Neal Smith	Oct. 28, 1978	3835
95-102	*Pece D. Van Arsdol.* AN ACT For the relief of Pece D. Van Arsdol	Oct. 28, 1978	3835
95-103	*Elizabeth D. Yee Kraus.* AN ACT For the relief of Elizabeth D. Yee Kraus	Oct. 28, 1978	3835
95-104	*Marinelle Khristy Cruz.* AN ACT For the relief of Marinelle Khristy Cruz	Oct. 28, 1978	3836
95-105	*Donna Marainne Benney.* AN ACT For the relief of Donna Marainne Benney	Oct. 28, 1978	3836
95-106	*Noel Abueg Emde.* AN ACT For the relief of Noel Abueg Emde	Oct. 28, 1978	3837
95-107	*Vasilios Georgios Valcanos.* AN ACT For the relief of Vasilios Georgios Valcanos	Oct. 28, 1978	3837
95-108	*Jae Keun Christianson.* AN ACT For the relief of Jae Keun Christianson	Oct. 28, 1978	3837
95-109	*Ling-Yung Kung.* AN ACT For the relief of Ling-Yung Kung	Oct. 28, 1978	3838
95-110	*Miriama Jones.* AN ACT For the relief of Miriama Jones	Oct. 28, 1978	3838
95-111	*Imelda C. Jayag Potter.* AN ACT For the relief of Imelda C. Jayag Potter	Oct. 28, 1978	3839
95-112	*Timmy Lao Olavere.* AN ACT For the relief of Timmy Lao Olavere	Oct. 28, 1978	3839
95-113	*Young-Shik Kim.* AN ACT For the relief of Young-Shik Kim	Oct. 28, 1978	3839
95-114	*Juanita Binabise.* AN ACT For the relief of Juanita Binabise	Oct. 28, 1978	3840
95-115	*Jin Syen Suh.* AN ACT For the relief of Jin Syen Suh	Oct. 28, 1978	3840
95-116	*Chester Chun Ket Young.* AN ACT For the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung)	Oct. 28, 1978	3841
95-117	*Maria Elena Jumalon.* AN ACT For the relief of Maria Elena Jumalon	Oct. 28, 1978	3841

Private Law		Date	Page
95-118	*Do Sook Park.* AN ACT For the relief of Do Sook Park	Oct. 28, 1978	3841
95-119	*Sang Yun Yoon.* AN ACT For the relief of Sang Yun Yoon	Oct. 28, 1978	3842
95-120	*Susanna Shu-hui Jean.* AN ACT For the relief of Susanna Shu-hui Jean	Oct. 28, 1978	3842
95-121	*Joselyn Buccat Lalley and Jodelyn Buccat Lalley.* AN ACT For the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley	Oct. 28, 1978	3843
95-122	*Caroline Valdez Sulfelix* AN ACT For the relief of Caroline Valdez Sulfelix	Oct. 28, 1978	3843
95-123	*Mary Jo Natividad and Regina Natividad.* AN ACT For the relief of Mary Jo Natividad and Regina Natividad	Oct. 28, 1978	3843
95-124	*Tsutomu Tanaka.* AN ACT For the relief of Tsutomu Tanaka	Oct. 28, 1978	3844
95-125	*Ricardo Rosas Salazar.* AN ACT For the relief of Ricardo Rosas Salazar	Oct. 28, 1978	3844
95-126	*Jennet Juanita Miller.* AN ACT For the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers)	Oct. 30, 1978	3845
95-127	*Mrs. Angelita Short.* AN ACT For the relief of Mrs. Angelita Short	Oct. 30, 1978	3845
95-128	*Hildegard G. Blakeley.* AN ACT For the relief of Hildegard G. Blakeley	Oct. 30, 1978	3845
95-129	*Cathy Gee Yuen.* AN ACT For the relief of Cathy Gee Yuen	Oct. 30, 1978	3846
95-130	*Kwong Lam Yuen.* AN ACT For the relief of Kwong Lam Yuen	Oct. 30, 1978	3846
95-131	*Edmundo Alfredo Oreiro Espinueva.* AN ACT For the relief of Edmundo Alfredo Oreiro Espinueva	Oct. 30, 1978	3846
95-132	*Boulos Stephan.* AN ACT For the relief of Boulos Stephan	Oct. 30, 1978	3847
95-133	*Dr. John Alexis L. S. Tam and Yeut Shum Tam.* AN ACT For the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam	Oct. 30, 1978	3847
95-134	*Nora L. Kennedy.* AN ACT For the relief of Nora L. Kennedy	Oct. 30, 1978	3848
95-135	*Fidel Grosso-Padilla.* AN ACT For the relief of Fidel Grosso-Padilla	Oct. 30, 1978	3848
95-136	*Susan Spurrier.* AN ACT For the relief of Susan Spurrier	Oct. 30, 1978	3848
95-137	*Elisabetta Basso Gallizio.* AN ACT For the relief of Elisabetta Basso Gallizio	Oct. 30, 1978	3849
95-138	*Lily Lirio Galindo.* AN ACT For the relief of Lily Lirio Galindo	Oct. 30, 1978	3849
95-139	*Johanne Lapointe.* AN ACT For the relief of Johanne Lapointe	Oct. 30, 1978	3849
95-140	*Gaspar Louis Sayoc.* AN ACT For the relief of Gaspar Louis Sayoc	Oct. 30, 1978	3850
95-141	*Concrete Industries (Monier), Limited.* AN ACT For the relief of Concrete Industries (Monier), Limited	Oct. 30, 1978	3850
95-142	*Jesusa Navarro Romero and Antonio Angeles Romero.* AN ACT For the relief of Jesusa Navarro Romero and Antonio Angeles Romero	Oct. 30, 1978	3851
95-143	*Rodolfo N. Arriola.* AN ACT For the relief of Rodolfo N. Arriola	Oct. 30, 1978	3851
95-144	*Masami Yamada.* AN ACT For the relief of Masami Yamada	Oct. 30, 1978	3852
95-145	*Dr. Allan Joseph Cawley.* AN ACT For the relief of Doctor Allan Joseph Cawley	Oct. 30, 1978	3852
95-146	*Marina Houghton.* AN ACT For the relief of Marina Houghton	Oct. 31, 1978	3852
95-147	*Rogelio M. Encomienda.* AN ACT For the relief of Rogelio M. Encomienda	Oct. 31, 1978	3853
95-148	*Irma Victoria Bolarte Alvarado.* AN ACT For the relief of Irma Victoria Bolarte Alvarado	Oct. 31, 1978	3853

Private Law		Date	Page
95-149	*Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy.* AN ACT For the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy	Oct. 31, 1978	3854
95-150	*John F. Johnson.* AN ACT For the relief of John F. Johnson	Oct. 31, 1978	3854
95-151	*Elvi Engelsmann Jensen.* AN ACT For the relief of Elvi Engelsmann Jensen	Oct. 31, 1978	3855
95-152	*Yom Chong Ok.* AN ACT For the relief of Yom Chong Ok	Oct. 31, 1978	3855
95-153	*Debbie Agatta Hepburn.* AN ACT For the relief of Debbie Agatta Hepburn	Oct. 31, 1978	3855
95-154	*Brigitte Marie Harwood.* AN ACT For the relief of Brigitte Marie Harwood	Oct. 31, 1978	3856
95-155	*Kainoosh-Fard Bullock and Kami Bullock.* AN ACT For the relief of Kainoosh-Fard Bullock and her son, Kami Bullock	Oct. 31, 1978	3856
95-156	*Dimitrios, Angeliki, and Georgios Panoutsopoulos.* AN ACT For the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos	Oct. 31, 1978	3856
95-157	*Datronics Engineers, Inc.*. AN ACT For the relief of Datronics Engineers, Incorporated	Nov. 1, 1978	3857
95-158	*Julio Ortiz-Medina.* AN ACT For the Relief of Julio Ortiz-Medina	Nov. 2, 1978	3857
95-159	*Carmela Scudieri.* AN ACT For the relief of Carmela Scudieri	Nov. 2, 1978	3858
95-160	*Karin Ehard.* AN ACT For the relief of Karin Ehard	Nov. 2, 1978	3858
95-161	*Paz A. Norona.* AN ACT For the relief of Paz A. Norona	Nov. 2, 1978	3858
95-162	*Carmen Cecilia Blanquicett.* AN ACT For the relief of Carmen Cecilia Blanquicett	Nov. 2, 1978	3859
95-163	*Anthony Casamento.* AN ACT For the relief of Anthony Casamento	Nov. 2, 1978	3859
95-164	*Veronica Judith Hudson.* AN ACT For the relief of Veronica Judith Hudson	Nov. 2, 1978	3859
95-165	*Andrée Marie Helene McGiffin.* AN ACT For the relief of Andrée Marie Helene McGiffin	Nov. 2, 1978	3860
95-166	*Francesco Giuttari.* AN ACT For the relief of Francesco Giuttari	Nov. 2, 1978	3860
95-167	*Sameek Keshary Ray.* AN ACT For the relief of Sameek Keshary Ray	Nov. 2, 1978	3860
95-168	*Lawrence Youngman.* AN ACT For the relief of Lawrence Youngman	Nov. 2, 1978	3861
95-169	*Margaret Perry.* AN ACT For the relief of Margaret Perry	Nov. 2, 1978	3861
95-170	*Gary Daves and Marc Cayer.* AN ACT For the relief of Gary Daves and Marc Cayer	Nov. 3, 1978	3862

39-194 O—80—pt 1——4 · QL3

LIST OF CONCURRENT RESOLUTIONS

CONTAINED IN THIS VOLUME

	Con. Res.	Date	Page
Congress. Joint meeting	H. Con. Res. 452	Jan. 19, 1978	3865
House of Representatives and Senate. Adjournment from Feb. 9-14, 1978 and Feb. 10-20, 1978, respectively	H. Con. Res. 473	Feb. 9, 1978	3865
H.R. 8638. Correction in bill enrollment	H. Con. Res. 486	Feb. 27, 1978	3865
District of Columbia, council action. Congressional approval	H. Con. Res. 464	Mar. 10, 1978	3868
District of Columbia, council action. Congressional approval	H. Con. Res. 471	Mar. 10, 1978	3868
National Railroad Passenger Corporation. Service maintenance	H. Con. Res. 494	Mar. 21, 1978	3869
House of Representatives and Senate. Adjournment from March 22-April 3, 1978 and March 23-29 or April 3, 1978, respectively	H. Con. Res. 544	Mar. 22, 1978	3869
Kosciuszko Military Engineering Sites. Markers	S. Con. Res. 44	Apr. 3, 1978	3869
Conference on cooperation and security in Europe. Gratitude of Congress	S. Con. Res. 549	May 5, 1978	3870
Congress. Budget for U.S. Government, fiscal year 1978	S. Con. Res. 80	May 17, 1978	3870
Soviet Helsinki Groups. Congressional opposition for imprisonment	H. Con. Res. 624	May 22, 1978	3872
House of Representatives and Senate. Adjournment from May 25-31, and May 26-June 5, 1978, respectively	H. Con. Res. 634	May 25, 1978	3874
"Korean Influence Inquiry." Printing of additional copies	S. Con. Res. 89	June 7, 1978	3874
H.R. 5493. Corrections in bill enrollment	H. Con. Res. 635	June 8, 1978	3874
"New Perspectives In Health Care for Older Americans." Printing of additional copies	H. Con. Res. 441	June 23, 1978	3874
"The United States Capitol." Revision and reprinting as House document	H. Con. Res. 561	June 23, 1978	3875
Hungarian People's Republic, nondiscriminatory treatment. Congressional approval of extension	H. Con. Res. 555	June 27, 1978	3875
House of Representatives and Senate. Adjournment from June 29-July 10, 1978 and July 10, 1978, until disposition of H.R. 12426	H. Con. Res. 654	June 29, 1978	3875
Helsinki Final Act, trials of supporters. Congressional concern	S. Con. Res. 95	July 12, 1978	3875
Drug traffic. Congressional endorsement of the Hermosillo Declaration	H. Con. Res. 265	July 18, 1978	3876
Congress. Adjournment provisions	S. Con. Res. 98	July 27, 1978	3877
H.R. 10732. Correction in bill enrollment	H. Con. Res. 687	Aug. 14, 1978	3877
House of Representatives and Senate. Adjournment from August 17-September 6, 1978 and August 25, 26, 28, 29-September 6, 1978, respectively	H. Con. Res. 696	Aug. 17, 1978	3877
H.R. 6669. Correction of bill enrollment	S. Con. Res. 103	Sept. 6, 1978	3877
Congress. Joint meeting	H. Con. Res. 713	Sept. 18, 1978	3878
Korean influence inquiry hearings. Printing of additional copies	S. Con. Res. 105	Sept. 19, 1978	3878
Congress. Budget for U.S. Government, fiscal year 1979	H. Con. Res. 683	Sept. 23, 1978	3878

	Con. Res	Date	Page
"A Legislative History of the Water Pollution Control Act Amendments of 1972." Printing of additional copies	S. Con. Res. 90	Sept. 26, 1978	3880
"Intelligence Activities and the Rights of Americans." Printing of additional copies	S. Con. Res. 96	Sept. 26, 1978	3880
"Preliminary Guide to Export Opportunities to Japan." Printing of additional copies	S. Con. Res. 97	Sept. 26, 1978	3880
Eulogies to Hubert H. Humphrey. Printing of additional copies	S. Con. Res. 106	Sept. 26, 1978	3880
Middle East peace efforts. Congressional commendation	H. Con. Res. 715	Sept. 28, 1978	3881
H.R. 8149. Correction in bill enrollment	H. Con. Res. 725	Sept. 30, 1978	3881
H.R. 8394. Corrections in bill enrollment	H. Con. Res. 727	Oct. 2, 1978	3882
Prayers of Rev. Edward Elson, Senate Chaplain. Printing as Senate document; additional copies	S. Con. Res. 108	Oct. 11, 1978	3882
S. 2640. Corrections in bill enrollment	S. Con. Res. 110	Oct. 11, 1978	3882
H.R. 12255. Corrections in bill enrollment	H. Con. Res. 730	Oct. 11, 1978	3885
H.R. 11318. Correction in bill enrollment	H. Con. Res. 739	Oct. 11, 1978	3886
H.R. 10587. Corrections in bill enrollment	H. Con. Res. 740	Oct. 11, 1978	3886
H.R. 11445. Corrections in bill enrollment	S. Con. Res. 111	Oct. 12, 1978	3887
S. 555. Corrections in bill enrollment	S. Con. Res. 112	Oct. 12, 1978	3887
Prayers of Rev. Edward Latch, House Chaplain. Printing as House document; additional copies	H. Con. Res. 742	Oct. 13, 1978	3898
S. 2570. Corrections in bill enrollment	S. Con. Res. 114	Oct. 15, 1978	3898
Enrolled bills and joint resolutions. Authorization to sign during sine die adjournment	S. Con. Res. 115	Oct. 15, 1978	3900
H.R. 6536. Corrections in bill enrollment	H. Con. Res. 749	Oct. 15, 1978	3900
H.R. 8533. Corrections in bill enrollment	H. Con. Res. 754	Oct. 15, 1978	3902
S. 1487. Correction in bill enrollment	H. Con. Res. 755	Oct. 15, 1978	3903
Congress. Adjournment sine die	H. Con. Res. 760	Oct. 15, 1978	3903
H.R. 13511. Corrections in bill enrollment	H. Con. Res. 761	Oct. 15, 1978	3903

LIST OF PROCLAMATIONS

CONTAINED IN THIS VOLUME

No.		Date	Page
4543	Modifying Proclamation No. 3279, as Amended, Relating to Imports of Petroleum and Petroleum Products, and Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees	Dec. 27, 1977	3907
4544	Drug Abuse Prevention Week, 1978	Jan. 11, 1978	3907
4545	Death of Hubert H. Humphrey	Jan. 16, 1978	3908
4546	American Heart Month, 1978	Jan. 19, 1978	3909
4547	Import Fees on Sugar, Sirups, and Molasses	Jan. 20, 1978	3910
4548	National Defense Transportation Day and National Transportation Week, 1978	Jan. 31, 1978	3912
4549	Save Your Vision Week, 1978	Feb. 1, 1978	3912
4550	National Poison Prevention Week, 1978	Feb. 6, 1978	3913
4551	Red Cross Month, 1978	Feb. 7, 1978	3914
4552	Cancer Control Month, 1978	Mar. 15, 1978	3914
4553	Small Business Week, 1978	Mar. 16, 1978	3915
4554	World Trade Week, 1978	Mar. 16, 1978	3916
4555	National Maritime Day, 1978	Mar. 16, 1978	3916
4556	National Farm Safety Week, 1978	Mar. 21, 1978	3917
4557	Pan American Day and Pan American Week, 1978	Mar. 23, 1978	3917
4558	Sun Day, 1978	Mar. 27, 1978	3918
4559	Modification of Temporary Quantitative Limitations on the Importation into the United States of Certain Articles of Alloy Tool Steel	Apr. 5, 1978	3919
4560	Agreement on Trade Relations Between the United States of America and the Hungarian People's Republic	Apr. 7, 1978	3920
4561	Temporary Duty Increase on the Importation Into the United States of Certain Citizens Band (CB) Radio Transceivers	Apr. 7, 1978	3921
4562	Education Day, U.S.A., 1978	Apr. 17, 1978	3923
4563	National Oceans Week, 1978	Apr. 17, 1978	3924
4564	Older Americans Month, 1978	Apr. 19, 1978	3925
4565	Law Day, U.S.A., 1978	Apr. 25, 1978	3925
4566	National Architectural Barrier Awareness Week, 1978	Apr. 25, 1978	3926
4567	Loyalty Day, 1978	Apr. 27, 1978	3927
4568	Application of Certain Laws of the United States to the Northern Mariana Islands	May 9, 1978	3928
4569	National Historic Preservation Week, 1978	May 10, 1978	3929
4570	Mother's Day, 1978	May 11, 1978	3929
4571	Armed Forces Day, 1978	May 15, 1978	3930
4572	Prayer for Peace/Memorial Day, May 29, 1978	May 19, 1978	3931
4573	Flag Day and National Flag Week, 1978	May 30, 1978	3932
4574	Father's Day, 1978	June 9, 1978	3932
4575	University Press Centennial Observance	June 14, 1978	3933
4576	Free Enterprise Day, 1978	June 30, 1978	3934
4577	Quantitative Limitation on the Importation of Certain Meat	July 4, 1978	3934
4578	Captive Nations Week, 1978	July 11, 1978	3935
4579	Citizenship Day and Constitution Week, 1978	July 19, 1978	3936
4580	National Grandparents Day, 1978	Aug. 3, 1978	3936
4581	Fire Prevention Week, 1978	Aug. 8, 1978	3937
4582	General Pulaski's Memorial Day, 1978	Aug. 8, 1978	3938
4583	White Cane Safety Day, 1978	Aug. 8, 1978	3939
4584	National Aviation Year and Wright Brothers Day, 1978	Aug. 8, 1978	3940
4585	National Hispanic Heritage Week, 1978	Aug. 17, 1978	3941
4586	Columbus Day, 1978	Aug. 17, 1978	3942

No.		Date	Page
4587	Child Health Day, 1978	Aug. 17, 1978	3943
4588	National Lupus Week, 1978	Aug. 18, 1978	3944
4589	International Literacy Day, 1978	Aug. 21, 1978	3944
4590	Women's Equality Day, 1978	Aug. 25, 1978	3945
4591	National Day of Prayer, 1978	Sept. 1, 1978	3946
4592	Leif Erikson Day, 1978	Sept. 5, 1978	3947
4593	National Employ the Handicapped Week, 1978	Sept. 7, 1978	3947
4594	National School Lunch Week, 1978	Sept. 8, 1978	3948
4595	Veterans Day, 1978	Sept. 11, 1978	3949
4596	National Port Week, 1978	Sept. 15, 1978	3949
4597	United Nations Day, 1978	Sept. 19, 1978	3950
4598	National Guard Day, 1978	Sept. 20, 1978	3951
4599	National Forest Products Week, 1978	Sept. 21, 1978	3952
4600	Temporary Staged Reduction of Rates of Duty on Certain Products	Sept. 21, 1978	3953
4601	National Good Neighbor Day, 1978	Sept. 22, 1978	3955
4602	National Farm-City Week, 1978	Sept. 27, 1978	3956
4603	American Education Week, 1978	Sept. 28, 1978	3957
4604	Termination of Increased Rates of Duty on Certain Ceramic Tableware	Oct. 2, 1978	3958
4605	National Jogging Day, 1978	Oct. 13, 1978	3959

PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE NINETY-FIFTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Thursday, January 19, 1978, and adjourned sine die on Sunday, October 15, 1978. JIMMY CARTER, *President;* WALTER F. MONDALE, *Vice President;* THOMAS P. O'NEILL, JR., *Speaker of the House of Representatives.*

Public Law 95-224
95th Congress

An Act

To distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes.

Feb. 3, 1978
[H.R. 7691]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

Federal Grant and Cooperative Agreement Act of 1977.
41 USC 501 note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that— 41 USC 501.

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing inconsistencies, confusion, inefficiency, and waste is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guideline for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

41 USC 502.

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

41 USC 503.

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

41 USC 504.

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

Transfers.

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever— 41 USC 505.

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and Transfers.

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act. Contracts, grant or cooperative agreements. 41 USC 506.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds. Scientific research.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed 41 USC 507. Contents. Consultation. Report to congressional committees.

descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

41 USC 508.

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contract, grants agreement, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS

Repeal; effective date.

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this Act.

41 USC 501 note.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

41 USC 509.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation where different relationships would otherwise be appropriate for different components of the project.

Excepted transactions.
41 USC 501 note.
Expiration date.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

Approved February 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-481 (Comm. on Government Operations).
SENATE REPORT No. 95-449 accompanying S. 431 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 27, considered and passed House.
Oct. 1, considered and passed Senate, amended, in lieu of S. 431.
Vol. 124 (1978): Jan. 19, House agreed to Senate amendment.

Public Law 95-225
95th Congress

An Act

To amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes.

Feb. 6, 1978
[S. 1585]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Children Against Sexual Exploitation Act of 1977".

Protection of Children Against Sexual Exploitation Act of 1977.
18 USC 2251 note.

SEC. 2. (a) Title 18, United States Code, is amended by inserting immediately after chapter 109 the following:

"Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.
"2251. Sexual exploitation of children.
"2252. Certain activities relating to material involving the sexual exploitation of minors.
"2253. Definitions for chapter.

"§ 2251. Sexual exploitation of children

18 USC 2251.

"(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, shall be punished as provided under subsection (c), if such person knows or has reason to know that such visual or print medium will be transported in interstate or foreign commerce or mailed, or if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct shall be punished as provided under subsection (c) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual or print medium will be transported in interstate or foreign commerce or mailed or if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(c) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $15,000, or imprisoned not less than two years nor more than 15 years, or both.

Penalty.

"§ 2252. Certain activities relating to material involving the sexual exploitation of minors

18 USC 2252.

"(a) Any person who—

"(1) knowingly transports or ships in interstate or foreign commerce or mails, for the purpose of sale or distribution for sale, any obscene visual or print medium, if—

Interstate or foreign commerce, sale and distribution prohibition.

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicts such conduct; or

"(2) knowingly receives for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene visual or print medium that has been transported or shipped in interstate or foreign commerce or mailed, if—

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicts such conduct;

shall be punished as provided in subsection (b) of this section.

Penalty.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $15,000, or imprisoned not less than two years nor more than 15 years, or both.

18 USC 2253.

"§ 2253. Definitions for chapter

"For the purposes of this chapter, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); or

"(E) lewd exhibition of the genitals or pubic area of any person;

"(3) 'producing' means producing, directing, manufacturing, issuing, publishing, or advertising, for pecuniary profit; and

"(4) 'visual or print medium' means any film, photograph, negative, slide, book, magazine, or other visual or print medium.".

(b) The table of chapters for title 18, United States Code, and for part I of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children..... 2251".

SEC. 3. (a) Section 2423 of title 18, United States Code, is amended to read as follows:

"§ 2423. Transportation of minors

Interstate or foreign commerce, transportation prohibition.

"(a) Any person who transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of, any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States, with the intent—

"(1) that such minor engage in prostitution; or

"(2) that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person;

Penalty.

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) As used in this section— Definitions.

"(1) the term 'minor' means a person under the age of eighteen years;

"(2) the term 'prohibited sexual conduct' means—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); or

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) the term 'commercial exploitation' means having as a direct or indirect goal monetary or other material gain.".

(b) The table of sections for chapter 117 of title 18, United States Code, is amended by striking out the item relating to section 2423 and inserting in lieu thereof the following:

"2423. Transportation of minors.".

SEC. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. Severability. 18 USC 2251 note.

Approved February 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-696 accompanying H.R. 8059 (Comm. on the Judiciary) and No. 95-811 (Comm. of Conference).

SENATE REPORTS: No. 95-438 (Comm. on the Judiciary) and No. 95-601 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 10, considered and passed Senate.

Oct. 25, considered and passed House, amended, in lieu of H.R. 8059.

Nov. 4, Senate agreed to conference report.

Vol. 124 (1978): Jan. 24, House agreed to conference report.

Public Law 95-226
95th Congress

An Act

Feb. 7, 1978
[H.R. 10532]

To amend Public Law 95-18, providing for emergency drought relief measures.

Emergency drought relief measures. Construction extension. 43 USC 502 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (a) of the first section of the Act of April 7, 1977, entitled "An Act to provide temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-1977 drought" (91 Stat. 36), as amended, is hereby further amended by adding after "January 31, 1978;" the following: "*Provided further*, That where the Secretary finds that such construction activities have been diligently pursued but cannot be completed by January 31, 1978, due to bad weather, delays in delivery of required supplies, or other unanticipated and unavoidable circumstances, the Secretary is authorized to allow continuation and completion of construction for a reasonable time beyond January 31, 1978".

43 USC 502 note.

SEC. 2. Section 7 of such Act is amended by striking out "March" and substituting in lieu thereof "May".

Approved February 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-854 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 30, considered and passed House.
Jan. 31, considered and passed Senate.

Public Law 95-227
95th Congress

An Act

To impose an excise tax on the sale of coal by the producer, to establish a Black Lung Disability Trust Fund, and for other purposes.

Feb. 10, 1978
[H.R. 5322]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Black Lung Benefits Revenue Act of 1977. 26 USC 4121 note.

This Act may be cited as the "Black Lung Benefits Revenue Act of 1977".

SEC. 2. EXCISE TAX ON COAL.

(a) IN GENERAL.—Chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Coal

"Sec. 4121. Imposition of tax.

"SEC. 4121. IMPOSITION OF TAX. 26 USC 4121.

"(a) TAX IMPOSED.—There is hereby imposed on coal sold by the producer a tax at the rates of—

"(1) 50 cents per ton in the case of coal from underground mines located in the United States, and

"(2) 25 cents per ton in the case of coal from surface mines located in the United States.

"(b) LIMITATION ON TAX.—The amount of the tax imposed by subsection (a) with respect to a ton of coal shall not exceed 2 percent of the price at which such ton of coal is sold by the producer.

"(c) TAX NOT TO APPLY TO LIGNITE.—The tax imposed by subsection (a) shall not apply in the case of lignite.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) COAL FROM SURFACE MINES.—Coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth. Coal extracted by auger shall be treated as coal from a surface mine.

"(2) COAL FROM UNDERGROUND MINES.—Coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

"(3) UNITED STATES.—The term 'United States' has the meaning given to it by paragraph (1) of section 638. 26 USC 638.

"(4) TON.—The term 'ton' means 2,000 pounds.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) is amended by adding at the end thereof the following new sentence: "For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words '(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)' shall be disregarded.". 26 USC 4218. *Supra.*

26 USC 4221.
Ante, p. 11.

(2) Section 4221(a) of such Code (relating to certain tax-free sales) is amended by inserting "(other than under section 4121)" after "this chapter".

26 USC 4293.

(3) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by inserting "(other than the tax imposed by section 4121)" after "chapters 31 and 32".

26 USC 6416.

(4) Subsection (b) of section 6416 (relating to special cases in which tax payments are considered overpayments) is amended—

(A) by inserting "(other than coal taxable under section 4121)" immediately after "in respect of any article" in paragraph (2), and

(B) by inserting "(other than coal taxable under section 4121)" immediately after "with respect to the sale of any article" in paragraph (3).

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Coal.".

26 USC 4121 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales after March 31, 1978.

SEC. 3. TRUST FUND AND OPERATOR LIABILITY.

Black Lung Disability Trust Fund.
30 USC 934a.

(a) ESTABLISHMENT OF FUND.—

(1) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the Black Lung Disability Trust Fund (to which reference is made elsewhere in this section as the "fund"). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it or deposited in it as provided in subsection (b).

Trustees.

(2) The trustees of the fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare. The Secretary of the Treasury shall be the managing trustee and shall hold, operate, and administer the fund.

(b) APPROPRIATIONS; OTHER RECEIPTS.—

(1) There are hereby appropriated to the fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the taxes received in the Treasury under section 4121, and by operation of section 4952, of the Internal Revenue Code of 1954. The amounts appropriated by this paragraph shall be transferred monthly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the amounts of such taxes received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

Post, p. 21.
Funds, transfer.

(2) There are authorized to be appropriated to the fund, as repayable advances, such sums as may from time to time be necessary to meet obligations incurred under subsection (a) of section 424 of the Federal Coal Mine Health and Safety Act of 1969. Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the fund for such repayments. Interest on such advances shall be at a rate equal to the average rate of inter-

Post, p. 13.

Interest rate.

est, computed as of the end of the calendar month next preceding the date of any such advance, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt. When such average rate is not a multiple of one-eighth of 1 percent, the rate of interest on such advances shall be the multiple of one-eighth of 1 percent nearest such average rate.

(3) Amounts paid into the fund by a trust described in section 501(c)(21) of the Internal Revenue Code of 1954 (other than amounts paid under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) shall be covered into the fund. *Post*, p. 15. *Infra.*

(4) Amounts repaid or recovered under subsection (b) of section 424 of the Federal Coal Mine Health and Safety Act of 1969 shall be covered into the fund as repayments of amounts erroneously paid out.

(5) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of such Act shall be covered into the fund as miscellaneous receipts. 30 USC 933, 941.

(c) DUTIES OF THE SECRETARY OF THE TREASURY.— *Post*, p. 101.

(1) The Secretary of the Treasury shall hold the fund and (after consultation with the other trustees of the fund) shall report to the Congress not later than the last day of March of 1979, and of each succeeding year, on the financial condition and the results of the operations of the fund during the preceding fiscal year (including a detailed statement of the expenses paid out of the fund under subsection (a)(4) of section 424 of the Federal Coal Mine Health and Safety Act of 1969) and on its expected condition and operations during the fiscal year in which the report is made. The report shall be printed as a House document of the session of the Congress to which the report is made. Report to Congress. *Infra.*

(2) It is the duty of the Secretary of the Treasury to invest such portion of the fund as is not, in his judgment, required to meet current withdrawals, including the repayment of advances made under subsection (b)(2). Such investments shall be made in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. The income on such investments shall be credited to and form a part of the fund. Investments.

(d) PAYMENTS FROM FUND.—Section 424 of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows: 30 USC 934.

"SEC. 424. (a) Amounts in the Black Lung Disability Trust Fund (referred to in this section as the 'fund') established under section 3 of the Black Lung Benefits Revenue Act of 1977 shall be available, as provided by appropriation Acts, for— *Ante*, p. 12.

"(1) the payment of benefits under section 422 in any case in which the Secretary determines that— 30 USC 932.

"(A) the operator liable for the payment of such benefits—

"(i) has not commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary, or

"(ii) has not made a payment within 30 days after that payment is due,

"(B) there is no operator who is required to secure the payment of such benefits,

"(2) the payment of obligations incurred by the Secretary with respect to all claims of miners or their survivors in which the

miner's last coal mine employment was before January 1, 1970,

"(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary for claims under this part which were paid before April 1, 1978, except that the fund shall not be obligated to pay or reimburse for benefits paid attributable to periods of eligibility before January 1, 1974.

"(4) the repayment of, and the payment of interest on, advances to the fund under subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977,

Administrative expenses.

"(5) the payment of all expenses of operation and administration on and after the effective date of the Black Lung Benefits Reform Act of 1977 (or any other Act determined by the Secretary to contain substantially the same provisions) under this part (other than under section 427(a) or 433), including the administrative expenses incurred by the Department of Labor under this part, the administrative expenses incurred by the Department of the Treasury in administering subchapter B of chapter 32 of the Internal Revenue Code of 1954 and in carrying out its responsibilities with respect to the fund, and any expenses incurred by the Department of Health, Education, and Welfare in connection with the administration of this part, and

30 USC 937.
Post, p. 101.

Ante, p. 11.

"(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970.

"(b)(1) If—

"(A) an amount is paid out of the fund to an individual entitled to benefits under section 422, and

30 USC 932.

"(B) the Secretary determines, under the provisions of sections 422 and 423, that an operator was required to secure the payment of all or a portion of such benefits,

30 USC 932, 933.

then the operator is liable to the United States for repayment to the fund of the amount of such benefits the payment of which is properly attributed to him. No operator or representative of operators may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits to be paid by the fund, except that nothing in this section shall affect the rights, duties, or liabilities of any operator in proceedings under section 422 or section 423. In a case where no operator responsibility is assigned pursuant to sections 422 and 423, a determination by the Secretary that the fund is liable for the payment of benefits shall be final.

Lien.

"(2) If any operator liable to the fund under paragraph (1) refuses to pay, after demand, the amount of such liability (including interest), then there shall be a lien in favor of the United States for such amount upon all property and rights to property, whether real or personal, belonging to such operator. The lien arises on the date on which such liability is finally determined, and continues until it is satisfied or becomes unenforceable by reason of lapse of time.

"(3)(A) Except as otherwise provided under this subsection, the priority of the lien shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954. That section shall be applied for such purposes—

26 USC 6323.

"(i) by substituting 'lien imposed by section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969' for 'lien imposed by section 6321'; 'operator liability lien' for 'tax lien';

'operator' for 'taxpayer'; 'lien arising under section 424(b)(2) of the Federal Coal Mine Health and Safety Act of 1969' for 'assessment of the tax'; 'payment of the liability is made to the Black Lung Disability Trust Fund' for 'satisfaction of a levy pursuant to section 6332(b)'; and 'satisfaction of operator liability' for 'collection of any tax under this title' each place such terms appear; and

Ante, p. 13.

26 USC 6332.

"(ii) by treating all references to the 'Secretary' as references to the Secretary of Labor.

"(B) In the case of a bankruptcy or insolvency proceeding, the lien imposed under paragraph (2) shall be treated in the same manner as a lien for taxes due and owing to the United States for purposes of the Bankruptcy Act or section 3466 of the Revised Statutes (31 U.S.C. 191).

Post, p. 2549.

"(C) For purposes of applying section 6323(a) of the Internal Revenue Code of 1954 to determine the priority between the lien imposed under paragraph (2) and the Federal tax lien, each lien shall be treated as a judgment lien arising as of the time notice of such lien is filed.

26 USC 6323.

"(D) For purposes of this subsection, notice of the lien imposed under paragraph (2) shall be filed in the same manner as under subsections (f) and (g) of section 6323 of the Internal Revenue Code of 1954.

"(4)(A) In any case where there has been a refusal or neglect to pay the liability imposed under paragraph (2), the Secretary may bring a civil action in a district court of the United States to enforce the lien of the United States under this section with respect to such liability or to subject any property, of whatever nature, of the operator, or in which he has any right, title, or interest, to the payment of such liability.

Civil action.

"(B) The liability imposed by paragraph (1) may be collected at a proceeding in court if the proceeding is commenced within 6 years after the date on which the liability was finally determined, or before the expiration of any period for collection agreed upon in writing by the operator and the United States before the expiration of such 6-year period. The running of the period of limitation provided under this subparagraph shall be suspended for any period during which the assets of the operator are in the custody or control of any court of the United States, or of any State, or the District of Columbia, and for 6 months thereafter, and for any period during which the operator is outside the United States if such period of absence is for a continuous period of at least 6 months.".

(e) EFFECTIVE DATE.—This section shall take effect on April 1, 1978.

30 USC 934 note.

SEC. 4. OPERATOR'S TRUST FOR THE PAYMENT OF BLACK LUNG BENEFITS.

(a) ESTABLISHMENT OF TRUST.—Section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

26 USC 501.

"(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(A) the purpose of such trust or trusts is exclusively—

"(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compen-

sation for disability or death due to pneumoconiosis under Black Lung Acts;

"(ii) to pay premiums for insurance exclusively covering such liability; and

"(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, or

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or

26 USC 581.

"(iii) payment into the Black Lung Disability Trust Fund established under section 3 of the Black Lung Benefits Revenue Act of 1977, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"Black Lung Acts."

For purposes of this paragraph the term 'Black Lung Acts' means part C of title IV of the Federal Coal Mine Health and Safey Act of 1969, and any State law providing compensation for disability or death due to pneumoconiosis.".

30 USC 931.

(b) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 of such Code (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 192.

"SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

"(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

Ante, p. 15.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

"(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

"(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

"(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

Ante, p. 15.

"(B) the lesser of—

"(i) the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

"(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

"(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

"(II) such claims approved during any one of those 4 taxable years.

"(c) SPECIAL RULES.—

"(1) DETERMINATION OF EXPECTED FUTURE PAYMENTS.—The amounts described in subsection (b) shall be determined by using reasonable actuarial assumptions which are not inconsistent with regulations prescribed by the Secretary.

"(2) BENEFIT PAYMENTS TAKEN INTO ACCOUNT.—In determining the amounts described in subsection (b), only those black lung benefit claims the payment of which is expected to be made from the trust shall be taken into account.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment of a contribution on the last day of a taxable year if the payment is on account of that taxable year and is made not later than the time prescribed by law for filing the return for that taxable year (including extensions thereof).

"(4) CONTRIBUTIONS TO BE IN CASH OR CERTAIN OTHER ITEMS.—No deduction shall be allowed under subsection (a) with respect to any contribution to a trust described in section 501(c)(21) other than a contribution in cash or in items in which such trust may invest under clause (ii) of section 501(c)(21)(B).

"(d) CARRYOVER OF EXCESS CONTRIBUTIONS.—If the amount of the deduction determined under subsection (a) for the taxable year (without regard to the limitation imposed by subsection (b)) with respect to a trust exceeds the limitation imposed by subsection (b) for the taxable year, the excess shall be carried over to the succeeding taxable year and treated as contributed to the trust during that year.

"(e) DEFINITION OF BLACK LUNG BENEFIT CLAIM.—For purposes of this section, the term 'black lung benefit claim' means a claim for compensation for disability or death due to pneumoconiosis under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 or under any State law providing for such compensation.".

30 USC 931.

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 192. Contributions to black lung benefit trust.".

(c) EXCISE TAXES ON ACTS OF SELF-DEALING, TAXABLE EXPENDITURES, AND EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Chapter 42 of such Code (relating to private foundations) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Black Lung Benefit Trusts

"Sec. 4951. Taxes on self-dealing.
"Sec. 4952. Taxes on taxable expenditures.
"Sec. 4953. Tax on excess contributions to black lung benefit trusts.

26 USC 4951.

"SEC. 4951. TAXES ON SELF-DEALING.

"(a) INITIAL TAXES.—

"(1) ON SELF-DEALER.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and a trust described in section 501(c)(21). The rate of tax shall be equal to 10 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a trustee of the trust) who participates in the act of self-dealing.

Ante, p. 15.

"(2) ON TRUSTEE.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any trustee of such a trust in an act of self-dealing between a disqualified person and the trust, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any such trustee who participated in the act of self-dealing.

"(b) ADDITIONAL TAXES.—

"(1) ON SELF-DEALER.—In any case in which an initial tax is imposed by subsection (a)(1) on an act of self-dealing by a disqualified person with a trust described in section 501(c)(21) and in which the act is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a trustee acting only as a trustee of such a trust) who participated in the act of self-dealing.

"(2) ON TRUSTEE.—In any case in which an additional tax is imposed by paragraph (1), if a trustee of such a trust refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any such trustee who refused to agree to part or all of the correction.

"(c) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(d) SELF-DEALING.—

"(1) IN GENERAL.—For purposes of this section, the term 'self-dealing' means any direct or indirect—

"(A) sale, exchange, or leasing of real or personal property between a trust described in section 501(c)(21) and a disqualified person;

"(B) lending of money or other extension of credit between such a trust and a disqualified person;

"(C) furnishing of goods, services, or facilities between such a trust and a disqualified person;

"(D) payment of compensation (or payment or reimbursement of expenses) by such a trust to a disqualified person; and

"(E) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) the transfer of personal property by a disqualified person to such a trust shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien;

"(B) the furnishing of goods, services, or facilities by a disqualified person to such a trust shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for the purposes specified in section 501(c)(21)(A); and

Ante, p. 15.

"(C) the payment of compensation (and the payment or reimbursement of expenses) by such a trust to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the trust shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive.

"(e) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which correction of the act of self-dealing is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that in the case of services described in subsection (d)(2)(C), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"(A) in the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

"(B) in the case of taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the trust in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"(4) CORRECTION PERIOD.—The term 'correction period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by—

26 USC 6212.

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

26 USC 6213.

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the act of self-dealing.

"(5) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to a trust described in section 501(c)(21), a person who is—

Ante, p. 15.

"(A) a contributor to the trust,

"(B) a trustee of the trust,

"(C) an owner of more than 10 percent of—

"(i) the total combined voting power of a corporation,

"(ii) the profits interest of a partnership, or

"(iii) the beneficial interest of a trust or unincorporated enterprise,

which is a contributor to the trust,

"(D) an officer, director, or employee of a person who is a contributor to the trust,

"(E) the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subparagraph (A), (B), (C), or (D),

"(F) a corporation of which persons described in subparagraph (A), (B), (C), (D), or (E) own more than 35 percent of the total combined voting power,

"(G) a partnership in which persons described in subparagraph (A), (B), (C), (D), or (E), own more than 35 percent of the profits interest, or

"(H) a trust or estate in which persons described in subparagraph (A), (B), (C), (D), or (E), hold more than 35 percent of the beneficial interest.

For purposes of subparagraphs (C)(i) and (F), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph. For purposes of subparagraphs (C)(ii) and (iii), (G), and (H), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph.

26 USC 267.

"(f) PAYMENTS OF BENEFITS.—For purposes of this section, a payment, out of assets or income of a trust described in section 501(c)(21), for the purposes described in clause (i) of section 501(c)(21)(A) shall not be considered an act of self-dealing.

"SEC. 4952. TAXES ON TAXABLE EXPENDITURES. 26 USC 4952.

"(a) TAX IMPOSED.—

"(1) ON THE FUND.—There is hereby imposed on each taxable expenditure (as defined in subsection (d)) from the assets or income of a trust described in section 501(c)(21) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust. *Ante*, p. 15.

"(2) ON THE TRUSTEE.—There is hereby imposed on the agreement of any trustee of such a trust to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the trustee who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE FUND.—In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

"(2) ON THE TRUSTEE.—In any case in which an additional tax is imposed by paragraph (1), if a trustee refused to agree to a part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The tax imposed by this paragraph shall be paid by any trustee who refused to agree to part or all of the correction.

"(c) JOINT AND SEVERAL LIABILITY.—For purposes of subsections (a) and (b), if more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

"(d) TAXABLE EXPENDITURE.—For purposes of this section, the term 'taxable expenditure' means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section. "Taxable expenditure."

"(e) DEFINITIONS.—

"(1) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any taxable expenditure, recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible, contributions by the person or persons whose liabilities for black lung benefit claims (as defined in section 192(e)) are to be paid out of the trust to the extent necessary to place the trust in a financial position not worse than that in which it would be if the taxable expenditure had not been made. *Ante*, p. 16.

"(2) CORRECTION PERIOD.—The term 'correction period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (b)(1), extended by— 26 USC 6212.

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and 26 USC 6213.

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable expenditure.

26 USC 4953.

"SEC. 4953. TAX ON EXCESS CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUSTS.

"(a) TAX IMPOSED.—There is hereby imposed for each taxable year a tax in an amount equal to 5 percent of the amount of the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21). The tax imposed by this subsection shall be paid by the person making the excess contribution.

Ante, p. 15.

"Excess contribution."

"(b) EXCESS CONTRIBUTION.—For purposes of this section, the term 'excess contribution' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to a trust or trusts described in section 501(c)(21) exceeds the amount of the deduction allowable to such person for such contributions for the taxable year under section 192, and

Ante, p. 16.

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the excess of the maximum amount allowable as a deduction under section 192 for the taxable year over the amount contributed to the trust or trusts for the taxable year, and

"(B) amounts distributed from the trust to the contributor which were excess contributions for the preceding taxable year.

"(c) TREATMENT OF WITHDRAWAL OF EXCESS CONTRIBUTIONS.—Amounts distributed during the taxable year from a trust described in section 501(c)(21) to the contributor thereof the sum of which does not exceed the amount of the excess contribution made by the contributor shall not be treated as—

"(1) an act of self-dealing (within the meaning of section 4951),

"(2) a taxable expenditure (within the meaning of section 4952), or

"(3) an act contrary to the purposes for which the trust is exempt from taxation under section 501(a).".

(2) CLERICAL AMENDMENTS.—

(A) Chapter 42 of such Code is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 42—PRIVATE FOUNDATIONS; BLACK LUNG BENEFIT TRUSTS

"SUBCHAPTER A. Private foundations.
"SUBCHAPTER B. Black lung benefit trusts.

"Subchapter A—Private Foundations".

26 USC 4946.

(B) Subsections (a)(1) and (b) of section 4946 of such Code are each amended by striking out "For purposes of this chapter" and inserting in lieu thereof "For purposes of this subchapter".

(C) The table of chapters for subtitle D of such Code is amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"CHAPTER 42. Private foundations, black lung benefit trusts.".

(d) TECHNICAL AMENDMENTS.—

(1)(A) Section 6213(e) of such Code (relating to suspension of filing period for certain excise taxes) is amended— 26 USC 6213.

(i) by inserting ", 4951 (relating to taxes on self-dealing), or 4952 (relating to taxes on taxable expenditures)" after "4945 (relating to taxes on taxable expenditures)",

(ii) by inserting "4951(e)(4), 4952(e)(2)," after "4945(i)(2)," and

(iii) by striking out "4975(f)(4)" and inserting in lieu thereof "4975(f)(6)".

(2) Section 6213(f) of such Code is amended by striking out "or chapter 42 or 43" each place it appears and inserting in lieu thereof "or chapter 41, 42, 43, or 44".

(3) Section 6405(a) of such Code is amended by striking out "private foundations and pension plans under chapters 42 and 43" and inserting in lieu thereof "public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44". 26 USC 6405.

(4) Section 6501(e)(3) of such Code is amended by striking out "or 43" and inserting in lieu thereof "43, or 44". 26 USC 6501.

(5) Section 6501(n) of such Code is amended—

(A) by striking out "CHAPTER 42 TAXES" in the caption and inserting in lieu thereof "CHAPTER 42 AND SIMILAR TAXES", and

(B) by striking out the first sentence of paragraph (1) and inserting in lieu thereof the following: "For purposes of any tax imposed by chapter 42 (other than section 4940) or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, or trust (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred.". 26 USC 4940 *et seq.* 26 USC 4975.

"(6)(A) Section 6503(g) of such Code is amended by striking "or section 507 or section 4971 or section 4975" and inserting in lieu thereof "or section 507, 4971, 4975, 4985, or 4986". 26 USC 6503.

(B) Section 6503(g) of such Code is amended by striking out "or 4975(f)(4)" and inserting in lieu thereof "4975(f)(6), 4985(e)(4), or 4986(e)(2)".

(7) Section 7454(b) of such Code is amended by inserting "or whether the trustee of a trust described in section 502(c)(21) has 'knowingly' participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952)," after "section 4945),". 26 USC 7454.

(e) PUBLICITY OF INFORMATION.—Section 6104 of such Code (relating to publicity of information required from certain exempt organizations and certain trusts) is amended— 26 USC 6104.

(1) by inserting "(other than in paragraph (21) thereof)" after "section 501(c)" in subsection (a)(1)(A), and

(2) by adding at the end of subsection (b) thereof the following sentence: "This subsection shall not apply to information required to be furnished by a trust described in section 501(c)(21).".

26 USC 192 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions, acts, and expenditures made after December 31, 1977, in and for taxable years beginning after such date.

26 USC 4121 note.

SEC. 5. GENERAL EFFECTIVE DATE RESERVATION.

Notwithstanding any other provision of this Act to the contrary, no provision of this Act (including any amendment made by any such provision) shall take effect or apply unless an Act, enacted after the date of enactment of this Act, contains a provision, explicitly in satisfaction of the requirements of this section, which states that it is the intent of the Congress that the provisions of this Act shall take effect.

Approved February 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-438 (Comm. on Ways and Means).
SENATE REPORT No. 95-572 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Dec. 15, considered and passed Senate, amended.
Vol. 124 (1978): Jan. 24, House concurred in Senate amendments.

Public Law 95-228
95th Congress

An Act

To repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

Feb. 10, 1978
[H.R. 5054]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3306 of title 5, United States Code, relating to apportionment of appointments in the departmental service in the District of Columbia among the States, territories, possessions, and the District of Columbia on the basis of population as determined at the last census, is repealed.

Executive agencies.
Apportionment requirement, elimination.
Repeal.

SEC. 2. (a) The section analysis for subchapter I of chapter 33 of title 5, United States Code, is amended by striking out the following:

"3306. Competitive service; departmental service; apportionment."

(b) Section 3302 of title 5, United States Code, is amended by striking out "3306(a)(1),".

(c) Sections 103(a)(4)(iv), 103(a)(5)(G), 203(a)(4)(iv), 203(a)(5)(G) of the District of Columbia Public Education Act are each amended by striking out "3306,".

D.C. Code 31-1603, 31-1623.

Approved February 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-593 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-614 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 19, considered and passed House.
Vol. 124 (1978): Jan. 26, considered and passed Senate.

Public Law 95-229
95th Congress

Joint Resolution

Feb. 14, 1978
[H.J. Res. 386]

To provide for the striking of a national medal to commemorate the bicentennial of an outstanding historic event or personality during 1777.

Whereas the Bicentennial of the adoption of the Declaration of Independence of the United States of America has been commemorated with the breadth and dignity befitting the American diversity, and

Whereas the Bicentennial celebration during 1976 saw the majority of our citizens participate in activities which helped to improve the quality of life for millions of Americans in thousands of communities across this nation while each were brushed with a sense of our past, our history, and

Whereas the Bicentennial year has given us great impetus to continue our historical review as we realize that the signing of the Declaration of Independence was only the beginning of our struggle to become a nation, and

Whereas it was the ratification of the Constitution and the inaugural of our first President the following year that truly signaled the beginning of our success under the great American experiment, and

Whereas the Members of the Congress of the United States of America recognize that from the careful study and commemoration of past events and writings can we have a better understanding to make sound judgments affecting our future, and

Whereas the Congress of the United States assembled in the United States Capitol Building stands as a working and living symbol of our Republic, the oldest continuously democratic form of government in history, and

Whereas the United States Capitol Historical Society represents all Americans through their duly elected Representatives who themselves are members of the Society, and

Whereas the United States Capitol Historical Society was founded in 1962 with the express purpose to encourage an understanding by the people of the founding, growth and significance of the Capitol of the United States as a tangible symbol of their free representative government, and

Whereas the United States Capitol Historical Society has historically undertaken scholarly research, citizen study of the Constitution of the United States and other significant contributions to art, restoration, publication and film without appropriated funds to promote an understanding of the richness and inspiration of our history, and

Whereas the United States Capitol Historical Society seeks to foster and increase an informed patriotism of the land in the study of those historic events and personalities who contributed to the founding of the Nation and our Constitution form of government, and

Whereas the United States Capitol Historical Society recognizes the need to promote greater awareness of the events which led to the adoption of the Articles of Confederation, our first effort at governing our Republic, the intervening struggle for independence and finally the adoption of the Constitution of the United States of America, and

Whereas it is recognized that one means to generate a greater awareness of the events and personalities who helped form our national fabric is to commemorate these events and personalities on medals to be struck by the Secretary of the Treasury and made available for purchase by the citizenry; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in commemoration of the Bicentennial of the founding of the United States of America and the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") no more than 104,000 medals with suitable designs, emblems and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. The medals shall be made and issued at such times and in such quantities as may be required by the Society and subject to the approval of the Secretary of the Treasury but no medals shall be made after December 31, 1978. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

Historic event or personality during 1777. Bicentennial commemorative medals.

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 25 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the costs of manufacture.

Cost.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society.

Approved February 14, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-611 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 27, considered and passed House.
Vol. 124 (1978): Jan. 23, considered and passed Senate, amended.
Jan. 31, House concurred in Senate amendments.

39-194 O—80—pt. 1——6 : QL3

Public Law 95-230
95th Congress

An Act

Feb. 15, 1978
[H.R. 2719]

To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

Middle Rio Grande Conservancy District, N. Mex. Payment contract.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act of August 27, 1935 (Ch. 745, 49 Stat. 887), as amended by section 5 of the Act of June 20, 1938 (Ch. 525, 52 Stat. 779), the Act of April 24, 1946 (Ch. 219. 60 Stat. 121), the Act of May 29, 1956 (Public Law 546, 70 Stat. 221), and by the Act of July 27, 1965 (Public Law 89-94, 79 Stat. 285), is further amended by deleting the words "for a period of not to exceed five years."

Payment authorization.

(b) The Secretary of the Treasury is authorized and directed to make payments under the authority of the Act amended by subsection (a) of this Act for all such periods between the date of expiration or lapse of such Act and the date of enactment of this Act.

Approved February 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-570 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-575 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 19, considered and passed House.
Nov. 3, considered and passed Senate, amended.
Vol. 124 (1978): Jan. 31, House concurred in Senate amendments.

Public Law 95-231
95th Congress

An Act

To amend the Interstate Commerce Act to authorize appropriations for the Office of Rail Public Counsel for fiscal year 1978.

Feb. 15, 1978
[H.R. 5798]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 27(6) of the Interstate Commerce Act (49 U.S.C. 26b(6)) is amended—

Rail Public Counsel. Appropriation authorization.

(1) by striking out "and" immediately after "1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $1,000,000 for the fiscal year ending September 30, 1978".

Approved February 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-334 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 30, considered and passed House.
Jan. 31, considered and passed Senate.

Public Law 95-232
95th Congress

An Act

Feb. 17, 1978
[S. 1509]

To provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such land to be held in trust by the United States for such tribes.

Indians.
Certain pueblos, N. Mex.
Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duly authorized officials of each of the Indian pueblos of New Mexico are hereby authorized to convey to the United States all the right, title, and interest of such pueblos in the land located in Albuquerque, County of Bernalillo, State of New Mexico, which was conveyed to such pueblos on behalf of the United States and the Secretary of the Interior by the quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, and by the correction quitclaim deed executed July 30, 1970, by the Commissioner of Indian Affairs, and which is described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the city of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station 1-40-15 having established coordinates of Y-1494103.76, X-378204.72 of the New Mexico coordinate system, central zone, bears S. 16 degrees 02 minutes 03 seconds E., 989.43 feet.

Thence north 59 degrees 58 minutes 22 seconds west, 281.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a northwesterly direction 212.69 feet along the range/west curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the range/west curve concave of the south having a radius of 716.20 feet to corner No. 1, a point on the west range/west line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said range/west to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

Corner Coordinates of Tract "C"

Corner:	Y— Coordinate	X— Coordinate
1	1496295.97	378116.98
2	1495054.70	377931.43
3	1495196.41	377688.55
4	1495316.87	377513.58
5	1496171.41	377649.72

(b) Upon approval by the Secretary of the Interior, the Secretary shall accept such conveyances on behalf of the United States. Such land shall be held in trust jointly for such Indian pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian country" as defined in section 1151 of title 18, United States Code. The Secretary shall cause a description of such trust land to be published in the Federal Register.

Secretary of the Interior, acceptance of conveyances.

Publication in Federal Register.

(c) Nothing in this Act shall terminate or diminish the rights or interests of the Indian Pueblo Cultural Center, Inc., as an assignee or subleasee of the lease of such land to the All Indian Pueblo Council, Inc., approved on August 27, 1974, by the Bureau of Indian Affairs.

(d) Nothing in this Act shall alter the rights or interests, if any, in the adjacent lands previously conveyed to the County of Bernalillo for Four-H Club use by deed dated March 22, 1960.

Approved February 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-846 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-445 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 29, considered and passed Senate.
Vol. 124 (1978): Feb. 6, considered and passed House.

Public Law 95-233
95th Congress

An Act

Feb. 20, 1978
[S. 1360]

To amend section 14(e) of the National Forest Management Act of 1976.

National Forest Management Act of 1976, amendment. Timber sales. Collusive bidding practices, prevention.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(e) of the National Forest Management Act of 1976 (90 Stat 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e)(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

"(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

"(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

Report to Attorney General.

"(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(B) he may alter the bidding methods used within the affected area; and

"(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.".

Approved February 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-402 accompanying H.R. 6362 (Comm. on Agriculture).
SENATE REPORT No. 95-333 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 14, considered and passed Senate.
Vol. 124 (1978): Feb. 6, considered and passed House, in lieu of H.R. 6362.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 8 (1978): Feb. 20, Presidential statement.

Public Law 95-234
95th Congress

An Act

To amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.

Feb. 21, 1978
[H.R. 7442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Act Amendments of 1978".

Communications Act Amendments of 1978.
47 USC 609 note.

SEC. 2. Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended to read as follows:

"(b) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

"(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

"(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;

"(C) violated any provision of section 317(c) or 509(a) of this Act; or

47 USC 317, 509.

"(D) violated any provision of section 1304, 1343, or 1464 of title 18, United States Code;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 507 of this Act.

Forfeiture penalties.

47 USC 201, 351, 381, 507.

"(2) The amount of any forfeiture penalty determined under this subsection shall not exceed $2,000 for each violation. Each day of a continuing violation shall constitute a separate offense, but the total forfeiture penalty which may be imposed under this subsection, for acts or omissions described in paragraph (1) of this subsection and set forth in the notice or the notice of apparent liability issued under this subsection, shall not exceed—

Violations.

"(A) $20,000, if the violator is (i) a common carrier subject to the provisions of this Act, (ii) a broadcast station licensee or permittee, or (iii) a cable television operator; or

"(B) $5,000, in any case not covered by subparagraph (A).

Penalty assessment.

The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

Penalty determinations, notice and review.

"(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of title 5, United States Code. Any person against whom a forfeiture penalty

is determined under this paragraph may obtain review thereof pursuant to section 402(a).

47 USC 402.

Unpaid assessment recovery, referral to Attorney General.

"(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

Apparent liability notice.

"(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

"(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

"(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

"(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.

Such a notice shall (i) identify each specific provision, term, and condition of any Act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, instrument, or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to section 504(a) of this Act.

"(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required. Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.

Liability exemption period.

47 USC 301.

"(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

"(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

"(i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

"(ii) prior to the date of commencement of the current term of such license,

whichever is earlier so long as such violation occurred within 3 years prior to the date of issuance of such required notice; or

"(B) such person does not hold a broadcast station license issued under title III of this Act and if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.". 47 USC 301.

SEC. 3. (a) The first sentence of section 504(a) of the Communications Act of 1934 (47 U.S.C. 504(a)) is amended by inserting immediately after "recoverable" the following: ", except as otherwise provided with respect to a forfeiture penalty determined under section 503(b)(3) of this Act,". 47 USC 503.

(b) Section 504(b) of such Act is amended (1) by striking out "parts II and III of title III and section 503(b), section 507, and section 510" and inserting in lieu thereof "title II, parts II and III of title III, and sections 503(b) and 507"; and (2) by striking out ", upon application therefor,". 47 USC 351, 381, 503, 507, 510.

SEC. 4. Section 510 of the Communications Act of 1934 (47 U.S.C. 510) is repealed in its entirety. 47 USC 201, 351, 381, 503, 507.

SEC. 5. Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking the word "Subject" and inserting in lieu thereof the following "Except as provided in section 224 and subject". Repeal. *Infra.*

SEC. 6. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"REGULATIONS OF POLE ATTACHMENTS

"SEC. 224. (a) As used in this section: Definitions. 47 USC 224.

"(1) The term 'utility' means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

"(b)(1) Subject to the provisions of subsection (c) of this section, the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable, and shall adopt procedures necessary and appropriate to hear and resolve complaints concerning such rates, terms, and conditions. For purposes of enforcing any determinations resulting from complaint procedures established pursuant to this subsection, the Commission shall take such action as it deems appropriate and necessary, including issuing cease and desist orders, as authorized by section 312(b) of title III of the Communications Act of 1934, as amended. Enforcement. 47 USC 312.

"(2) Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section. Regulations.

"(c)(1) Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions for pole attachments in any case where such matters are regulated by a State.

State regulation, certification.

"(2) Each State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that—

"(A) it regulates such rates, terms, and conditions; and

"(B) in so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

Just and reasonable rates.

"(d)(1) For purposes of subsection (b) of this section, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"Usable space."

"(2) As used in this subsection, the term 'usable space' means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

Expiration date.

"(e) Upon the expiration of the 5-year period that begins on the date of enactment of this Act the provisions of subsection (d) of this section shall cease to have any effect.".

Effective date.
47 USC 152 note.

SEC. 7. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.

Ante, p. 35.

Approved February 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-721 and 95-721, pt. 2 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-580 accompanying S. 1547 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 25, considered and passed House.

Vol. 124 (1978): Jan. 31, considered and passed Senate, amended, in lieu of S. 1547.

Feb. 1, House concurred in Senate amendment, with amendments.

Feb. 6, Senate disagreed to House amendments Nos. 1, 2, and 3; concurred in amendment No. 4, with an amendment. House receded from amendments Nos. 1, 2, and 3; concurred in Senate amendment of No. 4.

Public Law 95-235
95th Congress

An Act

To authorize the Mayor of the District of Columbia to enter into an agreement with the United States Postal Service with respect to the use of certain public air space in the District of Columbia.

Feb. 21, 1978
[H.R. 7766]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mayor of the District of Columbia may enter into an agreement with the United States Postal Service to enable the United States Postal Service to construct a conveyor bridge over First Street Northeast between Union Station Terminal and the City Post Office located at North Capitol Street and Massachusetts Avenue Northeast. Any such agreement shall provide that such construction, and the use of such bridge, shall not be inconsistent with the use, operation, and maintenance of any street or alley and shall not deprive any real property not owned by the United States and administered by the United States Postal Service of easements of light, air, and access.

D.C.
U.S. Postal Service.
Public air space use agreement.

Approved February 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-611 (Comm. on the District of Columbia).
SENATE REPORT No. 95-622 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 26, considered and passed House.
Vol. 124 (1978): Feb. 6, considered and passed Senate.

Public Law 95-236
95th Congress

An Act

Feb. 21, 1978
[S. 266]

To authorize appropriations for financial assistance to limit radiation exposure to the public from uranium mill tailings used for construction, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Radiation exposure.
Remedial action.

APPROPRIATIONS AUTHORIZATION

SECTION 1. In addition to amounts otherwise authorized to be appropriated and appropriated, there is authorized to be appropriated, for the fiscal year 1979, $1,500,000 to carry out the provisions of title II of the Act of June 16, 1972 (Public Law 92-314; 86 Stat. 226).

AMENDMENTS TO PROGRAM PROVIDING REMEDIAL ACTION REGARDING URANIUM MILL TAILINGS

Federal-State cooperation.

SEC. 2. (a) Section 202 of the Act of June 16, 1972, is amended—

(1) in subsection (b), by striking out "four years" and inserting in lieu thereof "eight years"; and

(2) by striking out "and" at the end of subsection (f), by striking out the colon at the end of subsection (g) and inserting a semicolon in lieu thereof, and by inserting after subsection (g) the following new subsections:

"(h) that, notwithstanding any requirement under subsection (b) or (c) of this section, payment for any remedial action commenced before the date of the enactment of this subsection may be made by the State to the property owner of record at the time such action was undertaken, but only if application therefor is filed by such owner with the State of Colorado within one year after such date of enactment and if the Secretary determines that such remedial action was undertaken in accordance with otherwise applicable provisions of this title and regulations thereunder; and

Waiver.

"(i) that the provision of subsection (c) of this section requiring any remedial action undertaken under this title be performed by the State of Colorado or its authorized contractor may be waived in writing by the State, with the approval of the Secretary, but only if application therefor is filed with the State by the property owner of record requesting such waiver and such waiver is granted before the commencement of such remedial action:".

Report to congressional committees.

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"SEC. 205. Not later than one year after the date of the enactment of this section, the Secretary of Energy shall prepare and submit a detailed report to the Committees on Interstate and Foreign Commerce and on the Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate with respect to actions taken or to be taken under this title, including data on payments made to the State and owners of record and a time table of those actions yet to be taken.".

(c) Section 202 of such Act is further amended— 86 Stat. 226.

(1) by striking out "Atomic Energy Commission" each place it appears and inserting "Secretary of Energy" in lieu thereof;

(2) by striking out "Commission" each place it appears and inserting "Secretary" in lieu thereof; and

(3) by striking out "the Joint Committee on Atomic Energy" each place it appears and inserting "both Houses of Congress" in lieu thereof.

(d) Section 203 of such Act is amended— 86 Stat. 226.

(1) by striking out "Atomic Energy Commission" and inserting "Secretary of Energy" in lieu thereof; and

(2) by striking out "as it deems necessary" and inserting "as he deems necessary" in lieu thereof.

(e) Authority to make payments under title II of such Act under amendments made by this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts. Payment authority.

Approved February 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-649, pt. 1 (Comm. on Interstate and Foreign Commerce) and No. 95-649, pt. 2 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-72 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Apr. 4, considered and passed Senate.
Vol. 124 (1978): Jan. 24, considered and passed House, amended.
Feb. 7, Senate concurred in House amendments.

Public Law 95-237
95th Congress

An Act

Feb. 24, 1978
[H.R. 3454]

To designate certain endangered public lands for preservation as wilderness, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered American Wilderness Act of 1978".

Endangered American Wilderness Act of 1978.

STATEMENT OF FINDINGS AND POLICY

16 USC 1132 note.

SECTION 1. (a) The Congress finds that—

16 USC 1132 note.

(1) many areas of undeveloped national forest land possess and exhibit outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) certain of these undeveloped national forest lands meet all statutory criteria for suitability as wilderness as established by subsection 2(c) of the Wilderness Act (78 Stat. 890), but are not adequately protected and lack statutory designation pursuant to the Wilderness Act as units of the National Wilderness Preservation System;

16 USC 1131.

(3) these and other undeveloped national forest lands exhibiting wilderness values are immediately threatened by pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, restoration, and enhancement of their wilderness character; and

(4) among such immediately threatened areas are lands not being adequately protected or fully studied for wilderness suitability by the agency responsible for their administration.

(b) Therefore, the Congress finds and declares that it is in the national interest that certain of these endangered areas be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations.

DESIGNATION OF WILDERNESS AREAS

16 USC 1132 note.
16 USC 1131 note.

SEC. 2. In furtherance of the purposes of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas"), as generally depicted on maps appropriately referenced, dated January 1978, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

Pusch Ridge Wilderness, Ariz.

(a) certain lands in the Coronado National Forest, Arizona, which comprise about fifty-six thousand four hundred and thirty

acres, are generally depicted on a map entitled "Pusch Ridge Wilderness Area—Proposed", and shall be known as the Pusch Ridge Wilderness;

(b) certain lands in the Inyo and Sequoia National Forests, California, which comprise about three hundred and six thousand acres, are generally depicted on a map entitled "Golden Trout Wilderness Area—Proposed", and shall be known as the Golden Trout Wilderness; Golden Trout Wilderness, Calif.

(c) certain lands in and adjacent to the Los Padres National Forest, California, which comprise about twenty-one thousand two hundred and fifty acres, are generally depicted on a map entitled "Santa Lucia Wilderness Area—Proposed", and shall be known as the Santa Lucia Wilderness: *Provided*, That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture (hereinafter referred to as the "Secretary") is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 5 of this Act. In order to guarantee the continued viability of the Santa Lucia watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Santa Lucia area to be prepared following designation as wilderness shall authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Santa Lucia Wilderness area shall be incorporated in the planning for the Los Padres National Forest: *Provided*, That the Forest Service is authorized to continue fire presuppression, fire suppression measures and techniques, and watershed maintenance pending completion of the management plan for the Santa Lucia area; Santa Lucia Wilderness, Calif. Notice. Publication in Federal Register. 16 USC 1134.

(d) certain lands in the Los Padres National Forest, California, which comprise about sixty-one thousand acres, are generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Ventana Wilderness as designated by Public Law 91-58. In order to guarantee the continued viability of the Ventana watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Ventana area to be prepared following designation as wilderness shall authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana Wilderness area shall be incorporated in the planning for the Los Padres National Forest; Ventana Wilderness, Calif. 16 USC 1132 note.

(e) certain lands in the White River National Forest, Colorado, which comprise approximately seventy-four thousand four hundred and fifty acres, are generally depicted as area "A" on a map entitled "Hunter-Fryingpan Wilderness Area—Proposed", and shall be known as the Hunter-Fryingpan Wilderness. The area commonly known as the "Spruce Creek Addition", depicted as area "B" on said map and comprising approximately eight thou- Hunter-Fryingpan Wilderness, Colo. Spruce Creek Addition.

16 USC 1132.
Review.
Report to President.
Recommendation, submittal to Congress.

sand acres, shall, in accordance with the provisions of subsection 3(d) of the Wilderness Act, be reviewed by the Secretary as to its suitability or nonsuitability for preservation as wilderness. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Spruce Creek area as wilderness not later than two years from the date of enactment of this Act. Subject to valid existing rights, the wilderness study area designated by this subsection shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. No right, or claim of right, to the diversion and use of the waters of Hunter Creek, the Fryingpan or Roaring Fork Rivers, or any tributaries of said creeks or rivers, by the Fryingpan-Arkansas Project, Public Law 87-590, Eighty-seventh Congress, and the reauthorization thereof by Public Law 93-493, Ninety-third Congress, under the laws of the State of Colorado, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said Fryingpan-Arkansas Project facilities, nor the operation thereof, pursuant to the Operating Principles, House Document Numbered 130, Eighty-seventh Congress, and pursuant to the water laws of the State of Colorado;

43 USC 616.
43 USC 600f.

Manzano Mountain Wilderness, N. Mex.

(f) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty-seven thousand acres, are generally depicted on a map entitled "Manzano Mountain Wilderness Area—Proposed", and shall be known as the Manzano Mountain Wilderness;

Sandia Mountain Wilderness, N. Mex.

(g) certain lands in Cibola National Forest, New Mexico, which comprise about thirty thousand nine hundred and thirty acres, are generally depicted on a map entitled "Sandia Mountain Wilderness Area (North and South Units)—Proposed", and shall be known as the Sandia Mountain Wilderness;

Chama River Canyon Wilderness, N. Mex.

(h) certain lands in the Santa Fe and Carson National Forests, New Mexico, which comprise approximately fifty thousand three hundred acres, are generally depicted on a map entitled "Chama River Canyon Wilderness Area—Proposed", and shall be known as the Chama River Canyon Wilderness;

Lone Peak Wilderness, Utah.

(i) certain lands in Wasatch and Unita National Forests, Utah, which comprise about twenty-nine thousand five hundred and sixty-seven acres, are generally depicted on a map entitled "Lone Peak Wilderness Area—Proposed", and shall be known as the Lone Peak Wilderness: *Provided*, That the Forest Service is directed to utilize whatever sanitary facilities are necessary (including but not limited to vault toilets, which may require service by helicopter) to insure the continued health and safety of the communities serviced by the Lone Peak watershed; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist, or which may be necessary in the future to prevent the degradation of the water supply in the Lone Peak area;

Savage Run Wilderness, Wyo.

(j) certain lands in the Medicine Bow National Forest, Wyoming, which comprise about fourteen thousand nine hundred and

forty acres, are generally depicted on a map entitled "Savage Run Wilderness Area—Proposed", and shall be known as the Savage Run Wilderness; and

(k) certain lands in Lolo National Forest, Montana, which comprise approximately twenty-eight thousand four hundred and forty acres are generally depicted on a map entitled "Welcome Creek Wilderness Area—Proposed", and shall be known as the Welcome Creek Wilderness. Welcome Creek Wilderness, Mont.

OREGON OMNIBUS WILDERNESS ACT OF 1978

SEC. 3. In furtherance of the purposes of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas") as generally depicted on maps appropriately referenced, dated January 1978, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System— 16 USC 1132 note. 16 USC 1131 note.

(a) certain lands in the Siskiyou National Forest, Oregon, which comprise about ninety-two thousand acres, are generally depicted on a map entitled "Kalmiopsis Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Kalmiopsis Wilderness as designated by Public Law 88-577; Kalmiopsis Wilderness, Oreg.

(b) certain lands in the Siskiyou National Forest, Oregon, which comprise about thirty-six thousand seven hundred acres, are generally depicted on a map entitled "Wild Rogue Wilderness—Proposed", and shall be known as the Wild Rogue Wilderness: *Provided*, That the portion of the segment of the Rogue River designated as a component of the National Wild and Scenic Rivers System by section 3(a)(5) of the Wild and Scenic River Act (82 Stat. 906, as amended) which lies within the Wild Rogue Wilderness shall be managed as a wild river notwithstanding section 10(b) of that Act or any provisions of the Wilderness Act to the contrary; 16 USC 1131 note. Wild Rogue Wilderness, Oreg. 16 USC 1274. 16 USC 1281.

(c) certain lands in the Umatilla National Forest, Oregon and Washington, which comprise about one hundred and eighty thousand acres, are generally depicted on a map entitled "Wenaha-Tucannon Wilderness—Proposed", and shall be known as the Wenaha-Tucannon Wilderness; Wenaha-Tucannon Wilderness, Oreg.

(d) certain lands in the Mount Hood National Forest, Oregon, which comprise about thirty-three thousand acres, are generally depicted on a map entitled "Mount Hood (Zig Zag) Proposed Wilderness Additions", and which are hereby incorporated in, and shall be deemed to be a part of the Mount Hood Wilderness as designated by Public Law 88-577; and Mount Hood Wilderness, Oreg.

(e) certain lands in the Willamette National Forest, Oregon, which comprise about forty-five thousand four hundred acres, are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and which are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Law 88-577. Three Sisters Wilderness, Oreg. 16 USC 1131 note.

GOSPEL-HUMP AREA

SEC. 4. (a)(1) In furtherance of the purposes of the Wilderness Act, certain lands in the Nezperce National Forest, Idaho, which comprise about two hundred and six thousand acres, as generally depicted under the category "Wilderness" on a map entitled "Gospel-Hump Planning Unit" and dated January 1978, are hereby designated as wilderness 16 USC 1132 note.

and therefore, as components of the National Wilderness Preservation System.

(2) Certain other contiguous roadless lands which comprise about ninety-two thousand acres, as generally depicted on said map as "Management Areas" shall be managed in accordance with the multipurpose resource development plan required by this section.

(3) Certain other contiguous roadless lands which comprise about forty-five thousand acres, as generally depicted on said map as "Development Areas" shall be immediately available for resource utilization under the existing applicable Forest Service land management plans.

Advisory Committee. Establishment.

(b)(1) Within ninety days after enactment of this Act, the Secretary shall appoint a seven-member Advisory Committee (hereinafter referred to as the "Committee") on the management of the Gospel-Hump Area who shall advise the Secretary as to the progress of the fish and game research program, and the multipurpose resource development plan required by this section, and who shall evaluate the results of the research program and development plan on an ongoing basis.

Members.

(2) The Committee shall be comprised of two members of the timber industry who purchase timber from the Nezperce National Forest, two members from organizations who are actively engaged in seeking the preservation of wilderness lands, and three members from the general public who otherwise have a significant interest in the resources and management of the Gospel-Hump Area.

Travel expenses.

(3) Committee members shall serve without pay except that while away from their homes or regular places of business in performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of title 5 of the United States Code.

(4) The Secretary shall provide that the Committee shall meet as soon as practicable after all the members are appointed, but in no case later than one hundred and fifty days after the enactment of this Act. Subsequently, the Committee shall meet every one hundred and eighty days, or as often as the Secretary deems necessary.

Termination.

(5) The Committee shall terminate one hundred and fifty days after transmittal of the completed multipurpose resource development plan required under this section.

Fish and game research program.

(c)(1) The Secretary shall cooperate with agencies and institutions of the State of Idaho, and with the Secretary of the Interior, in conducting a comprehensive fish and game research program within the Gospel-Hump Area and surrounding Federal lands in north-central Idaho. The Secretary shall assure that this research program includes detailed investigations concerning resident and anadromous fisheries resources (including water quality relationships) and the status, distribution, movements, and management of game populations, in order to provide findings and recommendations concerning integration of land management and development with the protection and enhancement of these fish and game resources.

Grants.

(2) To carry out the comprehensive fish and game research program, the Secretary is authorized to make grants of funds to agencies and institutions of the State of Idaho and to provide the assistance of personnel from agencies under his jurisdiction.

(3) The Secretary shall assure that the comprehensive fish and game research program is scheduled and progressing on a timely basis so that findings and recommendations are fully integrated in preparation of the multipurpose resource development plan required by this section.

(d)(1) Within four years after enactment of this Act, the Secretary shall implement a multipurpose resource development plan for development of the Federal lands identified on the map referenced in this section as "Management Areas". Multipurpose resource development plan.

(2) The multipurpose resource development plan shall comply with the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601) as amended, and shall conform in all respects to the provisions of the National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600), including the regulations, guidelines, and standards promulgated pursuant to those Acts. In preparing the multipurpose resource development plan, the Secretary shall take particular care to gather and integrate detailed field data on soil types and soil hazards, and to consider timber volumes, timber site classes, and productivity. The current findings and recommendations of the comprehensive fish and game research program and other available information shall be integrated into the preparation of the multipurpose resource development plan. The multipurpose resource development plan may be periodically revised to accommodate new information as it becomes available.

(3) In preparing the multipurpose resource development plan, the Secretary shall assure adequate public involvement, and he shall make full use of the recommendations of the Committee established by this section.

(4) One year after the date of enactment of this Act and every year thereafter, the Secretary shall review the multipurpose resource development plan being prepared in accordance with this section to determine which lands, if any, might be scheduled for development prior to the completion of the final multipurpose resource development plan.

(5) The Secretary shall publish a notice of the completion of the multipurpose resource development plan or a portion thereof in the Federal Register and shall transmit it to the President and to the Senate and House of Representatives. The completed multipurpose resource development plan or relevant portions thereof shall be implemented by the Secretary no earlier than ninety days and no later than one hundred and fifty calendar days from the date of such transmittal. Completion notice. Publication in Federal Register. Transmittal to President and Congress.

(e) The Secretary shall prepare a wilderness management plan for the Gospel-Hump Wilderness designated pursuant to this section, taking into account the findings of the comprehensive fish and game research program. Wilderness management plan.

(f) Within thirty days after the date of enactment of this Act, the Secretary shall include the timber resources on the lands identified on the map referenced in this section as "Development Areas" and "Management Areas" within the annual allowable timber harvest level for the Nezperce National Forest.

(g) Nothing in this Act shall prevent within the Gospel-Hump Wilderness Area any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary, the Gospel-Hump Wilderness Area shall be surveyed on a planned recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present, and the results of such surveys shall be made available to the public and submitted to the President and the Congress. Mineral value survey, availability to public. Submittal to President and Congress.

Appropriation authorization.

(h) There are hereby authorized to be appropriated after October 1, 1978, such funds as may be necessary to carry out the comprehensive fish and game research program and the multipurpose resource development plan authorized under this section. Appropriations requests by the President to implement the multipurpose resource development plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this Act. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1974 (88 Stat. 297).

31 USC 1301 note.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act: *Provided further*, That with respect to the Gospel-Hump Wilderness Area designated by section 4(a)(1) of this Act, all references under section 4(d)(3) of the Wilderness Act of 1964 to December 31, 1983, shall be deemed to be December 31, 1988, and any reference to January 1, 1984, shall be deemed to be January 1, 1989: *Provided, however*, That all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within the Gospel-Hump Wilderness Area shall be subject to regulations prescribed by the Secretary as he deems necessary or desirable for the preservation and management of this area.

16 USC 1131 note. Effective date.

16 USC 1133.

FILING OF MAPS AND DESCRIPTIONS

SEC. 6. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Approved February 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-540 (Comm. on Interior and Insular Affairs) and No. 95-861 (Comm. of Conference).

SENATE REPORTS: No. 95-490 (Comm. on Energy and Natural Resources), and No. 95-626 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Sept. 12, considered and passed House.
Oct. 20, considered and passed Senate, amended.

Vol. 124 (1978): Feb. 8, Senate agreed to conference report.
Feb. 9, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 8 (1978): Feb. 24, Presidential statement.

Public Law 95-238
95th Congress

An Act

To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Feb. 25, 1978
[S. 1340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Act of 1978—Civilian Applications".

Department of Energy Act of 1978—Civilian Applications.

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Department of Energy, for energy research, development, and demonstration, and related activities, the sum of $6,081,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

Fossil Energy Development

Fossil energy development.

(1) Coal:
  (A) Coal liquefaction, $107,000,000.
  (B) High Btu gasification (coal), $51,200,000.
  (C) Low Btu gasification (coal), $73,900,000.
  (D) Advanced power systems, $25,500,000.
  (E) Direct combustion (coal), $65,200,000.
  (F) Advanced research and supporting technology, $50,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Secretary of Energy shall conduct a feasibility study of the technology and the commercial applications of the process of fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

Study.

  (G) Demonstration plants and major test facilities (coal), $60,900,000.
  (H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.
(2) Petroleum and natural gas:
  (A) Enhanced oil recovery, $46,100,000.
  (B) Enhanced gas recovery, $30,000,000.
  (C) Drilling, exploration and offshore technology, $7,600,000.
  (D) Processing and utilization, $1,400,000.
(3) Oil shale and in situ technology:
  (A) Oil shale, $28,000,000.
  (B) In situ coal gasification, $19,000,000.

Solar energy development.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Department of Energy is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal energy development.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation research and development.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That of those funds authorized for the Alternative Fuels Utilization Program, funds as may be necessary are hereby authorized for the Department of Energy to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environment and safety research and development.

Environment and Safety Research and Development

(18) Environmental and Safety Research and Development:

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear research and development.

Nuclear Research and Development

(19) Magnetic fusion, $207,900,000.

(20) Fuel cycle research and development, $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 107 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels

Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $333,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(27) (i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction, $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by the Department of Energy to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913) as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000.

Prior Year Authorizations

(28) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76-1-a (clean boiler fuel demonstration plant (A-E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78-1-a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A–E and long-lead procurement only), $6,000,000.

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undetermined (A–E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6–a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A–E only), $4,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78–7–a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Project 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(7) Environmental Research and Development:

(A) Project 78–9–a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(8) High Energy Physics:
(A) Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.
(B) 78-10-b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.
(C) Project 78-11-a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.
(9) Nuclear Physics:
(A) Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.
(B) Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.
(10) Basic Energy Sciences:
(A) Project 78-13-a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.
(B) Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.
(11) Uranium Enrichment:
(A) Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.
(B) Project 78-14-b, process control modifications, plants, various locations, $17,400,000.
(C) Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.
(12) Program Management and Support:
(A) Project 78-1-b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.
(B) Project 78-1-c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.
(C) Project 78-19-a, program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only), $5,000,000.
(13) Project 78-21, General Plant Projects, $44,265,000.
(14) Project 78-22, Construction Planning and Design, $10,000,000.
(15) Capital Equipment Not Related to Construction:
(A) Conservation research and development, $8,670,000.
(B) Fossil energy development, $5,500,000.
(C) Solar energy development, $7,900,000.
(D) Geothermal energy development, $2,500,000.
(E) Magnetic fusion, $27,600,000.
(F) Fuel cycle research and development, $25,300,000.
(G) Liquid metal fast breeder reactor, $35,650,000.
(H) Nuclear research and applications, $18,595,000.
(I) Light water reactor safety facilities, $800,000.
(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.
(K) Nuclear materials, security and safeguards, $2,794,000.
(L) Uranium enrichment, $19,000,000.
(M) Environmental research and development, $19,025,000.
(N) Program management and support, $4,955,000.

CHANGES TO PRIOR YEAR AUTHORIZATIONS

(b) (1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project

Appropriation authorization.

84 Stat. 299.

71-1-f), authorized by section 101(b)(1) of Public Law 91-273 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74-1-g), authorized by section 101(b)(1) of Public Law 93-60 (for a total project authorization of $460,000,000).

87 Stat. 143.

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76-1-b) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $55,000,000).

89 Stat. 1063.

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 76-1-c) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76-2-b), authorized by section 101(b)(2) of Public Law 94-187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (project 76-5-a), authorized by section 101(b)(5) of Public Law 94-187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76-8-e), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76-8-g), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77-1-d) authorized by Public Law 94-373 (for a total project authorization of $13,200,000).

90 Stat. 1043.

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A-E only) (project 77-4-c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77-4-d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76-5-b) authorized by Public Law 94-187 (for a total project authorization of $25,300,000).

88 Stat. 115.

SEC. 103. Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future

demonstration project), $1,500,000, except for any funds heretofore obligated.

Jurisdiction over functions, transfer. 42 USC 7151a.

SEC. 104. (a) Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

42 USC 7135a.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and the Energy Reorganization Act. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

Reports to congressional committees. 42 USC 7257 note.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by January 31, 1978, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Study, submittal to Congress.

SEC. 105. (a) The Secretary of Energy shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

Public hearings.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Secretary of Energy shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

Public comments on study, submittal to Congress.

(c) Ninety days prior to submission of the study to the Congress the Secretary of Energy shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

Ante, p. 48.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

Barnwell Nuclear Fuel Plant, S.C., study.

SEC. 106. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the non-proliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management options available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adjacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international non-proliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the United States-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and non-proliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and

efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

Report, submittal to Congress.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

Ante, p. 48.

SEC. 107. Department of Energy is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, That, notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds: *And provided further*, That, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, thirty days during which the Congress is in continuous session,

Spent fuel storage facilities, studies and agreements.
22 USC 3224a.

Report to congressional committees.

31 USC 1301 note.

as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty-day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further*, That nothing contained in this section shall be construed in any executive branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977, for the issuance of License No. XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

42 USC 5821.

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

42 USC 2017.

42 USC 5915.

Post, p. 81.

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee

determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Report to congressional committees.

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

Expenditure limitations.

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

Report to congressional committees.

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

Limitation.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

Report, transmittal to congressional committees. Notice.

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

Report, transmittal to congressional committees. Notice.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprograming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

Funds merger, limitation.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for 'Plant and capital equipment' may be merged with amounts appropriated for 'Operating expenses'.

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

Construction design services.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding

the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.". Funds, transfer.

SEC. 202. (a) The Secretary of Energy is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized. Limitation. *Ante*, p. 49.

(b) The Secretary of Energy is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum. Limitation.

SEC. 203. The Secretary of Energy, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative. Report to congressional committees. 22 USC 2429 note.

SEC. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Secretary of Energy shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved. Small businesses, participation in programs. 42 USC 7256 note.

Report to congressional committees.

(b) At least once every six months, or upon request, the Secretary of Energy shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

Transfer of municipal installations, annual assistance. 42 USC 2391.

SEC. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration programs;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

Report to congressional committees.

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

Contract authority.
42 USC 2394.

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however*, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

31 USC 665.

42 USC 2391.

SEC. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

Comprehensive environment and safety program, transmittal to Congress.
42 USC 5905.

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

42 USC 5914.

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

SEC. 207. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

Infra.

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

42 USC 5919.

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

Rules and regulations.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

Cooperative agreements.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

42 USC 5907.

Limitation.

Financial assistance, eligibility for certain facilities.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized

facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed— Limitation.

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator; Maturity limitation.

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location; Facilities on Indian lands, tribal consent.

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

Federal participation termination, determination.

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

Notification to borrower.

Additional fee.

Recommendations from Attorney General and FTC Chairman.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

Referral to President. Written determination.

Location, notification to State Governors and officials.

Recommendations.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) or subsection (y) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision,

Written communication.

Judicial review.

pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

Proposed facilities, review and comment. Procedures, regulations.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribe by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

Plans, review and approval.

Estimated total costs, determination.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference. Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

Advisory panel. Establishment.

Membership.

Chairman.

Compensation.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the

Default, payment.

borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

Administrator's rights, subrogation.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c) (2) (B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

40 USC 471 note.

Default, notification to Attorney General. Recovery.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

Patents and technologies. 42 USC 5908. Default protection, terms and conditions.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

Proprietary rights, availability.

Payment, contracts to pay.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest

payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

Regulations.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

Guarantees of obligations, fees.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

Consultation with Treasury Secretary.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

Payment, guarantees and commitments.

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

Advancements.

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

Concurrence of Treasury Secretary.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have

the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

Default, payment.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

Consultation.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

Loans; repayment waiver.

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

Grants.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

Debt obligations, redemption.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

Assistance, sharing.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

Facility title, default status.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be con-

sidered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include— Annual report to Congress. Recommendations.

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and Study. 42 USC 5906.

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following: Comprehensive plan and program. Consultations.

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting pri-

vate capital to develop alternative fuels without continued direct Federal incentives.

Annual report to Congress.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the fund referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

42 USC 5914.

Transmittal to Speaker of the House, President of the Senate, and congressional committees.

Report to congressional committees.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the

Finalization.

Congressional authorization.

Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section. Revolving fund.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund. Administrative expenses.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury. Funds, transfer.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), (h), and (y) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. Notes or obligations, issuance to Treasury Secretary. Interest rate. Sale.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term— Definitions.

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa,

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops.

Citizenship requirement.

"(p) (1) An applicant seeking a guarantee or cooperative agreement under subsection (b) or subsection (y) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

Waiver, consultation.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

Non-transferability.

"(q) No part of the program authorzed by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

42 USC 5908.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

Information, availability to public.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18 United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

Nondisclosure.

Cooperation with Federal agencies.

"Person."

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1) or subsection (y), to make guarantees or commitments to guarantees, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b), (j), and (y) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries. Non-discrimination. Indian tribes, exemption.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project. Small business opportunities.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representative shall have access, for the purpose of audit, to such records and other pertinent documents. Record retention.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph. Audit. Regulations.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)). Laborers and mechanics, wages. 5 USC app. 40 USC 276c.

"(y)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construc- Payment obligations, guarantees.

tion and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewage sludge, or other municipal organic waste. With respect to a guarantee or a commitment to guarantee authorized by this subsection; the following subsections of this section shall not apply: (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k), and (q).

Outstanding indebtedness, limitation.

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300,000,000.

"(3) The Administrator shall apply the following provisions thereto:

Certification to Administrator.

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resource Conservation and Recovery Act (42 U.S.C. 6903)), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resource Conservation and Recovery Act, and any applicable State or regional solid waste management plan.

42 USC 6907.

Amount guaranteed, limitation.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

Maturity, limitation.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

Fees.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

Non-transferability.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resource Conservation and Recovery Act) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy From Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which

Project agreements, administration.

42 USC 6901 note.

project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste management plan. 42 USC 6907.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.". 26 USC 1 *et seq.* Interest, payment.

SEC. 208. (a) The Secretary of Energy shall— 42 USC 5556a.

(1) initiate and conduct an "application and system design study", cooperatively with appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall— Solar photovoltaic systems at Federal installations, study.

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Secretary of Energy deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act; Preliminary report to Congress.

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal Government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal Government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives Solar photovoltaic industry growth study, report to Congress.

as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Secretary of Energy. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

Foreign countries' use, study.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

Cooperation.

Report to Congress.

Additional systems acquisition. Appropriation authorization.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

Technology development. Appropriation authorization.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

Military applications, prohibition. 42 USC 5821 note.

SEC. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

Definitions.

(b) (1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x., of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

42 USC 2011 note. Idaho flood damages. Land transfers, availability to farmers.

SEC. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Department of Energy, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term: Definitions.

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Department of Energy land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior. Lands, purchase.

(d) Department of Energy land as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Department of Energy land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land. Irrigable lands, certification. Land purchases, fair market value. Single ownership acreage limitation. Title conveyance. Development costs.

(e) Any part of the Department of Energy land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Department of Energy. Remaining lands, disposition.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section. Rules and regulations, publication in Federal Register.

Farm losses, recovery.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976, Public Law 94-400, 90 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

Appropriation authorization.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

Automotive Propulsion Research and Development Act of 1978.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

15 USC 2701 note.

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1978".

FINDINGS AND PURPOSES

15 USC 2701.

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title to—

(1) (A) direct the Department of Energy to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term— 15 USC 2702.

(1) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(2) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(3) "fuel" means any energy source capable of propelling an automobile;

(4) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5);

(5) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(6) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(7) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(8) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE SECRETARY OF ENERGY

SEC. 304. (a) The Secretary of Energy shall establish, within the Department of Energy, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Secretary of Energy shall— Advanced automobile propulsion systems, development program, establishment. 15 USC 2703.

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Secretary of Energy shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organiza- Contracts and grants.

tion, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Secretary of Energy shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Secretary of Energy's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Secretary of Energy shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Department of Energy shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) (1) The Secretary of Energy shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

Administrative regulations.

(2) To that end, the Secretary of Energy shall issue administrative regulations, within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Department of Energy project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Secretary of Energy or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

Certification, provisions.

Certifications, availability to congressional committees.
5 USC 500 *et seq.*
42 USC 5916.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Secretary of Energy also shall include in the report required by section 310(a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Secretary of Energy in each annual budget submission to the Congress, or amendment thereto, for the programs author-

ized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension thereof.

DUTIES OF THE SECRETARY OF TRANSPORTATION

SEC. 305. The Secretary of Transportation, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary of Transportation shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

Annual report to Congress.
15 USC 2704.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Secretary of Energy shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Secretary of Energy, consistent with such overall management responsibility—

Program management.
15 USC 2705.

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Secretary of Energy; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Secretary of Energy determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary of Transportation, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Secretary of Energy under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Secretary of Energy.

Contracts and grants.

(c) The Secretary of Energy may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary of Energy deems necessary to carry out any duty under this title.

Federal agencies cooperation, requests.

(d) The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Secretary of Energy may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

Advisory panels.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Secretary of Energy for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

15 USC 2706.

SEC. 307. (a) The Secretary of Energy shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Secretary of Energy in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Secretary of Energy, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Secretary of Energy.

EPA test data and results, submittal to Secretary.

(c) The Secretary of Energy shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

15 USC 2707.

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Secretary of Energy under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

15 USC 2708.

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

"Contract."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Secretary of Energy shall submit to Congress an annual report of activities under this title. Such report shall include— 15 USC 2709. 42 USC 5914. 42 USC 5905.

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Secretary of Energy shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Secretary of Energy shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary. Survey and study.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(e) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1978.". *Ante*, p. 78.

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978. 15 USC 2710. *Ante*, p. 47.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 207 of this Act, is further amended by adding at the end thereof the following new section:

Ante, p. 61.

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

42 USC 5920.

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

Demonstration project.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities.

Municipal waste.

For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"Municipal."

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided.

Federal share.

The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

Regulations.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

42 USC 5906.

Compliance, consultation.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied in carrying out this section.

42 USC 6984.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), and any applicable State or regional waste management plan.

Project administration.

42 USC 6907.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

Guidelines, availability to congressional committees.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

Annual report to Congress.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

42 USC 5914.

"(e) No part of the program authorized by this section shall be

transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

Definitions.

SEC. 501. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

30 USC 1101 note.

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

30 USC 1121.

SEC. 502. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

Chairman.

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

30 USC 1123.

SEC. 503. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

30 USC 1125.

SEC. 504. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

Loan guaranty program, establishment.
30 USC 1141.

SEC. 505. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 506. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using". *Ante*, p. 86.

SEC. 507. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.". Extent of guaranty.

SEC. 508. Section 201(e) of the Act is amended— Limitation.

(1) by striking out "$25,000,000" and inserting in lieu thereof "$100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate. Determination, transmittal to Speaker of House, President of Senate, and congressional committees. Finalization.

SEC. 509. Section 201 of the Act is further amended by adding at the end thereof the following new subsections: Interest payment consultation.

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code for 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury. 26 USC 1 *et seq.*

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

Guaranties, fees.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

Capital market impact minimization.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

30 USC 1142.

SEC. 510. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

Rights, subrogation.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

Notification to Attorney General. Payment recovery.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

Payments, contracts.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to

continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.". Reimbursement.

SEC. 511. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c): Notes or obligations, issuance to Treasury. 30 USC 1144.

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.". Redemption. Interest rate. 31 USC 774. Sale.

SEC. 512. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under 30 USC 1145.

State and local actions, review.

30 USC 191.

other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

Payments, guarantees and commitments.

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

Sums, advancement.

Tax abatement credits.

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

Limitation.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

Defaults, tax payment.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

Consultation.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

Loans.

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction

Repayment, waiver.

of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise. Grants.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection. Debt obligations, redemption. Consultation.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section. Federal share.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act. Facility title. *Ante*, p. 88.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.". 30 USC 191.

TITLE VI—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 601. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)". Demonstrations.

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

Standards, transmittal to Speaker of House, President of Senate, and congressional committees.

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

Contracts for vehicle purchase or lease.

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

Limitation.

Information, availability to public.

Explanation, transmittal to Speaker of House, President of Senate, and congressional committees.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

Contracts.

SEC. 602. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles

when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577). 42 USC 5801 note.

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).". 42 USC 5901 note.

SEC. 603. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof: Loan Guarantees. Electric and Hybrid Vehicle Development Fund. Establishment.

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States. Investments.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury. 15 USC 2514.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the Notes or obligations, issuance to Treasury. Redemption. Interest rate. 31 USC 774. Sale.

notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Annual report to Congress.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

15 USC 2509.

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

Payments.

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

Defaults, recovery by Attorney General.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

Approved February 25, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-179 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 13, considered and passed Senate.
December 7, considered and passed House, amended.
Vol. 124 (1978): Feb. 8, Senate concurred in House amendment.

Public Law 95-239
95th Congress

An Act

To amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes.

Mar. 1, 1978
[H.R. 4544]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Black Lung Benefits Reform Act of 1977.

SHORT TITLE

SECTION 1. This Act may be cited as the "Black Lung Benefits Reform Act of 1977". 30 USC 801 note.

DEFINITIONS

SEC. 2. (a) Section 402(b) of the Federal Mine Safety and Health Act of 1977 (hereinafter in this Act referred to as the "Act") is amended to read as follows: 30 USC 902.

"(b) The term 'pneumoconiosis' means a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment.".

(b) Section 402(d) of the Act is amended to read as follows:

"(d) The term 'miner' means any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal. Such term also includes an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent such individual was exposed to coal dust as a result of such employment.".

(c) Section 402(f) of the Act is amended to read as follows:

"(f)(1) The term 'total disability' has the meaning given it by regulations of the Secretary of Health, Education, and Welfare for claims under part B of this title, and by regulations of the Secretary of Labor for claims under part C of this title, subject to the relevant provisions of subsections (b) and (d) of section 413, except that— 30 USC 921 *et seq.* 30 USC 931 *et seq.* 30 USC 923.

"(A) in the case of a living miner, such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him or her from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he or she previously engaged with some regularity and over a substantial period of time;

"(B) such regulations shall provide that (i) a deceased miner's employment in a mine at the time of death shall not be used as conclusive evidence that the miner was not totally disabled; and (ii) in the case of a living miner, if there are changed circumstances of employment indicative of reduced ability to perform his or her usual coal mine work, such miner's employment in a mine shall not be used as conclusive evidence that the miner is not totally disabled;

"(C) such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act; and 42 USC 423.

Medical tests criteria, establishment. Consultation.

"(D) the Secretary of Labor, in consultation with the Director of the National Institute for Occupational Safety and Health, shall establish criteria for all appropriate medical tests under this subsection which accurately reflect total disability in coal miners as defined in subparagraph (A).

"(2) Criteria applied by the Secretary of Labor in the case of—

"(A) any claim which is subject to review by the Secretary of Health, Education, and Welfare, or subject to a determination by the Secretary of Labor, under section 435(a);

Post, p. 103.

"(B) any claim which is subject to review by the Secretary of Labor under section 435(b); and

"(C) any claim filed on or before the effective date of regulations promulgated under this subsection by the Secretary of Labor;

shall not be more restrictive than the criteria applicable to a claim filed on June 30, 1973, whether or not the final dispositon of any such claim occurs after the date of such promulgation of regulations by the Secretary of Labor.".

30 USC 902.

(d) Section 402 of the Act is amended by adding at the end thereof the following new subsection:

(h) The term "fund" means the Black Lung Disability Trust Fund established in section 3(a)(1) of the Black Lung Benefits Revenue Act of 1977.".

30 USC 934a.

Ante, p. 12.

SURVIVOR ENTITLEMENTS

30 USC 921.

SEC. 3. (a) Section 411(c) of the Act is amended—

(1) in paragraphs (1) and (2) thereof, by striking out "if" and inserting in lieu thereof "If" and by striking out the semicolon and inserting in lieu thereof a period;

(2) in paragraph (3) thereof, by striking out "if" the first place it appears therein and inserting in lieu thereof "If" and by striking out "; and" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraph:

"(5) In the case of a miner who dies on or before the date of the enactment of the Black Lung Benefits Reform Act of 1977 who was employed for 25 years or more in one or more coal mines before June 30, 1971, the eligible survivors of such miner shall be entitled to the payment of benefits, at the rate applicable under section 412(a)(2), unless it is established that at the time of his or her death such miner was not partially or totally disabled due to pneumoconiosis. Eligible survivors shall, upon request by the Secretary, furnish such evidence as is available with respect to the health of the miner at the time of his or her death.".

30 USC 922.

30 USC 922.

(b)(1)(A) Section 412(a)(3) of the Act is amended by striking out "and" the first place it appears therein, and by inserting after "the time of her death," the following: "and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 411(c),".

Supra.

(B) The first sentence of section 412(a)(5) of the Act is amended—

(i) by striking out "or" the fifth place it appears therein; and

(ii) by inserting after "child, or parent," the following: "in the case of the dependent parent or parents of a miner (who is not survived at the time of his or her death by a widow or a child) who are entitled to the payment of benefits under paragraph (5) of section 411(c), or in the case of the dependent surviving brother(s) or sister(s) of a miner (who is not survived at the time of his or her death by a widow, child, or parent) who are entitled to the payment of benefits under paragraph (5) of section 411(c),".

(2) Section 414(e) of the Act is amended by striking out "or" the second place it appears therein and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any such individual is entitled to benefits under paragraph (5) of section 411(c).". 30 USC 924.

(3) Section 421(a) of the Act is amended by inserting after "pneumoconiosis" the second place it appears therein the following: ", and in any case in which benefits based upon eligibility under paragraph (5) of section 411(c) are involved.". 30 USC 931.

(4) The first sentence of section 422(a) of the Act is amended by inserting before the period at the end thereof the following: ", or with respect to entitlements established in paragraph (5) of section 411(c)". 30 USC 932.

OFFSET LIMITATION

SEC. 4. The first sentence of section 412(b) of the Act is amended by inserting after "disability of such miner" the following: "due to pneumoconiosis". 30 USC 922.

EVIDENCE REQUIRED TO ESTABLISH CLAIM

SEC. 5. (a) Section 413(b) of the Act is amended by inserting after the second sentence thereof the following new sentences: "Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his or her death was due to pneumoconiosis. In any case in which there is other evidence that a miner has a pulmonary or respiratory impairment, the Secretary shall accept a board certified or board eligible radiologist's interpretation of a chest roentgenogram which is of a quality sufficient to demonstrate the presence of pneumoconiosis submitted in support of a claim for benefits under this title if such roentgenogram has been taken by a radiologist or qualified technician, except where the Secretary has reason to believe that the claim has been fraudulently represented. In order to insure that any such roentgenogram is of adequate quality to demonstrate the presence of pneumoconiosis, and in order to provide for uniform quality in the roentgenograms, the Secretary of Labor may, by regulation, establish specific requirements for the techniques used to take roentgenograms of the chest. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis.". 30 USC 923.

Roentgenogram techniques, regulations.

(b) Section 413(b) of the Act, as amended in subsection (a), is further amended by adding at the end thereof the following new sentence: "Each miner who files a claim for benefits under this title shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.".

(c) The fifth sentence of section 413(b) of the Act is amended by striking out "(f)," and by striking out "and (l)," and inserting in lieu thereof "(l), and (n),".

(d) Section 413 of the Act is amended by adding at the end thereof the following new subsection:

Benefits entitlement, limitation.

"(d) No miner who is engaged in coal mine employment shall (except as provided in section 411(c)(3)) be entitled to any bene- 30 USC 921.

fits under this part while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within one year after the date such determination becomes final.".

APPROVAL OF STATE WORKERS' COMPENSATION LAWS

30 USC 931.

SEC. 6. (a) Section 421(b)(2)(A) of the Act is amended by inserting before the semicolon the following: ", except that (i) such law shall not be required to provide such benefits where the miner's last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section; and (ii) each operator of a coal mine shall secure the payment of benefits pursuant to section 423 with respect to any miner whose last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section".

Post, p. 100.

(b) Section 421(b)(2)(C) of the Act is amended by striking out "part B of this title" and inserting in lieu thereof "this part", by striking out "of Health, Education, and Welfare", and by striking out "thereunder" and inserting in lieu thereof "under this part".

(c) Section 421(b)(2)(D) of the Act is amended to read as follows:

"(D) any claim for benefits on account of total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis;".

DETERMINATION OF CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE ACT

30 USC 932.

SEC. 7. (a) The first sentence of section 422(a) of the Act is amended—

(1) by inserting after "as amended" the following: ", and as it may be amended from time to time";

(2) by inserting a comma after "and 51 thereof)"; and

(3) by striking out "and except as the Secretary shall by regulation otherwise provide" and inserting in lieu thereof "or by regulations of the Secretary and except that references in such Act to the employer shall be considered to refer to the trustees of the fund, as the Secretary considers appropriate and as is consistent with the provisions of section 424".

30 USC 934.

(b) Section 422(b) of the Act is amended by adding at the end thereof the following new sentence: "An employer, other than an operator of a coal mine, shall not be required to secure the payment of such benefits with respect to any employee of such employer to the extent such employee is engaged in the transportation of coal or in coal mine construction. Upon determination by the Secretary of the eligibility of the employee, the Secretary may require such employer to secure a bond or otherwise guarantee the payment of such benefits to the employee.".

(c) Section 422(c) of the Act is amended—

(1) by striking out "and the Secretary of Health, Education, and Welfare"; and

(2) by striking out "the period" and inserting in lieu thereof "a period after December 31, 1969,".

(d) Section 422(e) of the Act is amended by inserting "or" at the end of paragraph (1) thereof, by striking out ", or" at the end of

paragraph (2) thereof and inserting in lieu thereof a period, and by striking out paragraph (3) thereof.

(e) Section 422(f) of the Act is amended to read as follows: 30 USC 932.

"(f) Any claim for benefits by a miner under this section shall be filed within three years after whichever of the following occurs later—

"(1) a medical determination of total disability due to pneumoconiosis; or

"(2) the date of the enactment of the Black Lung Benefits Reform Act of 1977.".

(f) Section 422(h) of the Act is amended by striking out the first sentence thereof.

(g) Section 422(i) of the Act is amended to read as follows:

"(i)(1) During any period in which this section is applicable to the operator of a coal mine who on or after January 1, 1970, acquired such mine or substantially all the assets thereof, from a person (hereinafter in this subsection referred to as a 'prior operator') who was an operator of such mine, or owner of such assets on or after January 1, 1970, such operator shall be liable for and shall, in accordance with section 423, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed by such prior operator as if the acquisition had not occurred and the prior operator had continued to be an operator of a coal mine. *Post*, p. 100.

"(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

"(3)(A) For purposes of paragraph (1) of this subsection, the provisions of this paragraph shall apply to corporate reorganizations, liquidations, and such other transactions as are specified in this paragraph.

"(B) If an operator ceases to exist by reason of a reorganization or other transaction or series of transactions which involves a change in identity, form, or place of business or organization, however effected, the successor operator or other corporate or business entity resulting from such reorganization or other change shall be treated as the operator to whom this section applies.

"(C) If an operator ceases to exist by reason of a liquidation into a parent or successor corporation, the parent or successor corporation shall be treated as the operator to whom this section applies.

"(D) If an operator ceases to exist by reason of a sale of substantially all his or her assets, or as the result of a merger, consolidation, or division, the successor operator, corporation, or other business entity shall be treated as the operator to whom this section applies.

"(4) In any case in which there is a determination under section 424 that no operator is liable for the payment of benefits to a claimant, nothing in this subsection may be construed to require the payment of benefits to a claimant by or on behalf of any operator.". 30 USC 934.

(h) Section 422 of the Act is amended by adding at the end thereof the following new subsections: 30 USC 932.

"(j) Notwithstanding the provisions of this section, section 424 shall govern the payment of benefits in cases—

"(1) described in section 424(a)(1); or

"(2) in which the miner's last coal mine employment was before January 1, 1970.

"(k) The Secretary shall be a party in any proceeding relative to a claim for benefits under this part.

"(1) In no case shall the eligible survivors of a miner who was determined to be eligible to receive benefits under this title at the time of his or her death be required to file a new claim for benefits, or refile or otherwise revalidate the claim of such miner.".

30 USC 932a note. *Ante*, p. 98. 30 USC 931 *et seq.* 30 USC 925. 30 USC 932a.

(i) Notwithstanding the provisions of section 422(a) of the Act, individuals appointed to hear and determine claims for benefits under part C of title IV of the Act and under section 415 of the Act pursuant to Public Law 94-504 (90 Stat. 2428) may continue to adjudicate such claims during the one-year period following the date of the enactment of this Act.

PENALTIES FOR FAILURE TO SECURE PAYMENT OF BENEFITS

30 USC 933.

SEC. 8. Section 423 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any employer required to secure the payment of benefits under this section who fails to secure such benefits shall be subject to a civil penalty assessed by the Secretary of not more than $1,000 for each day during which such failure occurs. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable to such civil penalty as provided in this subsection for the failure of such corporation to secure the payment of benefits. Such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any benefit which may accrue under this title in respect to any disability which may occur to any employee of such corporation while it shall so fail to secure the payment of benefits as required by this section.

"(2) Any employer of a miner who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secrets, or destroys any property belonging to such employer, after any miner employed by such employer has filed a claim under this title, and with intent to avoid the payment of benefits under this title to such miner or his or her dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable for such penalty of imprisonment as well as jointly liable with such corporation for such fine.

"(3) This subsection shall not affect any other liability of the employer under this part.".

CLINICAL FACILITIES

30 USC 937.

SEC. 9. The first sentence of section 427(c) of the Act is amended by striking out "of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975" and inserting in lieu thereof "fiscal year".

APPLICABILITY OF AMENDMENTS

30 USC 940.

SEC. 10. Section 430 of the Act is amended—

(1) by inserting "and by the Black Lung Benefits Reform Act of 1977" after "1972"; and

(2) by striking out the colon and all that follows it and inserting in lieu thereof a period.

MEDICAL CARE

SEC. 11. The Secretary of Health, Education, and Welfare shall notify each miner receiving benefits under part B of title IV of the Act on account of his or her total disability who such Secretary has reason to believe became eligible for medical services and supplies on January 1, 1974, of his or her possible eligibility for such benefits. Where such Secretary so notifies a miner, the period during which he or she may file a claim for medical services and supplies under part C of title IV of the Act shall not terminate before six months after such notification is made.

Eligibility, notification to miners.
30 USC 924a.
30 USC 921.

Termination.

PENALTIES FOR FALSE STATEMENTS AND FAILURES TO FILE REPORTS

SEC. 12. (a) Section 431 of the Act is amended to read as follows:

30 USC 941.

"SEC. 431. Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this title shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.".

(b) Part C of title IV of the Act is amended by adding at the end thereof the following new section:

Miner benefit entitlement reports, filing.
30 USC 942.

"SEC. 432. (a) The Secretary may by regulation require employers to file reports concerning miners who may be or are entitled to benefits under this part, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to pneumoconiosis of any miner to which such report relates.

"(b) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than $500 for each such failure or refusal.".

INSURANCE FUND

SEC. 13. Part C of title IV of the Act, as amended by section 12(b), is further amended by adding at the end thereof the following new section:

Compensation program establishment, authorization.
30 USC 943.

"SEC. 433. (a) The Secretary is authorized to establish and carry out a black lung insurance program which will enable operators of coal mines to purchase insurance covering their obligations under section 422.

Ante, p. 98.

"(b) The Secretary may exercise his or her authority under this section only if, and to the extent that, insurance coverage is not otherwise available, at reasonable cost, to operators of coal mines.

"(c)(1) The Secretary may enter into agreements with operators of coal mines who may be liable for the payment of benefits under section 422, under which the Black Lung Compensation Insurance Fund established under subsection (a) (hereinafter in this section referred to as the 'insurance fund') shall assume all or part of the liability of such operator in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund. During any period in which such agreement is in effect the operator shall be deemed in compliance with the requirements of section 423 with respect to the risks covered by such agreement.

Agreements with coal mine operators.

Ante, p. 100.

Reinsurance agreements.

"(2) The Secretary may also enter into reinsurance agreements with one or more insurers or pools of insurers under which, in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund, the insurance fund shall provide reinsurance coverage for benefits required to be paid under section 422.

Ante, p. 98.

Insurability terms and conditions, regulations.

"(d) The Secretary may by regulation provide for general terms and conditions of insurability as applicable to operators of coal mines or insurers eligible for insurance or reinsurance under this section, including—

"(1) the types, classes, and locations of operators or facilities which shall be eligible for such insurance or reinsurance;

"(2) the classification, limitation, and rejection of any operator or facility which may be advisable;

"(3) appropriate premiums for different classifications of operators or facilities;

"(4) appropriate loss deductibles;

"(5) experience rating; and

"(6) any other terms and conditions relating to insurance or reinsurance coverage or exclusion which may be appropriate to carry out the purposes of this section.

Premium schedule studies and investigations.

"(e) The Secretary may undertake and carry out such studies and investigations, and receive or exchange such information, as may be necessary to formulate a premium schedule which will enable the insurance and reinsurance authorized by this section to be provided on a basis which is (1) in accordance with accepted actuarial principles; and (2) fair and equitable.

Premium rates, regulations.

"(f)(1) On the basis of estimates made by the Secretary in formulating a premium schedule under subsection (e), and such other information as may be available, the Secretary shall from time to time prescribe by regulation the chargeable premium rates for types and classes of insurers, operators of coal mines, and facilities for which insurance or reinsurance coverage shall be available under this section and the terms and conditions under which, and the area within which, such insurance or reinsurance shall be available and such rates shall apply.

"(2) Such premium rates shall be (A) based on a consideration of the risks involved, taking into account differences, if any, in risks based on location, type of operations, facilities, type of coal, experience, and any other matter which may be considered under accepted actuarial principles; and (B) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses.

"(3) All premiums received by the Secretary shall be paid into the insurance fund.

Black Lung Compensation Insurance Fund.

"(g)(1) The Secretary may establish in the Department of Labor a Black Lung Compensation Insurance Fund which shall be available, without fiscal year limitation—

"(A) to pay claims of miners for benefits covered by insurance or reinsurance issued under this section;

"(B) to pay the administrative expenses of carrying out the black lung compensation insurance program under this section; and

Repayment to Treasury Secretary.

"(C) to repay to the Secretary of the Treasury such sums as may be borrowed in accordance with the authority provided in subsection (i).

"(2) The insurance fund shall be credited with—

"(A) premiums, fees, or other charges which may be collected in connection with insurance or reinsurance coverage provided under this section;

"(B) such amounts as may be advanced to the insurance fund from appropriations in order to maintain the insurance fund in an operative condition adequate to meet its liabilities; and

"(C) income which may be earned on investments of the insurance fund pursuant to paragraph (3).

"(3) If, after all outstanding current obligations of the insurance fund have been liquidated and any outstanding amounts which may have been advanced to the insurance fund from appropriations authorized under subsection (i) have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the insurance fund are in excess of current needs, he or she may request the investment of such amounts as he or she deems advisable by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the insurance fund and bearing interest at prevailing market rates. Investments.

"(h) The Secretary shall report to the Congress not later than the first day of April of each year on the financial condition of the insurance fund and the results of the operations of the insurance fund during the preceding fiscal year and on its expected condition and operations during the fiscal year in which the report is made. Fund financial condition, annual report to Congress.

"(i) There are authorized to be appropriated to the insurance fund, as repayable advances, such sums as may be necessary to meet obligations incurred under subsection (g). All such sums shall remain available without fiscal year limitation. Advances made pursuant to this subsection shall be repaid, with interest, to the general fund of the Treasury when the Secretary determines that moneys are available in the insurance fund for such repayments. Interest on such advances shall be computed in the same manner as provided in subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977.". Appropriation authorization. Interest rates. *Ante*, p. 12.

STATEMENT OF REASONS FOR DENIAL OF CLAIMS

SEC. 14. Part C of title IV of the Act, as amended by sections 12(b) and 13, is further amended by adding at the end thereof the following new section:

"SEC. 434. Any individual whose claim for benefits under this title is denied shall receive from the Secretary a written statement of the reasons for denial of such claim, and a summary of the administrative hearing record or, upon good cause shown, a copy of any transcript thereof.". 30 USC 944.

REVIEW OF PENDING AND PREVIOUSLY DENIED CLAIMS

SEC. 15. Part C of title IV of the Act, as amended by sections 12(b), 13, and 14, is further amended by adding at the end thereof the following new section: Notification to claimants.

"SEC. 435. (a)(1) The Secretary of Health, Education, and Welfare shall promptly notify each claimant who has filed a claim for benefits under part B of this title and whose claim is either pending on the effective date of this section or has been denied on or before 30 USC 945.

that effective date, that, upon the request of the claimant, the claim shall be either—

"(A) reviewed by the Secretary of Health, Education, and Welfare under paragraph (2) for a determination based on the evidence on file, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977; or

Referral to Labor Secretary.

"(B) referred directly by the Secretary of Health, Education, and Welfare to the Secretary of Labor for a determination under paragraph (3), with an opportunity for the claimant to present additional medical or other evidence in accordance with that paragraph, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977.

Approval and certification.

"(2)(A) The Secretary of Health, Education, and Welfare shall approve forthwith each claim for which review is requested under paragraph (1)(A) if, based upon the evidence on file, the provisions of part B of this title, as amended by the Black Lung Benefits Reform Act of 1977, require such approval. The Secretary of Health, Education, and Welfare shall certify such approval to the Secretary of Labor and such approval shall be binding upon the Secretary of Labor as an initial determination of eligibility. Upon receipt of that certification, the Secretary of Labor shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

Payment.

Referral to Labor Secretary, notification to claimants.

"(B)(i) The Secretary of Health, Education, and Welfare shall refer to the Secretary of Labor any claim not approved under subparagraph (A) for a determination under paragraph (3), and shall notify the claimant of that referral to the Secretary of Labor for such a determination.

"(ii) The Secretary of Health, Education, and Welfare shall notify each claimant whose claim has been approved under subparagraph (A) that, if the claimant disputes the scope or terms of the award, such dispute shall be referred to the Secretary of Labor for a determination under paragraph (3).

Determinations, transfers to Labor Secretary.

"(C) Upon the completion of the review of any claim by the Secretary of Health, Education, and Welfare under this paragraph, the responsibility for further action with respect to such claim shall be transferred to the Secretary of Labor. The Secretary of Labor shall consider each such claim in accordance with paragraph (3).

"(3)(A) Except as provided in this section, the Secretary of Labor shall treat each claim referred by the Secretary of Health, Education, and Welfare under paragraph (1)(B) or (2)(B) as if it were a claim filed under this part. The provisions of subsection (b) shall apply to any determination of the Secretary with respect to any such claim referred to the Secretary.

"(B) The Secretary of Health, Education, and Welfare shall promptly furnish to the Secretary of Labor all pertinent information in the possession of the Department of Health, Education, and Welfare relating to claims referred to the Secretary of Labor under this subsection.

"(4) For the purposes of any determination by the Secretary of Labor under paragraph (3), the date of the request under paragraph (1) shall be considered the date of filing of the claim.

30 USC 925.

"(b)(1) The Secretary of Labor shall review each claim which has been denied under this part (or under section 415) on or before the effective date of this subsection, and each claim which is pending under this part (or under section 415) on such effective date, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977. The Secretary shall approve any such claim forth-

with if the provisions of this part, as so amended, require that approval, and the Secretary shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

"(2)(A) The Secretary, in carrying out the review of any claim under paragraph (1) and in making any determination under subsection (a)(3), shall not require any additional medical or other evidence to be submitted if the evidence on file is sufficient for approval of the claim, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977. Evidence requirement.

"(B) If the evidence on file is not sufficient for approval of the claim, the Secretary shall provide an opportunity for the claimant to present additional medical or other evidence to substantiate his or her claim and shall notify each claimant of that opportunity.

"(c) Any individual whose claim is approved pursuant to this section shall be awarded benefits on a retroactive basis for a period which begins no earlier than January 1, 1974.".

SHORT TITLE FOR THE ACT

SEC. 16. Section 401 of the Act is amended by inserting "(a)" after "SEC. 401." and by adding at the end thereof the following new subsection: 30 USC 901.

"(b) This title may be cited as the 'Black Lung Benefits Act'.".

OCCUPATIONAL DISEASE STUDY

SEC. 17. (a) The Secretary of Labor, in cooperation with the Director of the National Institute for Occupational Safety and Health, shall conduct a study of all occupationally related pulmonary and respiratory diseases, including the extent and severity of such diseases in the United States. Such study shall further include analyses of (1) any etiologic, symptomatologic, and pathologic factors which are similar to such factors in coal workers' pneumoconiosis and its sequelae; (2) the adequacy of current workers' compensation programs in compensating individuals with such diseases; and (3) the status and adequacy of Federal health and safety laws and regulations relating to the industries with which such diseases are associated. 29 USC 675 note.

(b) The study required in subsection (a) shall be completed and a report thereon submitted to the President and to the appropriate committees of the Congress no later than 18 months after the date of the enactment of this Act. Report to President and congressional committees.

FIELD OFFICES

SEC. 18. (a) The Secretary of Labor shall establish and operate such field offices as may be necessary to assist miners and survivors of miners in the filing and processing of claims under title IV of the Act. Such field offices shall, to the extent feasible, be reasonably accessible to such miners and survivors. The Secretary, in connection with the establishment and operation of field offices, may enter into arrangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies. Where the establishment of separate facilities is not feasible the Secretary may enter into such arrangements as he deems necessary with the heads of Federal departments, agencies, and instrumentalities and with State agencies for the use of existing facilities and personnel under their control. Establishment. 30 USC 903. 30 USC 901. Arrangements with Federal and State agencies.

(b) There are authorized to be appropriated for the purposes of subsection (a) such sums as may be necessary. Appropriation authorization.

INFORMATION TO POTENTIAL BENEFICIARIES

30 USC 904. SEC. 19. The Secretary of Health, Education, and Welfare and the Secretary of Labor shall disseminate to interested persons and groups
30 USC 901. the changes in title IV of the Act made by this Act, together with an explanation of such changes, and shall undertake, through appropriate organizations, groups, and coal mine operators, to notify individuals who are likely to have become eligible for benefits by reason of such
Assistance. changes. Individual assistance in preparing and processing claims shall be offered by the Secretary of Health, Education, and Welfare and the Secretary of Labor and provided to potential beneficiaries.

EFFECTIVE DATES

30 USC 901 note. SEC. 20. (a) The provisions of this Act shall take effect on the date of the enactment of this Act.

30 USC 934a note. (b) In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits
Ante, p. 12. Revenue Act of 1977, the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act, shall take effect, as rules and regulations of the Secretary of Labor until such
Additional rules and regulations. provisions are revoked, amended, or revised by law. The Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.

26 USC 4121 note. (c) In accordance with the requirements of section 5 of the Black Lung Benefits Revenue Act of 1977, it is hereby provided that such Act shall take effect in accordance with the provisions of such Act. The
Ante, p. 24. provisions of this subsection are hereby deemed to be in explicit satisfaction of the requirements of section 5 of such Act.

Approved March 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-151 (Comm. on Education and Labor) and No. 95-864 (Comm. of Conference).
SENATE REPORTS: No. 95-209 accompanying S. 1538 (Comm. on Human Resources) and No. 95-336 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 21, S. 1538 considered in Senate.
July 25, Sept. 19, considered and passed House.
Sept. 20, considered and passed Senate, amended, in lieu of S. 1538.
Vol. 124 (1978): Feb. 6, Senate agreed to Conference report.
Feb. 15, House agreed to Conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 9 (1978): Mar. 1, Presidential statement.

Public Law 95-240
95th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

Mar. 7, 1978
[H.R. 9375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations Act, 1978") for the fiscal year ending September 30, 1978, and for other purposes, namely:

Supplemental Appropriations Act, 1978.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

Office of the Secretary

For an additional amount for the "Office of the Secretary", $145,000: *Provided*, That the limitation of $1,500,000 in transfers for salaries and expenses under this head in the Agriculture and Related Agencies Appropriations Act, 1978, (Public Law 95-97) is increased to $2,164,000.

91 Stat. 810.

Agricultural Marketing Service

MARKETING SERVICES

For an additional amount for the "Agricultural Marketing Service, Marketing Services", $2,000,000.

Federal Crop Insurance Corporation

SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act (7 U.S.C. 1504), $30,000,000.

Farmers Home Administration

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very Low-Income Housing Repair Grants", $4,000,000.

Soil Conservation Service

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for emergency measures for runoff retardation and soil-erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b-1) in addition to

funds provided elsewhere, $30,000,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For an additional amount to carry out the Agricultural Conservation Program, $36,600,000, to incur obligations for the period ending September 30, 1978, and to liquidate such obligations for soil and water conserving practices in major drought or flood damage areas as designated by the President or the Secretary of Agriculture: *Provided*, That not to exceed 5 per centum of the amount herein may be withheld with the approval of the State committee and allotted to the Soil Conservation Service for services of its technicians in the designated drought or flood damaged areas.

CHAPTER II

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $44,200,000, to remain available until September 30, 1979.

ABATEMENT AND CONTROL

For an additional amount for "Abatement and control", $85,000,000, to remain available until September 30, 1979: *Provided*, That none of these funds shall be used for any grant to cover in excess of 75 per centum of the total cost of the purposes to be carried out by such grant made pursuant to the authority contained in section 208 of the Federal Water Pollution Control Act, as amended.

33 USC 1288.

CONSTRUCTION GRANTS

For necessary expenses to carry out Title II of the Federal Water Pollution Control Act, as amended, other than sections 206, 208, and 209, $4,500,000,000, to remain available until expended: *Provided*, That the funds shall be allotted in accordance with table 3 of committee print numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives.

33 USC 1281.
33 USC 1286, 1288, 1289.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For an additional amount for travel, from funds previously appropriated for the Consumer Information Center, $5,000.

VETERANS ADMINISTRATION

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For an additional amount for "Grants for construction of State extended care facilities" to assist the several States in the provision of State extended care facilities, as authorized by Public Law 95–62,

91 Stat. 262.

$5,000,000, to remain available until September 30, 1980: *Provided*, That all unobligated balances from prior appropriations made available for carrying out 38 U.S.C. 644 and 5031–5037 shall also be available for purposes authorized by Public Law 95–62. 91 Stat. 262.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For an additional amount for "Assistance for health manpower training institutions" for pilot programs for assistance in the establishment of new State medical schools, as authorized by 38 U.S.C. chapter 82, section 5072, $3,847,000, to remain available until September 30, 1984.

CHAPTER III

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $3,600,000, to remain available until expended.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,000,000.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ENFORCEMENT AND RESEARCH

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, $30,880,000. 30 USC 1201 note.

ABANDONED MINE RECLAMATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of Title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, $36,647,000, to remain available until expended: *Provided*, That $36,647,000 shall be transferred from unappropriated receipts of the Abandoned Mine Reclamation Fund into the General Fund of the Treasury prior to September 30, 1978. 30 USC 1231.

ADMINISTRATIVE PROVISIONS

Appropriations for the Office of Surface Mining Reclamation and Enforcement shall be available for the purchase of not to exceed 58 passenger motor vehicles: *Provided*, That none of the funds provided in this Act for the Office of Surface Mining Reclamation and Enforcement shall be available for the compensation of Executive Level IV or higher positions: *Provided further*, That section 201(b) of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) is amended to delete the roman numeral "IV" in the first sentence and substitute the roman numeral "V" in lieu thereof. 5 USC 5315. 30 USC 1211.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $8,374,000.

CONSTRUCTION

For an additional amount for "Construction", $2,166,000, to remain available until expended: *Provided*, That not to exceed $1,685,000 shall be available to assist the Tulalip Indian Tribes for planning, engineering, and initial ground preparation for construction of a fish hatchery on Puget Sound; and not to exceed $181,000 shall be available to assist the Point-No-Point Treaty Tribes, including the tribes of Lower Elwha, Skokomish and Port Gamble, for expansion of salmon enhancement facilities.

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of territories", $1,798,000, for necessary expenses of the Federal Comptrollers' Offices for Guam and the Virgin Islands: *Provided*, That none of the funds in this appropriation or any appropriation with which it may be merged shall be used to implement or finance loan guarantee programs unless specific provision is made for such programs in future appropriation Acts: *Provided further*, That funds available for expenses of the Office of the Government Comptroller for the Virgin Islands derived from "Internal Revenue Collections for Virgin Islands" and expenses of the Office of the Government Comptroller for Guam derived from duties and taxes pursuant to Public Law 95-74 and such sums as were unobligated in those accounts as of October 1, 1977 shall be returned to the Governments of the Virgin Islands and Guam.

91 Stat. 285.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,100,000.

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $250,000.

DEPARTMENTAL OPERATIONS

For an additional amount for "Departmental operations", $795,000.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For an additional amount for "Forest protection and utilization", for "Forest land management", $1,836,000.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES—FOSSIL FUELS

For an additional amount for "Operating expenses—fossil fuels", $1,000,000.

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $273,194,000, of which $253,110,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities, $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $6,630,000; for solar heating and cooling installations in Federal buildings, $20,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000: *Provided*, That of the total amount of this appropriation, not to exceed $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94-163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000. 42 USC 6201 note.

STRATEGIC PETROLEUM RESERVE

For an additional amount for "Stragetic petroleum reserve", $383,173,000, to remain available until December 31, 1978.

CHAPTER IV

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,700,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,270,000.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH RESOURCES ADMINISTRATION

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

Of the loan principal allotted under title VI of the Public Health Service Act for fiscal year 1973 which remained unobligated on September 30, 1976, not to exceed $2,000,000 shall be available to honor commitments made by the Secretary prior to October 1, 1976, to make or guarantee loans under such title VI. 42 USC 291.

OFFICE OF EDUCATION

HIGHER EDUCATION

For an additional amount for "Higher education", $5,000,000 for the support of the construction of two demonstration model intercultural centers as authorized by section 721(a)(2) of the Higher Education Act of 1965 as amended: *Provided*, That in addition the Commissioner is to make available new construction loans not to exceed $7,200,000 from amounts available in the Higher Education Facilities Loan and Insurance Fund for the construction of two demonstration model intercultural centers.

20 USC 1132b.

STUDENT LOAN INSURANCE FUND

The Commissioner is authorized to issue to the Secretary of the Treasury notes or other obligations in an amount not to exceed a total of $15,000,000 to remain available without fiscal year limitation.

SOCIAL SECURITY ADMINISTRATION

SPECIAL ASSISTANCE TO REFUGEES FROM CAMBODIA, VIETNAM, AND LAOS IN THE UNITED STATES

For assistance to refugees from Cambodia, Vietnam, and Laos in the United States, $124,000,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For an additional amount for "General Departmental Management", $1,719,000 for compensating the State of Washington for losses it incurs in vacating and turning over to the United States the land and all improvements thereon which was formerly the site of the Tacoma Indian Hospital in Tacoma, Washington.

RELATED AGENCIES

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $200,000,000.

CHAPTER V

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES

For an additional amount for "Operating expenses", to remain available until expended, $101,000,000; of which $80,000,000 shall be for the Clinch River Breeder Reactor Project.

Not to exceed $17,000,000 of the funds appropriated for "Operating expenses" in the Public Works for Water and Power Development and Energy Research Appropriation Acts for fiscal years 1976 (Public Law 94-180) and 1977 (Public Law 94-355) are hereby made available to reimburse the General Services Administration for the expenses of renovation, furnishing and repair of facilities necessary to provide

89 Stat. 1035.
90 Stat. 889.

temporary and permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy.

DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

Corps of Engineers—Civil

ALASKA HYDROELECTRIC POWER DEVELOPMENT FUND

For the purpose of carrying out the provisions of section 203 of the Water Resources Development Act of 1976 (Public Law 94-587), $5,450,000, to remain available until expended: *Provided*, That no part of this appropriation or any other amount in this fund shall be available to guarantee any obligations in excess of the amount appropriated herein. 42 USC 1962d-14a.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

UPPER COLORADO RIVER STORAGE PROJECT

(TRANSFER OF FUNDS)

For an additional amount for "Upper Colorado River Storage Project", for construction of recreational and fish and wildlife facilities authorized by section 8 of the Act of April 11, 1956, as amended, $875,000, to be derived by transfer from "Construction and Rehabilitation". 43 USC 620g.

DROUGHT EMERGENCY ASSISTANCE

Funds appropriated under this heading in the Supplemental Appropriations Act, 1977, Public Law 95-26, shall remain available until November 30, 1977. 91 Stat. 88.

CHAPTER VI

DEPARTMENT OF JUSTICE

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, General legal activities", $1,445,000, to be derived by transfer from "Salaries and expenses", Law Enforcement Assistance Administration.

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $1,223,000, to be derived by transfer from "Salaries and expenses", Law Enforcement Assistance Administration.

DEPARTMENT OF COMMERCE

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", $7,000,000, to remain available until expended.

RELATED AGENCIES

Commission on Security and Cooperation in Europe

SALARIES AND EXPENSES

Not to exceed $1,000 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1977, shall be available for official reception and representation expenses.

90 Stat. 955.

Not to exceed $6,000 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, shall be available for official reception and representation expenses.

91 Stat. 437.

Office of the Special Representative for Trade Negotiations

SALARIES AND EXPENSES

Not to exceed $15,000 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, shall be available for official reception and representation expenses.

Small Business Administration

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", $1,400,000,000, to remain available without fiscal year limitation.

CHAPTER VII

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount made available for construction under this heading in the "Independent Agencies Appropriations Act, 1978", $48,913,000 shall remain available until expended for construction of buildings in addition to the amounts previously specified in other appropriation acts as available until expended (including

funds for sites and expenses) and the limitation on the amount available for construction of buildings is increased to $69,392,000 by additions as follows:

New construction:

California: San Jose, Federal Office Building, $34,130,000;

Massachusetts: Springfield, Courthouse, Federal Office Building, and parking facility, $14,783,000:

Provided, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For an additional amount for Allowances and Office Staff for Former Presidents to carry out the provisions of Public Law 95-138, approved October 18, 1977, $54,000. 91 Stat. 1170.

CHAPTER VIII

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and Maintenance, Defense Agencies", $3,400,000. The amounts heretofore made available in fiscal year 1978 only for the Defense Logistics Agency and only for the Civilian Health and Medical Program of the Uniformed Services shall be available without regard to those limitations.

PROCUREMENT

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $73,900,000, to remain available for obligation until September 30, 1980.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $33,000,000, to remain available for obligation until September 30, 1980.

Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $462,000,000. 90 Stat. 1288.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $64,000,000, to remain available for obligation until September 30, 1980.

Appropriations provided under this heading in the Department of Defense Appropriation Act, 1977, are rescinded in the amount of $1,400,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test, and Evaluation, Air Force", $240,500,000, to remain available for obligation until September 30, 1979.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test, and Evaluation, Defense Agencies", $9,000,000, to remain available for obligation until September 30, 1979.

ADMINISTRATIVE PROVISION

91 Stat. 909.

SEC. 101. (a) Section 856(a) of the Department of Defense Appropriation Act, 1978 (Public Law 95-111) is amended by adding the following proviso at the end thereof, ": *Provided further*, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under Section 6330 (b) of Title 10 pursuant to the provisions of the first sentence of Section 6330(d) of Title 10 for those members who have formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977".

(b) Section 856(b) of the Department of Defense Appropriation Act, 1978 (Public Law 95-111) is amended by inserting the words "the second sentence of" before the words "Section 6330(d)".

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $18,000,000, to remain available until expended, for operating losses incurred by the Corporation.

CHAPTER X

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $6,300,000, to provide assistance for the transportation and reception and placement of Indochinese refugees resettling in the United States.

TITLE II

GENERAL PROVISIONS

31 USC 724a.

SEC. 201. Section 1302 of the Supplemental Appropriation Act, 1957, as amended (31 U.S.C. 724(a)), is amended by inserting the following after "Title 28," the first time it appears: "the Act of

December 28, 1922, chap. 17, 42 Stat. 1066, awards rendered by the Indian Claims Commission, and amounts (in excess of the amounts payable from agency appropriations) of claims determined meritorious under section 2733 or 2734 of Title 10, section 715 of Title 32, and section 203 of the National Aeronautics and Space Act of 1958,". 31 USC 216 note. 10 USC 2733, 2734. 32 USC 715. 42 USC 2473.

SEC. 202. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 203. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

SEC. 204. The provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b-1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the first session of the Ninety-fifth Congress and the convening of the second session of the Ninety-fifth Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment. Congressional pages, salaries.

SEC. 205. Effective October 1, 1977, section 106(a)(8) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(a)(8)), is amended by inserting "Deputy Chief Guide," after "Chief Guide,".

SEC. 206. Effective October 1, 1977, section 111 of the Legislative Branch Appropriation Act, 1978, is amended— 2 USC 61-1 note.

(1) by striking out "an amount equal to three times the amount referred to in section 105(e)(1) of such Act, as amended and modified" in subsection (a) and inserting in lieu thereof "$149,286"; and

(2) by striking out "the amount referred to in section 105(e)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified," each place it appears in subsection (b) and inserting in lieu thereof "$49,762". 2 USC 61-1.

SEC. 207. Section 114 of the Legislative Branch Appropriation Act, 1978, is amended by striking out "each of which is in the office of a Senator and the pay for which is disbursed by the Secretary of the Senate" and inserting in lieu thereof "the pay for each of which is disbursed by the Secretary of the Senate out of an appropriation under the heading 'SALARIES, OFFICERS AND EMPLOYEES'.". 2 USC 61-1a.

SEC. 208. Effective August 5, 1977, the last sentence of section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by inserting after "Office of the" the following: "President pro tempore, Deputy President pro tempore,".

SEC. 209. The Secretary of Transportation shall, not later than 60 days after the date of enactment of this Act, designate as a route on the National System of Interstate and Defense Highways, from mileage withdrawn from such System before the date of enactment of this Act under authority of 23 U.S.C. 103(e), and which is available for such a designation, 1.5 miles in the State of Washington for a connection with Interstate Route 5 and the City of Tacoma, Washington.

Arms export licenses.
22 USC 2372a.

SEC. 210. Any export license referred to in Section 11 of Public Law 95-92 which is issued initially on or before September 30, 1978 may from time to time thereafter be renewed, reissued or modified (or in the event of lapse of such license, replacement licenses may be issued), provided that any such renewal, reissuance or modification (or any such replacement license) does not change significantly any such license as initially issued.

Approved March 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-644 (Comm. on Appropriations), and No. 95-812 and No. 95-829 (both from Comm. of Conference).
SENATE REPORT No. 95-564 (Comm. on Appropriations).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 19, 20, 25, considered and passed House.
Nov. 1, considered and passed Senate, amended.
Nov. 30, House recomitted conference report.
Dec. 6, House agreed to conference report.
Dec. 7, Senate agreed to conference report and insisted on its amendment No. 43.
Vol. 124 (1978): Feb. 1, Senate further insisted on its amendment No. 43 and requested further conference.
Feb. 22, House receded and concurred in Senate amendment No. 43.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 10 (1978): Mar. 7, Presidential statement.

Public Law 95-241
95th Congress

An Act

To amend the Federal Aviation Act of 1958 relating to eligibility for registration of aircraft.

Mar. 8, 1978
[H.R. 10368]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501 (b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401 (b)(1)(A)(i)) is amended by striking out "citizen of the United States (other than a corporation)" and inserting in lieu thereof "citizen of the United States".

Federal Aviation Act of 1958, amendment.
Aircraft registration, eligibility.

(b) Section 501(b)(1)(A)(ii) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(ii)) is amended by inserting "(other than a corporation which is a citizen of the United States)" immediately after "corporation".

Approved March 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-868 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-637 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 21, considered and passed House.
Feb. 23, considered and passed Senate.

Public Law 95-242
95th Congress

An Act

Mar. 10, 1978
[H.R. 8638]

To provide for more efficient and effective control over the proliferation of nuclear explosive capability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Non-Proliferation Act of 1978".

Nuclear Non-Proliferation Act of 1978.
22 USC 3201 note.

STATEMENT OF POLICY

22 USC 3201.

SEC. 2. The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation, including the establishment of common international sanctions;

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses;

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date; and

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production and, in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection.

STATEMENT OF PURPOSE

22 USC 3202.

SEC. 3. It is the purpose of this Act to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commit-

ment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

DEFINITIONS

SEC. 4. (a) As used in this Act, the term— 22 USC 3203.

(1) "Commission" means the Nuclear Regulatory Commission;

(2) "Director" means the Director of the Arms Control and Disarmament Agency;

(3) "IAEA" means International Atomic Energy Agency;

(4) "nuclear materials and equipment" means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the 1954 Act; *Post*, p. 141.

(5) "physical security measures" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;

(6) "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

(7) "1954 Act" means the Atomic Energy Act of 1954, as amended; and 42 USC 2011 note.

(8) "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) All other terms used in this Act not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974, and the Treaty. 42 USC 5801 note.

TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

POLICY

SEC. 101. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 161 of the 1954 Act or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs. The Commission shall, on a timely basis, 22 USC 3221. 42 USC 2201.

authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

URANIUM ENRICHMENT CAPACITY

22 USC 3222.

SEC. 102. The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission, the Secretary of State, and the Director of the Arms Control and Disarmament Agency are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

REPORT

Study.
22 USC 3222 note.
Report to Congress.

SEC. 103. The President shall promptly undertake a study to determine the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States nonproliferation objectives abroad. The President shall report to the Congress on the results of this study within twelve months after the date of enactment of this Act.

INTERNATIONAL UNDERTAKINGS

Discussions and negotiations.
22 USC 3223.

SEC. 104. (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy goals set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate

compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violation of the provisions of or for abrogation of such binding international undertakings.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA. Proposals, submittal to Congress.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements. Proposed legislation.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities under their de facto or de jure control, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f)(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization Act for the Department of Energy.

REEVALUATION OF NUCLEAR FUEL CYCLE

SEC. 105. The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology. The President shall, in the first report required by section 601, detail the progress of such international reevaluation. 22 USC 3224.

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL SAFEGUARDS SYSTEM

POLICY

22 USC 3241.

SEC. 201. The United States is committed to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons, to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strengthen the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of Article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of source or special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to adminster an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations of adherence to bilateral commitments applicable to such supply.

TRAINING PROGRAM

22 USC 3242.

SEC. 202. The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

NEGOTIATIONS

22 USC 3243.

SEC. 203. The United States shall seek to negotiate with other nations and groups of nations to—

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in

the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities, and for recovering nuclear materials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

TITLE III—EXPORT ORGANIZATION AND CRITERIA

GOVERNMENT-TO-GOVERNMENT TRANSFERS

SEC. 301. (a) Section 54 of the 1954 Act is amended by adding a new subsection d. thereof as follows: *Post*, p. 131. 42 USC 2074.

"d. The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

"(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or

"(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

(b) Section 64 of the 1954 Act is amended by inserting the following immediately after the second sentence thereof: "The authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.". 42 USC 2094.

(c) Chapter 10 of the 1954 Act is amended by adding a new section 111 as follows:

"SEC. 111. a. The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to section 54, 64, and 82 of this Act, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act. 42 USC 2141. *Supra.* 42 USC 2112.

"b. The Department of Energy shall not distribute any special nuclear material or source material under section 54 or 64 of this Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 127 of this Act or their equivalent and any appli- *Post*, p. 136.

Post, p. 137.

cable criteria in subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security.".

Special nuclear material, production. Technology transfers. 42 USC 2077. *Post*, p. 142.

SEC. 302. Subsection 57 b. of the 1954 Act is amended to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after the enactment of the Nuclear Non-Proliferation Act of 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any request proposed and filed as of the date of enactment of the Nuclear Non-Proliferation Act of 1978 shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in subsection 11 v. (2) or 11 cc. (2) shall be governed by sections 109 and 126 of this Act: *Provided further*, That notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 54 d., section 64, or section 111 b.".

Authorization requests, procedures.

Standards and criteria.

Trade secrets, protection.

42 USC 2014. *Post*, pp. 131, 141.

42 USC 7172.

42 USC 2074, 2094. *Ante*, p. 125.

SUBSEQUENT ARRANGEMENTS

SEC. 303. (a) Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, 307, and 308, is further amended by adding at the end thereof the following:

"SEC. 131. SUBSEQUENT ARRANGEMENTS.— 42 USC 2160.

"a. (1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Director, the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Director declares that he intends to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the Director's declaration shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection c. for the preparation of such Statement, whichever occurs first.

Consultation.

42 USC 2121, 2164.

Notice, publication in Federal Register.

"(2) If in the Director's view a proposed subsequent arrangement might significantly contribute to proliferation, he may prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term 'subsequent arrangements' means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

Nuclear Proliferation Assessment Statement.

"Subsequent arrangements."

"(A) contracts for the furnishing of nuclear materials and equipment;

Contracts.

"(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

"(C) authorization for the distribution of nuclear materials and equipment pursuant to this Act which is not subject to the procedures set forth in section 111 b., section 126, or section 109 b.;

Ante, p. 125.

"(D) arrangements for physical security;

Post, pp. 131, 141.

"(E) arrangements for the storage or disposition of irradiated fuel elements;

"(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

"(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

"(3) The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of this Act.

Post, p. 142.

"(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection a. (1).

"b. With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

Report to congressional committees.

"(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however*, That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

Post, p. 139.

"(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could

transform the diverted material into a nuclear explosive device; and

"(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in his view, and that of the Secretary of State, satisfy the standards set forth in paragraph (2).

Nuclear materials, reprocessing or transfer procedures.

"c. The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Director shall so declare in his response to the Department of Energy. If the Director declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Director's request, the President waives the sixty-day requirement and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

Controversial requests, identification. Standards and criteria.

Nuclear Proliferation Assessment Statement. Presidential waiver. Notice to congressional committees.

"d. Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign

nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 105 of the Nuclear Non-Proliferation Act of 1978; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor to prejudice open and objective consideration of the results of the evaluation.

42 USC 7172.

"e. Notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95-91), the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section.

Presidential plan, submittal to Congress.

"f. (1) With regard to any subsequent arrangement under subsection a. (2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

Post, p. 139.

"(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), which plan has been referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions;

"(B) The Secretary of Energy has complied with subsection a.; and

"(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this Act, under sections 54 and 55 and any other applicable sections, and any other requirements of law.

Ante, p. 125.
Post, p. 131.

Notice to congressional committees.

"(2) Subsection (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 54 or 55 of this Act of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees on International Relations and Science and Technology of the House of Representatives and the Committees on Foreign Relations and Energy and Natural

Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

"(3) Any plan submitted by the President under subsection f. (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings. Plan, contents.

"(4) For the purposes of this subsection, the term 'foreign spent nuclear fuel' shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or the reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.". "Foreign spent nuclear fuel."

(b) (1) Section 54 of the 1954 Act is amended by adding new subsection e. as follows, *Ante*, p. 125.

"e. The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2) (E) shall be subject to the requirements of section 131.". *Ante*, p. 127.

(2) Section 55 of the 1954 Act is amended by adding a proviso at the end of the section as follows, "*Providing*, That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2) (E) shall be subject to the requirements of section 131.". 42 USC 2075.

EXPORT LICENSING PROCEDURES

SEC. 304. (a) Chapter 11 of the 1954 Act is amended by adding a new section 126 as follows:

"SEC. 126. EXPORT LICENSING PROCEDURES.— 42 USC 2155.

"a. No license may be issued by the Nuclear Regulatory Commission (the 'Commission') for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until— Exemption. *Ante*, p. 125. *Supra*. 42 USC 2112.

"(1) the Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meet- Executive branch judgement, notice to Commission. Procedures. Contents.

ing such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations con be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

Standards and criteria.

Notice to congressional committees.

"(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 403 or 404(a) of the Nuclear Non-Proliferation Act of 1978;

Post, p. 146, 147.

"(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

"(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 127 of this Act will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

Post, p. 136.

Data and recommendations.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

"(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria

in section 127 of this Act or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 for a period of thirty days after enactment of this section, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1978; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section,: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 127 of this Act, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on International Relations of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act: *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no material changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

Post, p. 136.

42 USC 2154.

Post, p. 147.

Extension, notice to Congress.

Post, p. 139.

Findings.

Judicial review, exception.

"b. (1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

Presidential review.

"(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g.) and shall be referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978 shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public

Report to Congress and congressional committees.

Post, p. 139.

Review.

Concerns and requests, transmittal to executive branch.

participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection a. (1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection a. (1) of this section.

"c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this Act, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.". Referral to congressional committees.

Post, p. 139.

(b) Within one hundred and twenty days of the date of enactment of this Act, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission. Regulations. 42 USC 2155a.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding. Hearings. 42 USC 2155a. 42 USC 2239.

(d) Within sixty days of the date of enactment of this Act, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy, the Secretary of Defense, and the Director, promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgment are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 127 of the 1954 Act taking into consideration variations in risks to security as appropriate. Regulations. 42 USC 2156a.

Post, p. 136.

CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS

SEC. 305. Chapter 11 of the 1954 Act, as amended by section 304, is further amended by adding at the end thereof the following:

42 USC 2156. "SEC. 127. CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

"(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

"(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

Ante, p. 131.

"(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

"(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.".

ADDITIONAL EXPORT CRITERION AND PROCEDURES

SEC. 306. Chapter 11 of the 1954 Act, as amended by sections 304 and 305, is further amended by adding at the end thereof the following:

"SEC. 128. ADDITIONAL EXPORT CRITERION AND PROCEDURES.— 42 USC 2157.

"a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

"(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

"b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment of this section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section, except as provided in the following paragraphs: Export applications, criterion enforcement.

"(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: *Provided*, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions. Report to congressional committees. *Ante*, p. 131. *Post*, p. 139.

"(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolu- Congressional disapproval, resolution.

tion stating in substance that it disagrees with the President's determination.

Export authorizations, congressional review.

"(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.".

CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS

Export terminations, criterion. 42 USC 2158.

SEC. 307. Chapter 11 of the 1954 Act, as amended by sections 304, 305, and 306, is further amended by adding at the end thereof:

"SEC. 129. CONDUCT RESULTING IN TERMINATION OF NUCLEAR EXPORTS.—

"No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

"(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section,

"(A) detonated a nuclear explosive device; or

"(B) terminated or abrogated IAEA safeguards; or

"(C) materially violated an IAEA safeguards agreement; or

"(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

"(2) any nation or group of nations that is found by the President to have, at any time after the effective date of this section,

"(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 402(a) of the Nuclear Non-Proliferation Act of 1978; or

Post, p. 145.

"(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

"(C) entered into an agreement after the date of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.".

Report to Congress.

Infra.

CONGRESSIONAL REVIEW PROCEDURES

SEC. 308. Chapter 11 of the 1954 Act, as amended by sections 304, 305, 306, and 307, is further amended by adding at the end thereof the following:

"SEC. 130. CONGRESSIONAL REVIEW PROCEDURES.—

42 USC 2159. Congressional committee reports.

"a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by subsection 123 d., 126 a. (2), 126 b. (2), 128 b., 129, 131 a. (3), or 131 f. (1) (A) of this Act, the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

Post, p. 142.
Ante, pp. 131, 137, 138, 127.

42 USC 2121, 2164.

"b. When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection a.) or when a resolution has

been introduced and placed on the appropriate calendar pursuant to subsection a., as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"c. Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection d.

"d. Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, 'does not' in lieu of the word 'does' if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

"e. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

"Resolution."

"f. For the purposes of subsections a. through e. of this section, the term 'resolution' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the transmitted to the Congress by the President on , .', the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

Continuous sessions of Congress, computation.

"g. For the purposes of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"h. This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection f. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.".

COMPONENT AND OTHER PARTS OF FACILITIES

SEC. 309. (a) Section 109 of the 1954 Act is amended to read as follows: 42 USC 2139.

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2) the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security. Domestic activities licenses, issuance authorization. 42 USC 2139.

"b. After consulting with the Secretaries of State, Energy, and Commerce and the Director, the Commission is authorized and directed to determine which component parts as defined in subsection 11 v. (2) or 11 cc. (2) and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 126 b. (2), no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act. Export licenses. *Ante*, p. 131.

"c. The Commission shall not issue an export license under the authority of subsection b. if it is advised by the executive branch, in accordance with the procedures established under subsection 126 a., that the export would be inimical to the common defense and security of the United States.".

(b) The Commission, not later than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of subsections b. and c. of section 109 of the 1954 Act. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, the Department of Commerce, and the Arms Control and Disarmament Agency. Regulations. 42 USC 2139a. *Supra.*

(c) The President, within not more than one hundred and twenty days after the date of enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could Export control procedures, Presidential publications. 42 USC 2139a.

be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Commission, the Department of Energy, and the Department of Defense.

Savings provision. 42 USC 2139 note. *Ante*, p. 141.

(d) The amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments.

TITLE IV—NEGOTIATION OF FURTHER EXPORT CONTROLS

COOPERATION WITH OTHER NATIONS

42 USC 2153.

SEC. 401. Section 123 of the 1954 Act is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—

"No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

42 USC 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, 2164.

"a. the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

Cooperative agreements, submittal to President. Contents.

"(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

"(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

"(3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

"(4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return

of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

"(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b. or 144 c., any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States; 42 USC 2121, 2164.

"(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

"(7) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

"(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no uranium 233, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation, or recovered from any source or special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

"(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b. or 144 c., a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

Agreement requirements, Presidential exemptions.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., or 144 c.) from any of the requirements of the foregoing sen-

tence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director'); and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director, who shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;

Proposed cooperation agreements, submittal to President.
Nuclear Proliferation Assessment Statement, submittal to President.
42 USC 2121, 2164.

"b. the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

"c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided*, *however*, That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

Submittal to congressional committees.

Ante, p. 139.

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become

42 USC 2073, 2074, 2133, 2134.

effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided*, That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., has been submitted to the Congress. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Ante, p. 142.

Ante, p. 139.

"Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

Agency views to congressional committees. 42 USC 2121, 2164.

"If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.".

Ante, p. 137.
Ante, p. 131.

ADDITIONAL REQUIREMENTS

SEC. 402. (a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approval of the United States for such enrichment: *Provided*, That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 131 of the 1954 Act, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further*, That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after the date of enactment of this Act, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

Nuclear material enrichment, approval. 42 USC 2153a.

Ante, p. 127.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy

Enrichment facility components, export prohibition.

water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

42 USC 2121, 2164.
"Major critical component."

PEACEFUL NUCLEAR ACTIVITIES

Export policies.
42 USC 2153b.

SEC. 403. The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose, except as permitted by Article V, the Treaty;

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measures will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

Enriched nuclear material and sources, prohibition.
Proposed international agreements.
42 USC 2014.

(b)(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in paragraph aa. (2) of section 11 of the 1954 Act) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable

after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

Enriched nuclear material, short-term storage. International inspection.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

RENEGOTIATION OF AGREEMENTS FOR COOPERATION

SEC. 404. (a) The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on the date of enactment of this Act, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 123 a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish

42 USC 2153c.

Ante, p. 136.

Ante, p. 142.

any rights which the United States may have under any agreement for cooperation in force on the date of enactment of this Act.

Export agreement conditions and policy goals, Presidential review. *Ante*, p. 142.

(b) The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act and the export policy goals set forth in section 401 to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

Presidential export criteria proposals, submittal to Congress.

(c) If the President proposes enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) If the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, after reviewing the President's annual report or any proposed legislation, determines that it is in the interest of United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection 130 b. through g. of the 1954 Act. *Ante*, p. 139.

AUTHORITY TO CONTINUE AGREEMENTS

Savings provision. 42 USC 2153d.

SEC. 405. (a) The amendments to section 123 of the 1954 Act made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act.

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

REVIEW

42 USC 2160a.

SEC. 406. No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement called for in this Act or in the 1954 Act.

PROTECTION OF THE ENVIRONMENT

42 USC 2153e.

SEC. 407. The President shall endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 Act for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

TITLE V—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

POLICY; REPORT

Nuclear and non-nuclear energy, re. ource development. 22 USC 3261.

SEC. 501. The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in estab-

lishing programs to assist in the development of non-nuclear energy resources, to cooperate with both developing and industrialized nations in protecting the international environment from contamination arising from both nuclear and non-nuclear energy activities, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and groups of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

Presidential report to Congress.

PROGRAMS

SEC. 502. (a) The United States shall initiate a program, consistent with the aims of section 501, to cooperate with developing countries for the purpose of—

Developing countries, energy development programs.
22 USC 3262.

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives available to such countries.

(b) Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and cooperative projects in resource exploration and production, training, research and development.

Assessment and cooperative projects.

(c) As an integral part of such program, the Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

Experts, exchange.

(d) For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization Acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

Appropriation authorization.

(e) Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this title with other related activities of the United States conducted abroad, including the programs authorized by sections 103(c), 106(a)(2), and 119 of the Foreign Assistance Act of 1961.

22 USC 2151a, 2151d, 2151q.

REPORT

SEC. 503. Not later than twelve months after the date of enactment of this Act, the President shall report to the Congress on the feasibility of expanding the cooperative activities established pursuant to section

Presidential report to Congress.
22 USC 3262 note.

502(c) into an international cooperative effort to include a scientific peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of such countries through the search for and utilization of indigenous energy resources and the application of suitable technology, including the widespread utilization of renewable and unconventional energy technologies. Such report shall also include a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage the utilization of such technologies in developing countries.

TITLE VI—EXECUTIVE REPORTING

REPORTS OF THE PRESIDENT

Governmental nuclear non-proliferation activities.
22 USC 3281.

SEC. 601. (a) The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 104 and 105 of this Act;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 403 of this Act;

(C) encouraging non-nuclear-weapon states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 404(a) of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the non-proliferation policy of the United States;

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices;

(4) an assessment of whether any of the policies set forth in this Act have, on balance, been counterproductive from the standpoint of preventing proliferation; and

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies.

Current civil agreements, analysis. Ante, p. 142.

(b) In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 123 of the 1954 Act, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

ADDITIONAL REPORTS

Reports to Congress. Governmental nuclear non-proliferation activities. 22 USC 3282.

SEC. 602. (a) The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detailed analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) The Department of State, the Arms Control and Disarmament Agency, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House International Relations Committee.

Report to Congress. Nuclear non-proliferation policies, study.

(e) Three years after enactment of this Act, the Comptroller General shall complete a study and report to the Congress on the implementation and impact of this Act on the nuclear non-proliferation policies, purposes, and objectives of this Act. The Secretaries of State, Energy, Defense, and Commerce and the Commission and the Director shall cooperate with the Comptroller General in the conduct of the study. The report shall contain such recommendations as the Comptroller General deems necessary to support the nuclear non-proliferation policies, purposes, and objectives of this Act.

SAVING CLAUSE

42 USC 2153f.

SEC. 603. (a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

42 USC 2153f.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 91 c., 144 b., or 144 c. of the 1954 Act or arrangements pursuant thereto as it was in effect immediately prior to the date of enactment of this Act.

42 USC 2121, 2164.

Effective date. 22 USC 3201 note.

(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions.

Approved March 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-587 (Comm. on International Relations).
SENATE REPORT No. 95-467 accompanying S. 897 (Comms. on Governmental Affairs, Energy and Natural Resources, and Foreign Relations).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Aug. 5, S. 897 considered in Senate.
Sept. 22, 28, considered and passed House.
Nov. 2, S. 897 considered in Senate.
Vol. 124 (1978): Feb. 2, 7, considered and passed Senate, amended, in lieu of S. 897.
Feb. 9, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 10 (1978): Mar. 10, Presidential statement.

Public Law 95-243
95th Congress

An Act

To amend the Indian Claims Commission Act of August 13, 1946, and for other purposes.

Mar. 13, 1978
[S. 838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(b) of the Act of August 13, 1946 (c. 959, 60 Stat. 1054), as amended, is hereby further amended by adding a new sentence at the end thereof, as follows: "Notwithstanding any other provision of law, upon application by the claimants within thirty days from the date of the enactment of this sentence, the Court of Claims shall review on the merits, without regard to the defense of res judicata or collateral estoppel, that portion of the determination of the Indian Claims Commission entered February 15, 1974, adjudging that the Act of February 28, 1877 (19 Stat. 254), effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment, and shall enter judgment accordingly. In conducting such review, the Court shall receive and consider any additional evidence, including oral testimony, that either party may wish to provide on the issue of a fifth amendment taking and shall determine that issue de novo.".

Indian Claims Commission Act, amendment.
25 USC 70s.
Judicial review.

Approved March 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-529 accompanying H.R. 2664 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-112 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 3, considered and passed Senate.
Vol. 124 (1978): Feb. 9, considered and passed House, amended, in lieu of H.R. 2664.
Feb. 27, Senate concurred in House amendment.

Public Law 95-244
95th Congress

An Act

Mar. 14, 1978
[S. 2076]

To authorize the Secretary of the Interior to make payments to appropriate school districts to assist in providing educational facilities and services for persons living within or near the Grand Canyon National Park on nontaxable Federal lands, and for other purposes.

Grand Canyon National Park, Ariz.
Financial assistance to the Grand Canyon Unified School District.
20 USC 238 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereafter referred to as the "Secretary") is authorized for the two-year period commencing October 1, 1978, and ending September 30, 1980 to make payments to reimburse the appropriate school district or districts (hereafter referred to as the "districts") for educational facilities and services (including, where appropriate, transportation to and from school) incurred by said districts in providing educational benefits to pupils living at or near the Grand Canyon National Park upon real property owned by the United States which is not subject to taxation by State or local agencies: *Provided*, That the payments for any school year to said districts shall not exceed that part of the cost of operating and maintaining such facilities and providing such services which the number of pupils as defined above bears to the whole number of pupils in average daily attendance within said districts for that year.

Cooperative agreements with State or local agencies.

(b) If in the opinion of the Secretary of the Interior, the aforesaid educational facilities and services cannot be provided adequately and payment made therefor on a pro rata basis, as prescribed in subsection (a), the Secretary of the Interior may enter into cooperative agreements with State or local agencies for (1) the operation of school facilities, (2) for the construction and expansion of educational facilities at Federal expense, and (3) for contribution by the Federal Government, on an equitable basis satisfactory to the Secretary, to cover the increased cost to local agencies for providing the educational services required for the purposes of this section: *Provided*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) The Secretary shall submit an annual estimate of the anticipated payments which may be made in accordance with the provisions of this Act to the Committees on Appropriations of the United States Senate and House of Representatives. There are authorized to be appropriated an amount not to exceed $1,500,000 for fiscal year 1979 and an amount not to exceed $1,500,000 for fiscal year 1980 to carry out the provisions of this Act: *Provided*, That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). Any amount appropriated pursuant to this Act for any fiscal year shall remain available until expended.

Annual estimated payments; submittal to congressional committees. Appropriation authorization.

Approved March 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-847 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-388 accompanying S. 2002 (Comm. on Human Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 9, considered and passed Senate, in lieu of S. 2002.
Vol. 124 (1978): Feb. 6, considered and passed House, amended.
Feb. 28, Senate agreed to House amendments.

39-194 O—80—pt 1——14 : QL3

Public Law 95-245
95th Congress

An Act

Mar. 14, 1978
[H.R. 9851]

To amend the Federal Aviation Act of 1958 to improve cargo air service.

Federal Aviation Act of 1958, amendment.
49 USC 1388.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 418(a) of the Federal Aviation Act of 1958 is amended by renumbering paragraph (3) and any reference thereto as paragraph (4) and by adding immediately after paragraph (2) the following new paragraph:

49 USC 1371.

"(3) Any citizen of the United States who has a valid certificate issued under section 401(d)(3) of this title and who provided supplemental air transportation carrying only cargo at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five day period beginning on April 1, 1978, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.".

SEC. 2. Section 418(b)(1)(A) of the Federal Aviation Act of 1958 is amended by deleting "or (2)" and by inserting in lieu thereof ", (2), or (3)".

SEC. 3. Section 418(b)(1)(B) of the Federal Aviation Act of 1958 is amended by deleting "(3)" and inserting in lieu thereof "(4)".

Effective date.
49 USC 1388 note.

SEC. 4. The provisions of this Act shall become effective on April 1, 1978.

Approved March 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-798 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-638 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD: Vol. 124 (1978):
Jan. 31, considered and passed House.
Feb. 24, considered and passed Senate, amended.
Mar. 1, House agreed to Senate amendments.

Public Law 95-246
95th Congress

Joint Resolution

Making urgent power supplemental appropriations for the Department of Energy, Southwestern Power Administration for the fiscal year ending September 30, 1978.

Mar. 15, 1978
[H.J. Res. 746]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978, namely:

Supplemental appropriations.

DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

For an additional amount for "Operation and maintenance", $13,114,000.

Approved March 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-914 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 7, considered and passed House.
Mar. 9, considered and passed Senate.

Public Law 95-247
95th Congress

An Act

Mar. 21, 1978
[S. 773]

Authorizing the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the United States for lands taken without adequate compensation, and for other purposes.

Wichita Indian Tribe of Oklahoma. Claims against the U.S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946, as amended (60 Stat. 1049, 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the Indian Claims Commission under section 2 of the Act of August 13, 1946, as amended (60 Stat. 1049, 1050; 25 U.S.C. 70a), to hear, determine, and render judgment on any claims the Wichita Indian Tribe and its affiliated bands and groups (namely, the Wichita, Keechi, Tawakonie, and Waco) have against the United States with respect to any lands or interests therein which were held by aboriginal title or otherwise, which were acquired from such tribe, bands, or groups without payment of adequate compensation by the United States: *Provided*, That no affiliated band or group may bring a claim not held in common with the Wichita Indian Tribe. Any claim filed hereunder with the Indian Claims Commission shall be subject to the provisions of the Act of October 8, 1976 (90 Stat. 1990), relating to the transfer of cases to the Court of Claims. Any party to any action under this Act shall have the right of review with respect to any decision of the Indian Claims Commission or the Court of Claims under section 20 of the Act of August 13, 1946, as amended (60 Stat. 1049, 1054; 25 U.S.C. 70s).

25 USC 70v.

Approved March 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-597 accompanying H.R. 3377 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-119 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 5, considered and passed Senate.
Vol. 124 (1978): Feb 24, considered and passed House, amended, in lieu of H.R. 3377.
March 8, Senate concurred in House amendment.

Public Law 95-248
95th Congress

An Act

To amend the National Trails System Act, and for other purposes.

Mar. 21, 1978
[H.R. 8803]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended (90 Stat. 2481; 16 U.S.C. 1244), is further amended as follows:

National Trails System Act, amendment.

(1) Amend section 5(a)(3) to read as follows:

Advisory Council for the Appalachian National Scenic Trail. Establishment; termination.

"(3) The Secretary of the Interior shall establish within sixty days of the enactment of this subsection an Advisory Council for the Appalachian National Scenic Trail which shall terminate one hundred and twenty months from the date of enactment of this subsection. The Secretary of the Interior shall consult with such Council from time to time with respect to matters relating to the Trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the Trail, and the administration of the Trail. The members of the Advisory Council, which shall not exceed thirty-five in number, shall serve for a term of two years without compensation as such, but the Secretary may pay, upon vouchers signed by the Chairman of the Council, the expenses reasonably incurred by the Council and its members in carrying out their responsibilities under this section. Members of the Council shall be appointed by the Secretary of the Interior as follows:

Membership.

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the Trail route passes and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the Trail passes and such appointments shall be made from the recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, that, in the opinion of the Secretary, have an established and recognized interest in the Trail and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(2) Amend section 5 by adding the following new subsection (d):

Appalachian Trail, plans for; submittal to congressional committees.

"(d) Within two years of the date of enactment of this subsection, the Secretary of the Interior shall, after full consultation with the Governors of the affected States, the Advisory Council, and the Appalachian Trail Conference, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a comprehensive

plan for the management, acquisition, development, and use of the Appalachian Trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the Trail, including the identification of all significant natural, historical, and cultural resources to be preserved; details of anticipated cooperative agreements to be consummated with other entities; and identification of carrying capacity and use patterns of the Trail;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans, including anticipated costs.".

16 USC 1246.

(3) Amend section 7(d) by changing the colon to a period and by deleting the proviso.

Condemnation proceedings.

(4) Amend section 7(g) by deleting the first proviso and inserting in lieu thereof "*Provided*, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of one hundred and twenty-five acres per mile:".

16 USC 1249.

(5) Amend section 10, by adding at the end thereof the following: "From the appropriations authorized for fiscal year 1979 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended, not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act:

16 USC 460*l*-4 note.

"(a)(1) The Appalachian National Scenic Trail, not to exceed $30,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in the subsequent fiscal year. It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the Trail within three complete fiscal years following the date of enactment of this sentence. Until the entire acquisition program is completed, he shall transmit in writing at the close of each fiscal year the following information to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives:

Land acquisition program, completion time.

Information to congressional committees.

"(A) the amount of land acquired during the fiscal year and the amount expended therefor;

"(B) the estimated amount of land remaining to be acquired; and

"(C) the amount of land planned for acquisition in the ensuing fiscal year and the estimated cost thereof.

"(2) Until the entire acquisition program is completed, the Appalachian Trail Conference shall transmit a report at the close of each fiscal year to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives which shall include but not be limited to comments on— Report to congressional committees.

"(A) the manner in which negotiations for the acquisition program are being conducted for every section of the Trail;

"(B) the attitudes of the landowners with whom negotiations have been undertaken; and

"(C) whether in any case larger interests in land are being acquired than are necessary to carry out the purposes of this Act.

"(b) For the purposes of Public Law 95-42 (91 Stat. 211), the lands and interests therein acquired pursuant to this section shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act.". 16 USC 460*l*-7.

Approved March 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-734 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-636 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 25, considered and passed House.
Vol. 124 (1978): Feb. 22, considered and passed Senate, amended.
Mar. 7, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 12 (1978): Mar. 22, Presidential statement.

Public Law 95-249
95th Congress

An Act

Mar. 27, 1978
[S. 1671]

To designate the Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, in the State of Montana.

Absaroka-Beartooth Wilderness, Mont. Designation. 16 USC 1132 note. 16 USC 1132.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(b) of the Wilderness Act (78 Stat. 890), the area classified as the Beartooth and Absaroka Primitive Areas, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Absaroka-Beartooth Wilderness", dated February 1978, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Absaroka-Beartooth Wilderness", within and as part of the Custer and Gallatin National Forests, comprising an area of approximately nine hundred and four thousand five hundred acres.

Map and description, filing with congressional committees.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Absaroka-Beartooth Wilderness with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made.

Administration.

SEC. 3. The Absaroka-Beartooth Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. Nothing in this Act shall be construed as affecting in any manner or to any extent any claim by Park County, Montana, and Sweet Grass County, Montana, to a right-of-way from Cooke City, Montana, to Boulder, or to affect in any manner or to any extent the relative rights and liabilities between the parties in connection with Cause numbered 76-125-BLG, Park County, Montana, and Sweet Grass County, Montana, versus United States of America, et al., filed in the United States District Court for the District of Montana, Billings Division, on October 4, 1976. Nothing in this Act shall be construed as abating such cause or as amending or otherwise affecting or modifying the provision of law pursuant to which such cause was filed.

SEC. 5. The previous classification of the Beartooth and Absaroka Primitive Areas is hereby abolished.

Approved March 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-927 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-624 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 10, considered and passed Senate.
Mar. 14, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 13:
Mar. 27, Presidential statement.

Public Law 95-250
95th Congress

An Act

To amend the Act of October 2, 1968, an Act to establish a Redwood National Park in the State of California, and for other purposes.

Mar. 27, 1978
[H.R. 3813]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Redwood National Park, expansion. Employment program.

TITLE I

SEC. 101. (a) In order to protect existing irreplaceable Redwood National Park resources from damaging upslope and upstream land uses, to provide a land base sufficient to insure preservation of significant examples of the coastal redwood in accordance with the original intent of Congress, and to establish a more meaningful Redwood National Park for the use and enjoyment of visitors, the Act entitled "An Act to establish a Redwood National Park in the State of California, and for other purposes", approved October 2, 1968 (82 Stat. 931), is amended as follows:

16 USC 79a.

(1) In subsection 2(a) after "September 1968," insert "and the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California', numbered 167-80005-D and dated March 1978,".

Boundaries. 16 USC 79b.

(2) In section 2, subsection (a), delete "fifty-eight thousand" and substitute "one hundred and six thousand" and delete the period at the end of the subsection and add "and publicly owned highways and roads." In section 2, subsection (b), delete "by donation only". At the end of section 2, insert the following new subsection "(c)":

"(c) Within the area outside the boundaries of Redwood National Park indicated as the 'Park Protection Zone' on the map entitled 'Proposed Additions, Redwood National Park, California', numbered 167-80005-D and dated March 1978, the Secretary is authorized to acquire lands and interests in land: *Provided*, That lands may be acquired from a willing seller or upon a finding by the Secretary that failure to acquire all or a portion of such lands could result in physical damage to park resources and following notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Any lands so acquired shall be managed in a manner which will maximize the protection of the resources of Redwood National Park, and in accordance with the Act of October 21, 1976 (90 Stat. 2743). Acquisition of a parcel of land under the authority of this subsection shall not as a result of such acquisition diminish the right of owners of adjacent lands to the peaceful use and enjoyment of their land and shall not confer authority upon the Secretary to acquire additional lands except as provided in this subsection.".

Park Protection Zone, land acquisition.

Notice to congressional committees.

43 USC 1701 note.

(3) In subsection 3(a), delete the period at the end of the second sentence and add the following: "which donation of lands or interest in lands may be accepted in the discretion of the Secretary subject to such preexisting reverters and other conditions as may appear in the

16 USC 79c.

title to these lands held by the State of California, and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and maintenance of permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.".

Vested and possessory rights in certain real property. 16 USC 79c.

(4) In subsection 3(b)(1), after "NPS–RED–7114–B", insert "and effective on the date of enactment of this phrase, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California', numbered 167–80005–D and dated March 1978, and all right, title, and interest in, and the right to immediate possession of the down tree personal property (trees severed from the ground by man) severed prior to January 1, 1975, or subsequent to January 31, 1978, within the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California', numbered 167–80005–D and dated March 1978,".

At the end of subsection 3(b)(1), insert the following new paragraphs: "Down tree personal property severed subsequent to December 31, 1974, and prior to February 1, 1978 may be removed in accordance with applicable State and Federal law, or other applicable licenses, permits, and existing agreements, unless the Secretary determines that the removal of such down timber would damage second growth resources or result in excessive sedimentation in Redwood Creek: *Provided, however*, That down timber lying in stream beds may not be removed without permission of the Secretary: *Provided*, That such removal shall also be subject to such reasonable conditions as may be required by the Secretary to insure the continued availability of raw materials to Redwoods United, Incorporated, a nonprofit corporation located in Manila, California.

"The Secretary shall permit, at existing levels and extent of access and use, continued access and use of each acquired segment of the B line, L line, M line, and K and K roads by each current affected woods employer or its successor in title and interest: *Provided*, That such use is limited to forest and land management and protection purposes, including timber harvesting and road maintenance. The Secretary shall permit, at existing levels and extent of access and use, continued access and use of acquired portions of the Bald Hills road by each current affected woods employer or its successor in title and interest: *Provided further*, That nothing in this sentence shall diminish the authority of the Secretary to otherwise regulate the use of the Bald Hills road.".

Just compensation. Jurisdiction. 16 USC 79c.

(5) In subsection 3(b)(2), delete the last sentence and add the following sentences at the end of the paragraph: "Any action against the United States with regard to the provisions of this Act and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure gen-

erally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this Act, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this Act, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid; or, the Secretary may sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States. If the State of California designates a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park prior to October 1, 1984, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and, subject to such conditions as the Secretary may determine are necessary to assure the adequate protection of Redwood National Park, shall thereupon donate the designated right-of-way to the State of California for a new bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 101(a)(2) of this amendment effective on the date of enactment of this section.".

Interest.
Title revestment.
Down timber, sale.
40 USC 471 note.
Highway right-of-way, land acquisition.

(6) In subsection 3(e), delete "sixty days" in the last sentence and add the following sentences at the end of the subsection: "Effective on the date of enactment of this sentence, there are made available from the amounts provided in section 10 herein or as may be hereafter provided such sums as may be necessary for the acquisition of interests in land. Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperative agreements pursuant to this subsection: *Provided*, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: *Provided further*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appro-

Land acquisition, availability of funds.
16 USC 79c.
16 USC 79j.
Contracts and agreements, appropriation authorization.
Retention of senior employees.
Land rehabilitation, contracts and cooperative agreements.

priation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary, or the Secretary of Agriculture, where appropriate, shall also manage any additional Federal lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.".

Erosion and sedimentation study.

16 USC 1a-1.

(b) The first section of the Act of August 18, 1970 (84 Stat. 825), is amended by adding the following: "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 2 of this Act, shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.".

16 USC 1b, 1c.

16 USC 1.

Effective date.

16 USC 79c-1.

16 USC 79a.

(c) Notwithstanding any provision of the Act of October 2, 1968, supra, the vesting in the United States of all right, title, and interest in, and the right to immediate possession of, all real property and all down tree personal property within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, as established by subsection (a)(4) of the first section of this Act, shall be effective on the date of enactment of this section. The provisions of subsection 3(b)(3) of the Act of October 2, 1968, supra, shall also relate to the effective date of this section. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this Act.

16 USC 79c.

Economic impact study.

16 USC 79k.

SEC. 102. (a) The Secretary, in consultation with the Secretaries of Agriculture, Commerce, and Labor, shall conduct an analysis of appropriate Federal actions that may be necessary or desirable to mitigate any adverse economic impacts to public and private segments of the local economy, other than the owners of properties taken by this Act, as a result of the addition of property to Redwood National Park under the first section of this Act. The Secretaries shall also consider the benefits of making grants or entering into contracts or cooperative agreements with the State of California or Del Norte and Humboldt

Counties as provided by subsection (b) for the purpose of development and implementation of a program of forest resource improvement and utilization, including, but not limited to, reforestation, erosion control, and other forest land conservation measures, fisheries and fish and wildlife habitat improvements, and wood energy facilities. Not later than January 1, 1979, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a report of his analysis, including his recommendations with respect to actions that should be taken to mitigate any significant short-term and long-term adverse effects on the local economy caused by such addition.

Report, submittal to Congress.

(b) The Secretary of Commerce and the Secretary of Labor, in consultation with the Secretary, and pursuant to his study, shall apply such existing programs as are necessary and appropriate to further mitigate identified employment and other adverse economic impacts on public and private segments of the local economy, other than with regard to the payment of just compensation to the owners of properties taken by this Act and by the Act of October 2, 1968, supra. In addition to the land rehabilitation and employment provisions of this Act, which should have a substantial positive economic effect on the local economy, the Secretaries of Commerce and Labor are further authorized and directed to implement existing authorities to establish employment programs, pursuant to such grants, contracts and cooperative agreements with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, for the development and implementation of such programs, as, in the discretion of the Secretaries of Commerce and Labor, may be necessary to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties, in northern California. Effective on October 1, 1978, there are authorized such sums as may be necessary to carry out the employment and economic mitigation provisions of this Act: *Provided*, That the authority to make payments under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Employment and economic mitigation programs.

16 USC 79a.

Appropriation authorization.

(c) The Secretary of Agriculture within one year after the date of enactment of this Act, shall prepare and transmit to Congress a study of timber harvest scheduling alternatives for the Six Rivers National Forest. Such alternatives shall exclude the timber inventories now standing on units of the Wilderness Preservation System and shall be consistent with laws applicable to management of the national forests. In developing the alternatives, the Secretary shall take into consideration economic, silvicultural, environmental, and social factors.

Timber harvest study, Six Rivers National Forest.
16 USC 79k note.
Transmittal to Congress.

PREFERENTIAL HIRING

SEC. 103. (a) In order to utilize the skills of individuals presently working in the woods and in the mills to the greatest degree possible to both ease the personal economic effects of this taking, and to assist in the necessary rehabilitation, protection, and improvement of lands acquired by this Act through implementation of sound rehabilitation and land use practices, the Secretary shall have power to appoint and fix the compensation of seven full-time and thirty-one temporary personnel to assist in carrying out such programs necessary for the protection and enhancement of Redwood National Park. In filling these positions, preference shall be given to affected employees (as defined in title II of this Act) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.

16 USC 79*l*.

(b) In order to effectively administer the expanded Redwood National Park created by this Act in a manner that will provide maximum protection to its resources and to provide for maximum visitor use and enjoyment to ease the local economic effects of this taking, the Secretary shall have power to appoint and fix the compensation of two full-time and twenty temporary employees in the competitive service. In filling these positions, preference shall be given to affected employees (as defined in title II) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations. The Secretary shall further have power to appoint and fix the compensation of an additional thirty-two full-time and forty temporary employees in the competitive service as provided by this subsection at the time of the donation of those park lands or interests in land owned by the State of California as are within the boundaries of Redwood National Park as provided herein. In filling these positions, preference shall be given to those State employees affected by this transfer for a period not to exceed six years from the date of transfer; permanent State civil service employees shall be provided the opportunity to transfer to a comparable Federal civil service classification notwithstanding applicable civil service laws and regulations.

Civilian jobs.

(c) An affected employee shall be given full consideration for certain civilian jobs as provided in this section both with the Federal Government and with those private employers that have certain undertakings or programs that involve Federal participation or approval for the period beginning on the date of enactment of this Act and ending September 30, 1984, if the positions will be primarily located in Humboldt or Del Norte Counties or other counties in California adjacent thereto, and if the employee is otherwise qualified under this section.

Notice, job availability.

(d)(1) Any Federal agency that is creating or filling a civilian Federal job that is within the scope of clause (2)(A) of this subsection, pursuant to contract, civil service merit system, or otherwise, that will be primarily located in Humboldt or Del Norte Counties, California, or other counties in California adjacent thereto, must provide notice in advance of the availability of that job and must provide qualified affected employee applicants for these positions with full consideration for these positions if the further conditions set forth in clause (2)(B) of this subsection are met. The notice required by this paragraph shall be as provided by applicable law and regulation through the offices of the Employment and Training Services located in Humboldt and Del Norte Counties, California, and through such other means as are likely to gain the attention of affected employees.

Consideration for employment, conditions.

(2) Consideration for employment under this section shall be provided under the following conditions:

(A) the job involves skills and training that could reasonably be expected to have been gained by individuals who have been employed as logging and related woods employees or sawmill, plywood, and other wood processing employees, or office employees, or that can reasonably be expected to be gained while so employed, or pursuant to retraining as provided herein; and

(B) the applicant has the ability, or can reasonably be expected to have the ability after appropriate training of reasonable duration as further provided herein, to perform the duties of the job: *Provided*, That the full consideration shall not be required with respect to those affected employee applicants requiring training

in a situation where the schedule for completion of the work is such that the period during which said employee can reasonably be expected to work following completion of training is determined by the Secretary to be incommensurate with the time and funds required to provide said employee with the necessary training.

Private employers.

(e)(1) Any Federal agency involved in the manner provided herein with a private employer responsible for filing an employment position that is within the scope of clause (2)(A) of subsection (d), above, that will be primarily located in Humboldt or Del Norte Counties, or other counties in California adjacent thereto, is directed to require that any Federal contracts, grants, subsidies, loans, or other forms of funding assistance, and any Federal lease, permit, license, certificate, or other entitlement for use, not constituting an existing property right as of the date of enactment of this Act, that is a condition to or a requirement of the conduct of harvesting and related activities or replanting and land rehabilitation or the conduct of wood processing and related activities or the conduct of highway construction and related activities shall be subject to and conditioned upon said private employer giving full consideration to affected employees as provided herein.

(2) Any private employer who participates with a Federal agency in the manner described above and who is, accordingly, subject to the requirements as provided herein, shall—

(A) provide notice of the availability of those jobs described in subsection (d)(2)(A) in the manner generally provided by subsection (d)(1); and

(B) provide full consideration to qualified affected employee applicants for these positions if the further conditions established by clause (2)(B) of subsection (d) are met.

Employer agreements.

(f) The Secretary is directed to seek and authorized to enter into agreements with affected employers and industry employers providing that full consideration shall be given with respect to the employment of affected employees who had been employed by affected employers in jobs that may become available in Humboldt and Del Norte Counties and other counties adjacent thereto. The execution and carrying out of such an agreement, or the giving of full consideration to the employment of affected employees under subsection (c) of this section, shall not subject an employer to any additional liability or obligations under any Federal or State equal employment law, rule, regulation, or order.

(g)(1) The Secretary, except as otherwise provided, shall be responsible for the implementation of this section and—

Training.

(A) is authorized and directed to make needed training available, upon application, to an affected employee applicant who, although not presently qualified for a position, can be reasonably expected to be qualified after appropriate training;

(B) is authorized to take such actions as may be necessary to ensure that an affected employee is not denied full consideration because of the need for training where there is no substantial reason to believe that the applicant would be unable to perform the duties of the job after proper training. If the job is one which must be filled while the affected employee would be in training, the Secretary shall encourage the employer to fill the job only on a temporary basis subject to the successful completion of the training by the affected employee;

Greatest creditable service preference.

(C) shall require that, in a case in which two or more affected

employee applicants have approximately equal qualifications for a job for which they are to receive full consideration, that applicant with the greatest creditable service shall be given preference among those applicants entitled to full consideration; and

Noncompliance.

(D) upon the filing of a complaint by an employee who alleges that said employee's rights to full consideration were disregarded, the Secretary shall make a finding on the merits of such complaint. If it is determined that there has been noncompliance with this section, the Secretary shall take such action as may be appropriate to correct the situation.

Job opening, agency notification.

(2) To assist in implementing this section, agencies shall notify the Secretary, in advance, of any job opening as provided for by subsection (d) and of any Federal commitment as provided for by subsection (e).

(3) The Secretary shall—

(A) seek the cooperation of the State of California and the county and local governments within Humboldt and Del Norte Counties in the implementation of the provisions of this section and in the adoption of similar provisions for full consideration of affected employees with regard to State, county, and local jobs and activities; and

Union liaison.

(B) appoint, from among nominees proposed by certified or recognized unions representing employees, a person or persons who shall serve as the Secretary's liaison with employees and their union and as consultant to the Secretary with regard to the administration of those provisions of this Act for which the Secretary is responsible.

Judicial review.

(h) An employee, a group of employees, a certified or recognized union, or an authorized representative of such employee or group, aggrieved by any determination by the Secretary under this Act shall be entitled to judicial review of such determination in the same manner and under the same conditions as provided by section 250 of The Trade Act of 1974 (88 Stat. 2029).

19 USC 2322.

(i) Nothing in this section shall be construed to affect any additional or alternative rights under a law, regulation, or contract (including, but not limited to, veteran preference and contracts between private employers and unions) in effect as of the date of enactment of this Act, and the implementation of this section shall be carried out in accord with applicable civil service laws and regulations except as otherwise provided for in this section. Employees appointed to Federal jobs pursuant to this section shall have their compensation fixed at rates not to exceed that now or hereafter prescribed for the highest rate of grade 15 of the General Schedule under section 5332 of title 5, United States Code.

Annual report, submittal to Congress.
16 USC 79m.

SEC. 104. (a) The Secretary shall submit an annual written report to the Congress on January 1, 1979, and annually thereafter for ten years, reporting on the status of payment by the Secretary for real property acquired pursuant to section 101(a)(4) and section 101(a)(2) of this amendment; the status of the actions taken regarding land management practices and watershed rehabilitation efforts authorized by section 101(a)(6) and section 102(b) of this amendment; the status of the efforts to mitigate adverse economic impacts as directed by this Act; this status of National Park Service employment requirements as authorized by section 103 of this amendment; the status of the new bypass highway and of the agreement for the donation of the

State park lands as contemplated by section 101(a)(5) of this amendment; and, the status of the National Park Service general management plan for the park.

General management plan, submittal to congressional committees.

(b) No later than January 1, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate, a comprehensive general management plan for Redwood National Park, to include but not be limited to the following:

(1) the objectives, goals, and proposed actions designed to assure the preservation and perpetuation of a natural redwood forest ecosystem;

(2) the type and level of visitor use to be accommodated by the park, by specific area, with specific indications of carrying capacities consistent with the protection of park resources;

(3) the type, extent, and estimated cost of development proposed to accommodate visitor use and to protect the resource, to include anticipated location of all major development areas, roads, and trails; and

(4) the specific locations and types of foot trail access to the Tall Trees Grove, of which one route shall, unless shown by the Secretary to be inadvisable, principally traverse the east side of Redwood Creek through the essentially virgin forest, connecting with the roadhead on the west side of the park east of Orick.

Appropriation authorization. 16 USC 79n.

SEC. 105. Effective on October 1, 1978, there are hereby authorized to be appropriated $33,000,000 to carry out the rehabilitation provisions of this Act.

Payments to local governments. 16 USC 79o.

SEC. 106. (a) Notwithstanding any contrary provision of the Act entitled "An Act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662), the Secretary is authorized and directed to make payments on a fiscal year basis to each unit of local government, in the manner provided by the Act of October 20, 1976, in which lands owned by the United States within Redwood National Park are located. Such payments may be used for any governmental purpose. The amount of such payments shall be computed as provided in subsections (b) and (c).

31 USC 1601.

(b) Payment made for any fiscal year to a unit of local government shall include that amount determined pursuant to the provisions of section 2 of the Act of October 20, 1976.

31 USC 1602.

(c) Payment made for any fiscal year to a unit of local government shall also include that amount determined pursuant to the provisions of section 3 of the Act of October 20, 1976: *Provided, however*, That any amount computed as provided by section 3(c)(1) of the Act of October 20, 1976, but not paid because of the limitation of subsection (c)(2) and subsection (d) of that section shall be carried forward and shall be applied to future years in which this portion of the total payment would not otherwise equal the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest was acquired for addition to Redwood National Park until such amount is exhausted.

31 USC 1603. Payment carry forward.

31 USC 1602.

(d) The Redwoods Community College District shall be considered as an affected school district for purpose of section 3(a) of the Act of October 20, 1976, as amended herein.

31 USC 1602.

Redwoods United, Inc., Manila, Calif. 16 USC 79p.

SEC. 107. The Secretary is further authorized, and the Congress specifically directs that it shall be a purpose of this Act, that the com-

munity services and employment opportunities provided by Redwoods United, Incorporated, a nonprofit corporation located in Manila, California, shall be maintained at the present rate of employment to the greatest degree practicable.

Just compensation. 16 USC 79q.

SEC. 108. The Congress further acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution of the United States for those lands and properties taken by this Act.

16 USC 79k note.

SEC. 109. Unless otherwise indicated hereinbefore, a reference to the Secretary will refer to the Secretary of the Department of the Interior, except in subsections 103(d) through 103(i), where a reference to the Secretary will refer to the Secretary of the Department of Labor.

TITLE II

DEFINITIONS

SEC. 201. As used in this title, the term—

(1) "Secretary" unless otherwise indicated, means the Secretary of the Department of Labor;

(2) "expansion area" means the area indicated as "Proposed Additions" (exclusive of the park protection zone) on the map entitled "Additional Lands, Redwood National Park, Humboldt County, California", numbered 167-80005-D and dated March 1978. The number of acres authorized to be included within the expansion area is forty-eight thousand acres, as further provided herein;

(3) "employee" means a person employed by an affected employer and, with such exceptions as the Secretary may determine, in an occupation not described by section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213(a)(1));

(4) "contract employees" are employees performing work pursuant to a contract or agreement for services within or directly related to the expansion area between an affected contract employer and an affected woods employer;

(5) "industry employer" means a corporation, partnership, joint venture, person, or other form of business entity (including a predecessor or successor by purchase, merger, or other form of acquisition), of which a working portion or division is an affected employer;

(6) "affected employer" means a corporation, partnership, joint venture, person, or other form of business entity (including a predecessor or a successor by purchase, merger, or other form of acquisition), or a working portion or division thereof, which is engaged in the harvest of timber or in related sawmill, plywood, and other wood processing operations, and which meets the qualifications set forth in the definition of affected woods employer, affected mill employer, or affected contract employer;

(7) "affected woods employer" means an affected employer engaged in the harvest of redwood timber who owns at least 3 per centum of the number of acres authorized to be included within the expansion area on January 1, 1977, and on the date of enactment of this section: *Provided*, That an affected woods employer shall be only that major portion or division of the industry employer directly responsible for such harvesting operations;

(8) "affected mill employer" means an affected employer engaged in sawmill, plywood, and other wood processing operations in Humboldt or Del Norte Counties in the State of California who has either (A) obtained 15 per centum or more of its raw wood materials directly from affected woods employers during calendar year 1977, or (B) is a wholly owned mill of an affected woods employer: *Provided*, That an affected mill employer shall be only that major portion or division of the industry employer directly responsible for such wood processing operations;

(9) "affected contract employer" means an affected employer providing services pursuant to contract with an affected woods employer, if at least 15 per centum of said employer's employee-hours worked during calendar year 1977 were within or directly related to the expansion area pursuant to such contract or contracts;

(10) "covered employee" means an employee who—

(A) had seniority under a collective bargaining agreement with an affected employer as of May 31, 1977, has at least twelve months of creditable service as of the date of enactment of this section, and has performed work for one or more affected employers on or after January 1, 1977, or

(B) has performed work for one or more affected employers for at least one thousand hours from January 1, 1977, through the period to the date of enactment of this section, and has a continuing employment relationship with an affected employer, as determined by the Secretary, as of the date of enactment of this section or, if laid off on or after May 31, 1977, had such a relationship as of the date of such layoff;

(11) "affected employee" means a covered employee who is either totally or partially laid off by an affected employer within a time period beginning on or after May 31, 1977, and ending September 30, 1980, unless extended, as provided in section 203, or is determined by the Secretary to be adversely affected by the expansion of the Redwood National Park. An employee shall be deemed adversely affected as of the date of the employee's layoff, downgrading, or termination;

(12) "total layoff" means a calendar week during which affected employers have made no work available to a covered employee and made no payment to said covered employee for time not worked, and "partial layoff" means a calendar week for which all pay received by a covered employee from affected employers is at least 10 per centum less than the layoff or vacation replacement benefit that would have been payable for that week had said covered employee suffered a total layoff: *Provided*, That the terms "total layoff" and "partial layoff" shall also apply to a covered employee who had received any workers' compensation benefits or unemployment compensation disability benefits after said covered employee becomes able to work and available for work and is otherwise within the meaning of total layoff and partial layoff as defined in this paragraph;

(13) "Federal agency" has the same meaning as "agency" in section 552(c) of title 5, United States Code;

(14) "suitable work" shall be defined— 5 USC 551.

(A) as set forth in the California Unemployment Insurance Code, or Federal law if applicable, unless otherwise more restrictively defined by the Secretary, taking into account the unique characteristics of logging and related work; and

(B) with respect to an employee who has completed retraining paid for by the Secretary, as a job paying no less than the prevailing wage rate in the area for the occupation for which said employee was retrained; or

(C) as a job comparable with that which said employee would be required to accept pursuant to the seniority provisions of the applicable collective-bargaining agreement (or, if not covered by such an agreement, in accordance with the usual practice of the affected employer);

(15) "seniority" with respect to an employee covered by a collective-bargaining agreement with an affected employer, shall be determined as provided in such agreement and shall be deemed to refer to company seniority, if the agreement provides for such seniority and, otherwise, to plant seniority;

(16) "continuous service" with respect to employees not having seniority under a collective-bargaining agreement with an affected employer or an industry employer shall mean a period of time measured in months equal to the sum of all hours during which the employee performed work for said employer plus all hours for which the employee received pay for time not worked divided by one hundred and seventy-three;

(17) "performed work" shall include any time during which an employee worked for an affected employer or with respect to which an employee received pay from such an employer for time not worked, and shall also include any time during which an employee would have been at work for such an employer if not for service in the armed forces, for a leave (approved by the employer) for work with an employee organization, or for a disability for which said employee received workers' compensation, disability compensation benefits provided under California law, or social security disability pension benefits: *Provided*, That contract employees shall be deemed to have performed work during the period of such service or disability only if—

(A) the employee worked within or directly related to the expansion area immediately prior to the occurrence of such service or disability and

(B) the employee returned or sought to return to work for an affected contract employer immediately after the end of the service or disability if that was prior to the date of enactment.

The term "work performed", when used in relation to a period of time, shall also be deemed to include any period during which an employee is deemed to have performed work;

(18) "terminal pay" means the payments to employees provided for in sections 207, 208, and 209 which, regardless of the designations used herein to distinguish among them are intended and shall be deemed to be severance pay and, as such, shall be treated for Federal income tax and State unemployment insurance purposes in the same manner as is provided by California State law;

Terminal pay reductions.

(19) Notwithstanding any other provision of this Act, the Secretary shall reduce the amount of terminal pay for an employee,

as calculated pursuant to section 207, 208, or 209, by the amount of the Federal and State income taxes which would be required to be withheld by an employer from wages equal to such terminal pay if paid to an employee with the same number of income tax exemptions as the recipient. For purposes of determining the amounts of such reductions with respect to severance payments made pursuant to sections 208 and 209, said severance payments shall be prorated over the number of weeks the equivalent sums would have been paid if the employees were eligible for and claiming the weekly layoff benefits provided in section 207. The Secretary shall withhold social security contributions from terminal pay in the same amounts as would be withheld if such pay (before the reductions provided for in this subsection) were wages and the Secretary shall make contributions on behalf of employees receiving terminal pay to the trust funds created under section 201 of the Social Security Act equal to the contributions required to be made by an employer paying wages equal to such unreduced terminal pay; and

42 USC 401.

(20) "Sixty-fifth birthday" means the last day of the month in which the sixty-fifth birthday occurs.

SEC. 202. The Secretary is authorized to develop the necessary procedures to implement this title.

AFFECTED EMPLOYEES

SEC. 203. The total or partial layoff of a covered employee employed by an affected employer during the period beginning May 31, 1977, and ending September 30, 1980, other than for a cause that would disqualify an employee for unemployment compensation, except as provided in section 205, is conclusively presumed to be attributable to the expansion of Redwood National Park: *Provided*, That the Secretary may, for good cause, extend this period for any group of covered employees by no more than one year at a time after September 30, 1980. Any covered employee laid off during that period by an affected employer shall be considered an affected employee at any time said employee is on such layoff within the period ending September 30, 1984, or, if earlier, the end of said employee's period of protection as defined herein: *Provided, however*, That the number of affected employees with respect to an affected contract employer shall be limited in any week to that number of such employees otherwise affected as provided herein that is equal to the percentage of the affected employer's employee hours during calendar year 1977 that were worked within or directly related to the expansion area.

Employee rights and benefits.

SEC. 204. (a) The Secretary shall provide, to the maximum extent feasible, for retention and accrual of all rights and benefits which affected employees would have had in an employment with affected employers during the period in which they are affected employees. The Secretary is authorized and shall seek to enter into such agreements as he may deem to be appropriate with affected employees and employers, labor organizations representing covered employees, and trustees of applicable pension and welfare funds, or to take such other actions as he deems appropriate to provide for affected employees (including the benefits provided for in section 207(d)) the following rights and benefits:

(1) retention and accrual of seniority rights, including recall rights (or, in the case of employees not covered by collective-bargaining agreements, application of the same preferences and

privileges based upon length of continuous service as are applied under the affected employer's usual practices) under conditions no more burdensome to said employees than to those actively employed; and

(2) continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have been applicable had they been actively employed.

(b) The Secretary shall provide, additionally, for continuing entitlement to health and welfare benefits (other than group life and additional death, dismemberment, and loss of sight benefits) for employees who—

(1) retired from employment with an affected employer for reasons other than disability on or after May 31, 1977, but not later than September 30, 1984;

(2) are receiving pension benefits under a plan financed by industry employers;

(3) were age sixty-two or older but less than age sixty-five at the time of retirement; and

(4) are not eligible for benefits under title XVIII of the Social Security Act.

42 USC 1395.

Payments to pension and welfare trust funds.

(c) The agreements described in subsection (a) of this section shall provide for the Secretary, effective October 1, 1977, to make payments on behalf of eligible affected employees including employees eligible for the benefits provided for in section 207(d) to the applicable pension and welfare trust funds and to insurance companies. Such payments may be made in the form of grants and/or contributions equivalent to the difference between the amounts payable by their affected employers and labor organizations pursuant to collective-bargaining agreements (or, in the absence of such agreements, pursuant to established practice) and the amounts that would have been paid by their affected employers and their labor organizations had said employees worked or received pay for the periods for which they receive layoff benefits: *Provided*, That no payment shall be made to a pension fund on behalf of an employee who is receiving a pension from such fund. For purposes of determining the amounts of contributions calculated on the basis of worked or compensable hours, layoff and vacation replacement benefits shall be converted into the hours they represent in accordance with regulations to be issued by the Secretary.

29 USC 1001 note.
29 USC 186.

(d) No person shall be subject to liability under the Employee Retirement Income Security Act of 1974, section 302 of the Labor-Management Relations Act, 1947, or any other law, solely by reason of the receipt of payments from the Secretary or the payment of benefits to affected employees in accordance with this section. Receipt of such payments and the payment of such benefits are deemed to be consistent with any relevant plan documents. No action taken pursuant to this section shall be deemed to place the Secretary in the position of an employer or a party in interest (including a fiduciary) for purposes of the Employee Retirement Income Security Act of 1974.

29 USC 1001 note.
Filing date.

SEC. 205. (a) An application for unemployment compensation filed by a covered employee on or after the first Monday following the date of enactment shall be deemed an application for the benefits provided by this Act.

Layoff and vacation replacement benefits, eligibility requirements.

(b) An affected employee shall be eligible (unless said employee has received a social security retirement or disability benefit or a pension under a plan contributed to by an affected employer) for layoff and

vacation replacement benefits, as defined herein, effective the first Monday following the date of enactment, for each week of total or partial layoff if, with respect to said week, said employee—

(1) is registered with the United States Employment and Training Service in Humboldt or Del Norte Counties or one of the adjacent counties in the State of California or at such other location as the Secretary may designate;

(2) is eligible for unemployment compensation benefits under the California Unemployment Insurance Code: *Provided*, That the Secretary is authorized and directed to provide for the payment of benefits under this title to an affected employee who is held ineligible or is disqualified for benefits under said code solely because of one or more of the following reasons: insufficient base period earnings; exhaustion of benefit rights; earnings in excess of the amount which would entitle the employee to a partial benefit for the week; the waiting week requirement; unavailability for work because of jury duty, National Guard duty, retraining authorized, financed or approved by a public agency, or because of a similar reason as determined by the Secretary; refusal of work which is not "suitable work" as defined in section 201(14); receipt of a worker's compensation or other benefit for partial disability which the employee would be entitled to receive while working; and any other cause of ineligibility with respect to which the Secretary determines that, under the circumstances, it would be unreasonable or otherwise contrary to the purpose of this Act to deny said employee a benefit provided for herein; and

Payments to ineligible or disqualified employees.

(3) the employee's period of protection has not been exhausted or otherwise ended by acceptance of a severance payment.

SEC. 206. (a) The period of protection for an affected employee shall start with the beginning of the first week for which said employee is eligible to receive a layoff or vacation replacement benefit as provided by this title, and shall continue until the earliest of (i) the date said employee accepts a severance payment provided for below, (ii) a period equal to the length of the employee's creditable service is exhausted, or (iii) said employee's sixty-fifth birthday. In no event shall such period extend beyond September 30, 1984, except as provided by subsection (d) of section 207.

Protection period.

(b) Creditable service shall be computed as follows:

(1) a period equal to the length of an employee's seniority (or continuous service as defined herein) with said employee's last affected employer as of the date said employee's period of protection begins; plus

(2) a period equal to the sum of all prior periods during which the employee had seniority (or continuous service) with the same affected employer and with other industry employers: *Provided*, That if such seniority was broken (or such continuous service was interrupted) for more than three consecutive years for any reason other than employment with other affected or industry employers, periods of service in the Armed Forces or disabilities for which said employee received any workers' compensation benefits, unemployment compensation disability benefits, or disability benefits under the Social Security Act, any periods of seniority (or continuous service) prior to the break in seniority (or interruption in continuous service) shall be disregarded.

Creditable service, computation.

(c) If necessary, in order to establish an employee's creditable service, the Secretary shall request authorization to examine said employee's social security wage record and shall compute such service from it by a method to be prescribed by regulation.

Weekly layoff benefit, computation.

SEC. 207. (a) Except as further provided in this section, the amount of an eligible employee's weekly layoff benefit shall be equal to (1) the annual average of all hours of work performed by said employee for the last affected employer or whom the employee worked prior to the date of enactment of this section during those three of the five calendar years immediately preceding said date during which such hours were greatest, counting hours paid for at time and a half and double time as one and one-half and two hours, respectively, multiplied by (2) the wage rate applicable, during the week for which the benefit is payable, to the highest paid job held by said employee, other than by temporary assignment, with said affected employer during the period from January 1, 1977, through the date of enactment of this section, and divided by (3) fifty-two.

(b) The weekly benefit amount for an eligible employee with less than five calendar years of employment with one affected employer immediately prior to the enactment date shall be equal to the lessor of—

(1) the average benefit that would be payable with respect to the same week to those covered employees (if they were eligible in the same week) who had five or more calendar years of employment with the same affected employer (in accord with subsection (a) of this section) whose benefit amounts are computed on the basis of the wage rate for a job the same as, or most similar to, the highest paid job said employee had held, other than by temporary assignment, with said affected employer during the period from January 1, 1977, through the date of enactment of this section, or

(2) an amount calculated by substituting in clause (1) of subsection (a) the annual average of all hours of work performed by said employee for said employer during those calendar years for which said employee had performed work and throughout which he had seniority (or continuous service).

Seasonal employees, classification, benefit computation.

(c) Notwithstanding subsections (a) and (b), the Secretary shall classify as a "seasonal employee" any affected employee whose highest paid job held, other than by temporary assignment, with said affected employer during the period from January 1, 1977, through the date of enactment of this section was in an occupation in which the average annual number of weeks during which work was actually performed by all covered employees employed in said occupation during the five calendar years preceding the enactment date was forty or less. With respect to such seasonal employees—

(1) the calculation of benefit amount set forth in subsection (a) shall be modified by—

(A) deducting from the hours for which said employee received pay those hours representing vacation pay and vacation pay increments and;

(B) substituting for the fifty-two provided in clause (3) of subsection (a) a divisor equal to the average annual number of weeks for which said employee performed work for an affected employer in said occupation during those three of the five calendar years immediately preceding the date of enactment during which the number of such weeks was greatest: *Provided*, That this calculation shall be modified in accord with subsection (b) with respect to those employees who had less than five calendar years of employment with one affected employer immediately prior to the date of enactment of this section.

(2) the number of weekly benefits payable in any calendar year shall not exceed the annual average number of weeks for which a seasonal employee received pay from an affected employer for work performed in the employee's occupation, as established by paragraph (1)(B), and shall be payable only during those weeks of each year determined by the Secretary to be the usual season for that occupation;

(3) vacation pay and vacation pay increments shall be paid in the same amounts and at the same times of each year as they would have been paid had said employee performed work during all of the time for which said employee receives layoff benefits. Such pay is referred to herein as "vacation replacement benefits".

Elder employees, extension of protection period.

(d) Notwithstanding any other provision of this Act, the benefits for any affected employee who will reach the age of sixty on or before September 30, 1984, shall be extended after the end of the employee's period of protection (unless severance pay has been accepted) until the employee's sixty-fifth birthday, and shall be equal to said employee's weekly layoff benefit.

Benefit amount, reduction.

(e) The benefit amount provided by this section for any week of total or partial layoff shall be reduced by—

(1) the full amount of any earnings, including pay for time not worked with respect to the same week, from employment obtained pursuant to section 103, or employment by employers engaged in timber harvesting, or in related sawmill, plywood, and other wood processing operations;

(2) 50 per centum of earnings and pay for time not worked from any other employer with respect to that week; and

(3) the full amount of any unemployment compensation attributable to that week.

Severance pay, eligibility.

SEC. 208. (a) An affected employee (other than a short-service employee described in subsection (a) of section 209) shall be paid severance pay in accordance with this section if said employee:

(1) has been on a continuous layoff from employment with the employee's last affected employer for a period of at least twenty weeks subsequent to December 31, 1977;

(2) has no definite recall date for work with the affected employer by whom the employee was laid off and no offer of suitable work by any affected employer; and

(3) applies for severance pay during a week with respect to which said employee has not performed work for an affected employer: *Provided*, That this clause shall not result in denial of severance pay to an otherwise eligible employee who at the time of application is totally and permanently disabled as defined in the Social Security Act; or

(4) was permanently separated from employment with an affected employer during the period beginning May 31, 1977, and ending on the date of enactment of this Act, as a result of the closure of the mill or plant in which said employee was employed and has not, since said separation, been employed by an affected employer.

Provided, That an employee shall be deemed an affected employee for purposes of this section if said employee meets the requirements of clauses (1), (2), and (3) of section 204(b).

Severance pay, amount.

(b) The amount of severance pay payable to an employee shall be computed by multiplying the applicable number of weeks determined in accordance with subsection (c) by the amount of the weekly layoff

benefit (without reduction for earnings or other benefits) which is payable, or would be payable if the employee were eligible, for the week in which the application was filed: *Provided*, That for a seasonal employee the amount so calculated, plus the amount of vacation replacement benefits applicable for that year shall be multiplied by the number of weeks in said employee's usual season, as determined in section 207(c), and the result divided by fifty-two.

(c) The number of weeks of severance pay shall be equal to one week for each month of the employee's creditable service up to a maximum of seventy-two weeks: *Provided*, That the severance payment to any employee shall not exceed the total amount of the weekly layoff and vacation replacement benefits which would have been payable if said employee were to be eligible for such benefits continuously from the week of application until the end of the applicable period of protection (or, in the case of an employee described in the final proviso of subsection (a), until the earlier of said employee's sixty-fifth birthday or September 30, 1984), calculated on the basis of the weekly amounts of such benefits as of the date of application for severance pay.

Protection period, termination.

(d) Acceptance of severance pay terminates the affected employee's period of protection and makes said employee ineligible thereafter for all other forms of terminal pay and for the protections provided in section 204, except as otherwise specifically provided in this Act.

Return-payment agreement.

(e) Before making a severance payment to an employee, the Secretary shall obtain said employee's written agreement that, upon resumption of employment in the industry within Humboldt and Del Norte Counties and the counties adjacent thereto in the State of California prior to September 30, 1980, or such later date established by the Secretary with respect to said employee pursuant to section 203, said employee will return it in weekly installments equal to a specified percentage of the employee's earnings in the industry, which the Secretary shall set at a reasonable level. The agreement shall include authorization for the Secretary to arrange with an employer for withholding of the applicable amounts from the employee's pay.

SHORT-SERVICE EMPLOYEES

Benefits, ineligibility.

SEC. 209. (a) Notwithstanding any other provision of this Act, an affected employee as defined in this title shall be ineligible for any benefit under this title except as provided in this section if:

(1) said employee will not reach age sixty before October 1, 1984; and

(2) said employee as of the date of becoming an affected employee, does not have service credit for pension purposes of at least five full years under a pension plan contributed to by industry employers.

Severance pay.

(b) An affected employee described in subsection (a) shall be paid severance pay in accordance with this section if said employee meets the requirements of section 208(a).

(c) Said employee shall be paid a severance payment equal to forty times the hourly wage rate applicable at the time of application for severance pay to the highest paid job held by said employee, other than by temporary assignment, during calendar year 1977, with the employee's last affected employer for each one hundred and seventy-three hours for which said employee performed work for affected employers.

(d) Subsection (d) of section 208 shall be applicable to employees applying for and accepting severance payments pursuant to this section except that such employees shall remain eligible for allowances provided for in sections 211 and 212, and for retraining as provided for in section 210(a) and while in good faith engaged in such training shall be paid the same stipends and allowances as are generally applicable to individuals engaged in such retraining programs who are not employees as defined in this Act.

RETRAINING

SEC. 210. (a) An affected employee is eligible to apply for and the Secretary shall authorize training (including training for technical and professional occupations) at Government expense during said employee's period of protection if—

(1) the Secretary determines that there is no suitable employment available for the employee within a reasonable commuting area; and

(2) there is substantial reason to believe that the employee's employment prospects would be enhanced after successful completion of the training for which application has been filed.

(b) An affected employee engaged in training authorized by subsection (a) shall be paid layoff and vacation replacement benefits while in good faith engaged in such training and shall continue to be paid such benefits while so engaged. **Layoff and vacation replacement benefits.**

SEC. 211. Upon application filed by an affected employee during said employee's period of protection, said employee shall be eligible for a job search allowance under the same terms, conditions, and amounts as provided in section 237 of the Trade Act of 1974 (19 U.S.C. 2297). **Job search allowance.**

SEC. 212. (a) A relocation allowance shall be paid upon application by an affected employee during the applicable period of protection if— **Relocation allowance.**

(1) the Secretary determines that said employee cannot reasonably be expected to obtain suitable work in the commuting area in which said employee resides; and

(2) the employee has obtained—

(A) suitable employment affording a reasonable expectation of long-term duration in the area in which said employee wishes to relocate; or

(B) a bona fide offer of such employment; or

(3) the employee relocated during the period beginning May 31, 1977, and ending on the date of enactment, because of acceptance of employment requiring a change in residence to a location outside the commuting area in which said employee resided immediately prior to becoming an affected employee.

(b) The Secretary shall provide the same moving expense benefits for the same purposes as are set forth in the Regional Rail Reorganization Act of 1973 (Public Law 93-236). **Moving expense benefits. 45 USC 701 note.**

ADMINISTRATION

SEC. 213. (a) The Secretary shall be responsible for paying promptly all benefits and payments provided by this title.

(b) Effective October 1, 1977, there are authorized to be appropriated annually such sums as may be required to meet the obligations provided for in this title. **Appropriation authorization.**

Subpena power.

(c) The Secretary shall have the authority to obtain information necessary to carry out the responsibilities created under this Act in the same manner as provided by section 249 of the Trade Act of 1974 (19 U.S.C. 2321).

(d) The Secretary shall offer all reasonable cooperation and assistance to individuals who believe they may qualify for the benefits, payments, preferential hiring rights, and other protections provided for employees under this Act. Among other things, the Secretary shall—

(1) provide all covered employees with literature stating their rights and obligations in nontechnical terms; and

(2) develop and implement procedures for the filing (including filing by mail in appropriate circumstances as determined by the Secretary) of applications, appeals, and complaints relating to the rights and entitlements established for employees by this title designed to facilitate prompt determinations and prompt payment to eligible applicants.

(e) The Secretary shall direct that notices, reports, applications, appeals, and information concerning the implementation of this title required to be filed with the Secretary shall be filed at the offices of the United States Employment and Training Service in Humboldt and Del Norte Counties of the State of California and that information required to facilitate employees' exercise of their rights under this title shall be kept available at such offices unless the Secretary shall designate additionally.

(f) In all cases where two or more constructions of the language of this title would be reasonable, the Secretary shall adopt and apply that construction which is most favorable to employees. The Secretary shall avoid inequities adverse to employees that otherwise would arise from an unduly literal interpretation of the language of this title.

Approved March 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-581 (Comm. on Interior and Insular Affairs), No. 95-581, pt. II (Comm. on Appropriations) and No. 95-931 (Comm. of Conference).

SENATE REPORTS: No. 95-528 (Comm. on Energy and Natural Resources) and No. 95-578 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Jan. 31, S. 1976 considered and passed Senate.

Feb. 9, considered and passed House.

Feb. 28, considered and passed Senate, amended, in lieu of S. 1976.

Mar. 14, House agreed to conference report.

Mar. 21, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 13:

Mar. 27, Presidential statement.

Public Law 95-251
95th Congress

An Act

To amend title 5, United States Code, to provide that hearing examiners shall be known as administrative law judges, and to increase the number of such positions which the Civil Service Commission may establish and place at GS-16 of the General Schedule.

Mar. 27, 1978
[H.R. 6975]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5108 (a) of title 5, United States Code, is amended by striking out "240 hearing examiner positions" and inserting in lieu thereof "340 administrative law judge positions".

Hearing examiners reclassified as administrative law judges.

SEC. 2. (a) The provisions described in paragraphs (1) through (12) of this subsection are each amended by striking out "hearing examiner" or "hearing examiners", as appropriate, each place it appears, and inserting in lieu thereof "administrative law judge" or "administrative law judges", as appropriate—

(1) sections 554(a)(2), 556(b)(3), 559, 1305, 3105, 3344, 4301, 5335, 5362, and 7521, of title 5, United States Code;

(2) section 6(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(2));

(3) section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k));

(4) subsections (b) and (c) of the first section of the Act entitled "An Act to authorize the Securities and Exchange Commission to delegate certain functions", approved August 20, 1962 (15 U.S.C. 78d-1 (b) and (c));

(5) section 1416(a) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1715(a));

(6) section 509(i) of title 28, United States Code;

(7) sections 12(e), 12(j), and 12(k) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661(d), 661(i), 661(j));

(8) section 502(e) of the Rehabilitation Act of 1973 (29 U.S.C. 792(e));

(9) sections 5(e) and 428(b) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 804(e), 938(b));

(10) sections 19(d) and 21(b) of the Longshoreman's and Harbor Workers' Compensation Act (33 U.S.C. 919(d), 921(b));

(11) section 705(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(a)); and

(12) sections 6(h) and 9(a) of the Department of Transportation Act (49 U.S.C. 1655(h), 1657(a)).

(b)(1) Sections 1305 and 5362 of title 5, United States Code, are each amended in the catchline, by striking out "**Hearing examiners**" and inserting "**Administrative law judges**" in lieu thereof.

(2) Sections 3105 and 3344 of title 5, United States Code, are each amended in the catchline by striking out "**hearing examiners**" and inserting "**administrative law judges**" in lieu thereof.

(c)(1) The table of sections for chapter 13 of title 5, United States Code, is amended so that the item relating to section 1305 reads as follows:

"1305. Administrative law judges.".

(2) The table of sections for chapter 31 of title 5, United States Code, is amended so that the item relating to section 3105 reads as follows:

"3105. Appointment of administrative law judges.".

(3) The table of sections for chapter 33 of title 5, United States Code, is amended so that the item relating to section 3344 reads as follows:

"3344. Details; administrative law judges.".

(4) The table of sections for chapter 53 of title 5, United States Code, is amended so that the item relating to section 5362 reads as follows:

"5362. Administrative law judges.".

(d)(1) The second sentence of section 3105 of title 5, United States Code, is amended by striking out "Hearing examiners" and inserting "Administrative law judges" in lieu thereof.

(2) Section 1416(a) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1715(a)) is amended in the catchline by striking out "**hearing officers**" and inserting "**administrative law judges**" in lieu thereof.

5 USC 3105 note.

SEC. 3. Any reference in any law, regulation, or order to a hearing examiner appointed under section 3105 of title 5, United States Code, shall be deemed to be a reference to an administrative law judge.

Approved March 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-321 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-697 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Vol. 124 (1978): Mar. 14, considered and passed Senate.

Public Law 95-252
95th Congress

An Act

To extend the existing temporary debt limit.

Mar. 27, 1978
[H.R. 11518]

Public debt limit.
Temporary increase.
31 USC 757b note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of October 4, 1977, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 95-120), is amended by striking out "March 31, 1978" and inserting in lieu thereof "July 31, 1978".

Approved March 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 984 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 21, considered and passed House.
Mar. 22, considered and passed Senate.

Public Law 95-253
95th Congress

Joint Resolution

Mar. 27, 1978
[H.J. Res. 715]

Proclaiming May 3, 1978, "Sun Day".

Whereas the realization and the promise of solar energy will be observed and celebrated throughout the Nation on the 3d of May, 1978; and

Whereas the development of solar technologies will provide an abundant, economical, safe, and environmentally compatible energy supply; and

Whereas a day devoted to a celebration of all solar technologies should help inform the general public, industry, and labor, and demonstrate the potential of the sun in meeting the Nation's energy needs; and

Whereas Federal, State, and local governments should foster and encourage the further development, refinement, and utilization of solar energy technologies: Now, therefore, be it

Sun Day. Proclamation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 3, 1978, is proclaimed "Sun Day", and the President is authorized and requested (a) to issue a proclamation calling upon the general public, industry, and labor of the United States to observe such day with appropriate activities and ceremonies, and (b) to direct all appropriate Federal agencies to cooperate with, and participate in, the celebration of "Sun Day".

Approved March 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-919 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-686 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 6, considered and passed House.
Mar. 14, considered and passed Senate.

Public Law 95-254
95th Congress

An Act

To rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95-285), transmitted pursuant to the Impoundment Control Act of 1974.

Apr. 4, 1978
[H.R. 10982]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority proposed in the message of the President of January 27, 1978 (H. Doc. 95-285), is made pursuant to the Impoundment Control Act of 1974, namely:

Certain budget authority.
Rescission.
31 USC 1301 note.

CHAPTER I—FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1978, $40,200,000 are rescinded.

91 Stat. 1233.

CHAPTER II—FEDERAL HOME LOAN BANK BOARD

Of the borrowing authority authorized for use by the Federal Home Loan Bank Board pursuant to section 1016 of Public Law 89-754 and title III of Public Law 91-126 for the purposes set forth in Public Law 89-754 (12 U.S.C. 1438(c)), $10,055,000 are rescinded.

12 USC 1432, 1438.
12 USC 1428a note.

CHAPTER III—DEPARTMENT OF STATE—INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Of the funds appropriated under this head in the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, $5,000,000 are rescinded.

91 Stat. 420.

Approved April 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-896 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 10, considered and passed House.
Mar. 22, considered and passed Senate.

39-194 O—80—pt. 1——16 : QL3

Public Law 95-255
95th Congress

Joint Resolution

Apr. 4, 1978
[H.J. Res. 796]

Making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978.

Supplemental appropriations, disaster relief.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

DISASTER RELIEF

For an additional amount for "Disaster relief", $300,000,000, to remain available until expended: *Provided*, That not to exceed 3 per centum of the foregoing amount shall be available for administrative expenses.

Approved April 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-990 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 22, considered and passed House.
Mar. 23, considered and passed Senate.

Public Law 95-256
95th Congress

An Act

To amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes.

Apr. 6, 1978
[H.R. 5383]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Age Discrimination in Employment Act Amendments of 1978.
29 USC 621 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Age Discrimination in Employment Act Amendments of 1978".

SENIORITY SYSTEMS AND EMPLOYEE BENEFIT PLANS

SEC. 2. (a) Section 4(f)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" a comma and the following: "and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a) of this Act because of the age of such individual".

Infra.

(b) The amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except that, in the case of employees covered by a collective bargaining agreement which is in effect on September 1, 1977, which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938), and which would otherwise be prohibited by the amendment made by section 3(a) of this Act, the amendment made by subsection (a) of this section shall take effect upon the termination of such agreement or on January 1, 1980, whichever occurs first.

Effective date.
29 USC 623 note.

29 USC 206.

APPLICATION OF AGE LIMITATION

SEC. 3. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended to read as follows:

"AGE LIMITATION

"SEC. 12. (a) The prohibitions in this Act shall be limited to individuals who are at least 40 years of age but less than 70 years of age.

"(b) In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 15 of this Act, the prohibitions established in section 15 of this Act shall be limited to individuals who are at least 40 years of age.

29 USC 633a.

"(c)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable

annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $27,000.

Regulations.

"(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

Effective date.
29 USC 631 note.

(b)(1) Sections 12(a), 12(c), and 12(d) of the Age Discrimination in Employment Act of 1967, as amended by subsection (a) of this section, shall take effect on January 1, 1979.

Ante, p. 189.

Effective date.

(2) Section 12(b) of such Act, as amended by subsection (a) of this section, shall take effect on September 30, 1978.

Repeal, effective date.
29 USC 631.

(3) Section 12(d) of such Act, as amended by subsection (a) of this section, is repealed on July 1, 1982.

ENFORCEMENT PROCEDURE

SEC. 4. (a) Section 7(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(c)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

Trial by jury.

"(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury of any issue of fact in any such action for recovery of amounts owing as a result of a violation of this Act, regardless of whether equitable relief is sought by any party in such action.".

(b)(1) Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended to read as follows:

Filing of charges.

"(d) No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Secretary. Such a charge shall be filed—

"(1) within 180 days after the alleged unlawful practice occurred; or

29 USC 633.

"(2) in a case to which section 14(b) applies, within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

Notice.

Upon receiving such a charge, the Secretary shall promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.".

29 USC 626 note.

(2) The amendment made by paragraph (1) of this subsection shall

take effect with respect to civil actions brought after the date of enactment of this Act.

(c)(1) Section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph: 29 USC 626.

"(2) For the period during which the Secretary is attempting to effect voluntary compliance with requirements of this Act through informal methods of conciliation, conference, and persuasion pursuant to subsection (b), the statute of limitations as provided in section 6 of the Portal-to-Portal Act of 1947 shall be tolled, but in no event for a period in excess of one year.". 29 USC 255.

(2) The amendment made by paragraph (1) of this subsection shall take effect with respect to conciliations commenced by the Secretary of Labor after the date of enactment of this Act. Effective date. 29 USC 626 note.

FEDERAL GOVERNMENT EMPLOYMENT

SEC. 5. (a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "who are at least 40 years of age" after "applicants for employment" and by inserting "personnel actions" after "except".

(b)(1) Section 3322 of title 5, United States Code, relating to temporary appointments after age 70, is repealed. Repeal.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3322.

(c) Section 8335 of title 5, United States Code, relating to mandatory separation, is amended— Mandatory separation.

(1) by striking out subsections (a), (b), (c), (d), and (e) thereof;

(2) by redesignating subsections (f) and (g) as subsections (a) and (b), respectively; and

(3) by adding after subsection (b), as so redesignated, the following new subsections:

"(c) An employee of the Alaska Railroad in Alaska and an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes age 62 or completes 15 years of service in Alaska or on the Isthmus of Panama if then over that age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(d) The President, by Executive order, may exempt an employee from automatic separation under this section when he determines the public interest so requires.". Exemption by President.

(d) Section 8339(d) of title 5, United States Code, relating to computation of annuity, is amended by striking out "section 8335(g)" and inserting in lieu thereof "section 8335(b)".

(e) Section 15 of the Age Discrimination in Employment Act of

1967 (29 U.S.C. 633a) is amended by adding at the end thereof the following new subsections:

"(f) Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this Act, other than the provisions of section 12(b) of this Act and the provisions of this section.

Ante, p. 189.

Study.

"(g)(1) The Civil Service Commission shall undertake a study relating to the effects of the amendments made to this section by the Age Discrimination in Employment Act Amendments of 1978, and the effects of section 12(b) of this Act, as added by the Age Discrimination in Employment Act Amendments of 1978.

Report to President and Congress.

"(2) The Civil Service Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under paragraph (1) of this subsection. Such report shall be transmitted no later than January 1, 1980.".

Effective date. 29 USC 633a note.

(f) The amendments made by this section shall take effect on September 30, 1978, except that section 15(g) of the Age Discrimination in Employment Act of 1967, as amended by subsection (e) of this section, shall take effect on the date of enactment of this Act.

Supra.

REPORT BY SECRETARY OF LABOR

SEC. 6. (a)(1) Section 5 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 624) is amended by inserting "(a)(1)" after the section designation, and by adding at the end thereof the following new sentence: "Such study shall include—

"(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 12(a) of this Act to 70 years of age;

Ante, p. 189.

"(B) a determination of the feasibility of eliminating such limitation;

"(C) a determination of the feasibility of raising such limitation above 70 years of age; and

"(D) an examination of the effect of the exemption contained in section 12(c), relating to certain executive employees, and the exemption contained in section 12(d), relating to tenured teaching personnel.".

(2) Section 5(a) of the Age Discrimination in Employment Act of 1967, as so redesignated by paragraph (1) of this subsection, is amended by adding at the end thereof the following new paragraph:

"(2) The Secretary may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.".

(b) Section 5 of the Age Discrimination in Employment Act of 1967, as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsection:

Transmittal to President and Congress.

"(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Section 17 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 635) is amended by striking out ", not in excess of $5,000,000 for any fiscal year,". 29 USC 634.

Approved April 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-527, pt. 1 (Comm. on Education and Labor) and No. 95-950 (Comm. of Conference)
SENATE REPORT No. 95-493 (Comm. on Human Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 13, 23, considered and passed House.
Oct. 19, considered and passed Senate, amended.
Vol. 124 (1978): Mar. 21, House agreed to conference report.
Mar. 23, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 14 (1978): Apr. 6, Presidential statement.

Public Law 95-257
95th Congress

An Act

Apr. 7, 1978
[H.R. 9169]

To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel.

Fishing vessels.
Obligations for financing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1104 (b) (2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b) (2)), is amended by striking the semicolon at the end thereof, and inserting in lieu thereof a colon and the following: "*Provided, further*, That in the case of any vessel to be used in the fishing trade or industry, such obligations may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the vessel;".

Approved April 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-740 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-703 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 23, considered and passed House.
Mar. 22, considered and passed Senate.

Public Law 95-258
95th Congress

An Act

Apr. 7, 1978
[H.R. 11055]

Relating to the year for including in income certain payments under the Agricultural Act of 1949 received in 1978 but attributable to 1977, and to extend for one year the existing treatment of State legislators' travel expenses away from home.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxes.
Certain crop payments.
State legislators' travel expenses.
26 USC 451 note.

SECTION 1. YEAR OF INCLUSION FOR CERTAIN CROP PAYMENTS RECEIVED IN 1978.

(a) IN GENERAL.—In the case of a taxpayer reporting on the cash receipts and disbursements method of accounting, if—

(1)(A) the taxpayer receives in his first taxable year beginning in 1978 payments under the Agricultural Act of 1949, as amended, as a result of— 7 USC 1421 note.

(i) the destruction or damage to crops caused by drought, flood, or any other natural disaster, or

(ii) the inability to plant crops because of such a natural disaster, and

(B) the taxpayer establishes that, under his practice, income from such crops could have been reported for his last taxable year beginning in 1977, or

(2)(A) the taxpayer receives in his first taxable year beginning in 1978 deficiency (or "target price") payments under the Agricultural Act of 1949, as amended, for any 1977 crop, and

(B) the fifth month of such crop's marketing year ends before December 1, 1977.

then the taxpayer may elect to include such proceeds in income for his last taxable year beginning in 1977.

(b) MAKING AND EFFECT OF ELECTION.—An election under this section for any taxable year shall be made at such time and in such manner as the Secretary of the Treasury may by regulations prescribe and shall apply with respect to all proceeds described in subsection (a) which were received by the taxpayer. Regulations.

SEC. 2. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME. 26 USC 162 note.

Subsections (a) and (d) of section 604 of the Tax Reform Act of 1976 are each amended by striking out "January 1, 1977," and inserting in lieu thereof "January 1, 1978,".

Approved April 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-929 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 13, considered and passed House.
Mar. 22, considered and passed Senate.

Public Law 95-259
95th Congress

An Act

Apr. 17, 1978
[H.R. 5981]

To amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such Act.

American Folklife Center. Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended by striking out "and" immediately after "1977," and inserting immediately before the period at the end thereof the following: "$685,000 for the fiscal year ending September 30, 1979, $1,065,000 for the fiscal year ending September 30, 1980, and $1,355,000 for the fiscal year ending September 30, 1981".

SEC. 2. Section 4(c) of such Act (20 U.S.C. 2103(c)) is amended by adding at the end thereof the following new sentence: "Members appointed by the President under clause (1) of subsection (b) shall serve only during the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts."

Approved April 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-865 (Comm. on House Administration).
SENATE REPORT No. 95-712 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 28, considered and passed House.
Apr. 4, considered and passed Senate.

Public Law 95-260
95th Congress

An Act

To authorize the Secretary of the Interior to memorialize the fifty-six signers of the Declaration of Independence in Constitution Gardens in the District of Columbia.

Apr. 17, 1978
[H.R. 2960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may establish a memorial in honor of the fifty-six men who signed the Declaration of Independence, such memorial to be on a suitable site selected by the Secretary, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, in the area known as Constitution Gardens in the District of Columbia.

Signers of Declaration of Independence, memorial.
16 USC 431 note.

SEC. 2. The Administrator of the American Revolution Bicentennial Administration (hereinafter in this Act referred to as the "Administrator") shall prepare, in consultation with the American Revolution Bicentennial Board, the Secretary, the National Commission of Fine Arts, and the National Capital Planning Commission, the design and plans for the memorial authorized by the first section.

SEC. 3. (a) Not to exceed $500,000 of the funds, other than appropriated funds, which are available to the American Revolution Bicentennial Administration under the Act entitled "An Act to establish the American Revolution Bicentennial Administration, and for other purposes", approved December 11, 1973 (87 Stat. 697), and as approved by the American Revolution Bicentennial Board, may be used to carry out the provisions of the first two sections of this Act.

Funds, limitation.

(b) Of the funds described in subsection (a) which are not used by the Administrator in carrying out the provisions of section 2, the Administrator shall transfer to the Secretary such sums as may be necessary to enable the Secretary to carry out the provisions of the first section of this Act.

Funds, transfer.

SEC. 4. (a) The establishment of the memorial authorized by the first section may not begin unless the Secretary determines that sums expended in carrying out the first two sections of this Act will not exceed $500,000. Such determination shall be made in consultation with the Administrator if the American Revolution Bicentennial Administration has not terminated pursuant to section 7 of the Act of December 11, 1973 (87 Stat. 701).

(b) The authority contained in the first section shall expire unless the establishment of the memorial authorized by such section is begun within two years after the date of the enactment of this Act.

Authority, expiration.

SEC. 5. (a) The maintenance and care of the memorial authorized under the first section shall be the responsibility of the Secretary.

(b) There are authorized to be appropriated for the fiscal year beginning on October 1, 1977, and each fiscal year thereafter such sums as may be necessary to carry out the provisions of subsection (a).

Appropriation authorization.

SEC. 6. No funds other than funds described in section 3 and funds authorized to be appropriated in section 5(b) may be used by the Administrator or the Secretary to carry out this Act.

SEC. 7. The Secretary shall carry out any functions of the Administrator under this Act after the termination of the American Revolution Bicentennial Administration pursuant to section 7 of the Act of December 11, 1973 (87 Stat. 701), provided that the Secretary shall consult with those persons who were members of the American Revolution Bicentennial Board on the date of its termination.

Approved April 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-462, pt. I (Comm. on House Administration).
SENATE REPORT No. 95-621 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 23 (1977): July 11, considered and passed House.
Vol. 24 (1978): Jan. 27, considered and passed Senate, amended.
Apr. 4, House agreed to Senate amendment.

Public Law 95-261
95th Congress

An Act

To amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications.

Apr. 17, 1978
[H.R. 8358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 19 of title 44, United States Code, is amended by adding at the end thereof the following new section:

Depository libraries, designation.

"§ 1916. Designation of libraries of accredited law schools as depository libraries

44 USC 1916.

"(a) Upon the request of any accredited law school, the Public Printer shall designate the library of such law school as a depository library. The Public Printer may not make such designation unless he determines that the library involved meets the requirements of this chapter, other than those requirements of the first undesignated paragraph of section 1909 of this title which relate to the location of such library.

"(b) For purposes of this section, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner of Education for such purpose or accredited by the highest appellate court of the State in which the law school is located.".

"Accredited law school."

SEC. 2. The table of sections for chapter 19 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"1916. Designation of libraries of accredited law schools as depository libraries.".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1978.

Effective date. 44 USC 1916 note.

Approved April 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-650 (Comm. on House Administration).
SENATE REPORT No. 95-670 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 25, considered and passed House.
Vol. 124 (1978): Mar. 6, considered and passed Senate, amended.
Apr. 4, House agreed to Senate amendments.

Public Law 95-262
95th Congress

Joint Resolution

Apr. 17, 1978
[H.J. Res. 770]

To authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

Whereas the Congress recognizes a need for the Nation to set aside on the calendar a day devoted to the importance of education to the lives of its citizens and to the general well-being of the Nation; and

Whereas the Lubavitch Movement, which conducts educational activities at more than sixty centers in twenty-eight States as well as around the world, is especially committed to the advancement of education and has proposed the establishment of an "Education Day, U.S.A."; and

Whereas world Jewry marked in 1977 the seventy-fifth birthday of the revered and renowned Jewish leader, the head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson, who proclaimed on that occasion a "Year of Education"; and

Whereas the seventy-sixth birthday of this celebrated spiritual leader will occur on April 18, 1978, thus concluding the year of Lubavitch Movement activities dedicated to the "Year of Education" and the Lubavitcher Rebbe's milestone birthday: Now, therefore, be it

Education Day, U.S.A. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

Approved April 17, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 11, 12, considered and passed House.
Apr. 13, considered and passed Senate.

Public Law 95-263
95th Congress

Joint Resolution

To authorize the President to issue a proclamation designating the week beginning on April 16 through April 22, 1978, as "National Oceans Week".

Apr. 17, 1978
[S.J. Res. 124]

Whereas the oceans are playing an increasingly important role in the food, energy, and mineral production of the United States as well as the transportation of United States goods; and

Whereas it will be beneficial for the American public to learn of the interrelationship of the United States and the world's oceans; and

Whereas the declaration of a National Oceans Week would help Americans learn about the importance of the oceans: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the week of April 16 through April 22, 1978, as "National Oceans Week" and calling upon the people of the United States to observe such same week with appropriate activities.

National Oceans Week. Designation authorization.

Approved April 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-978 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 20, considered and passed Senate.
Apr. 4, considered and passed House, in lieu of H.J. Res. 730.

Public Law 95-264
95th Congress

An Act

Apr. 18, 1978
[H.R. 2540]

Pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation.

Umatilla Indian Reservation, Oreg.
Inheritance of trust or restricted lands.
25 USC 463d note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right to inherit trust or restricted land on the Umatilla Indian Reservation, to the extent that the laws of descent of the State of Oregon are inconsistent herewith, shall be as provided herein.

25 USC 463d note.

SEC. 2. When any Indian dies leaving any interest in trust or restricted land within the Umatilla Reservation and not having lawfully devised the same, such interest shall descend in equal shares to his or her children and to the issue of any deceased child by right of representation; and if there is no child of the decedent living at the time of his or her death, such interests shall descend to his or her other lineal descendants; and if such descendants are in the same degree of kindred to the intestate, they shall take such real property equally, or otherwise they shall take according to the right of representation. An interest taken hereunder shall be subject to the right of a surviving spouse as provided in section 3.

25 USC 463d note.

SEC. 3. The surviving spouse of any Indian who dies leaving any interest in trust or restricted land within the Umatilla Reservation shall be entitled to obtain a one-half interest in all such trust or restricted interests in land during his or her lifetime.

25 USC 463d note.

SEC. 4. If any Indian, who leaves any interest in trust or restricted land within the Umatilla Reservation, makes provisions for his or her surviving spouse by an approved will, such surviving spouse shall have an election whether to take the provisions as made in such will or to take the interest as set forth in section 3 of this Act, but such surviving spouse shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator. When any surviving spouse is entitled to an election under this section, he or she shall be deemed to have elected to take the provisions as made in such will unless, at or prior to the first hearing to probate the will, he or she has elected to take under section 3 of this Act and not under the will.

25 USC 463d note.

SEC. 5. The provisions of this Act shall apply to all estates of decedents who die on or after the date of enactment of this Act.

Approved April 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-820 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-718 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 6, considered and passed House.
April 5, considered and passed Senate.

Public Law 95-265
95th Congress

An Act

To direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada.

Apr. 24, 1978
[H.R. 4979]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior, hereinafter referred to as the "Secretary", shall issue to the county of Mineral, State of Nevada, a patent or other instrument of conveyance for the land owned by the United States and comprising approximately two thousand six hundred and twenty acres described in this section, or any portion thereof, upon payment into the Treasury of the United States the appraised value of the parcel to be conveyed, plus the costs of appraisal, surveys and extinguishing adverse claims: *Provided,* That any of the land described in this section which remains unconveyed to the county of Mineral on and after five years from the date of approval of this Act shall no longer be subject to conveyance under this Act.

Mineral, Nev.
Land conveyance.

(b) The following described lands situated in the State of Nevada are hereby made subject to this Act:

(1) The west half of the northwest quarter of section 26, township 8 north, range 30 east; the part of the northwest quarter of the southwest quarter of section 26, township 8 north, range 30 east, that is north of the highway 95 right-of-way.

(2) The northwest quarter of the northeast quarter and the east half of the east half of section 25, township 8 north, range 29 east; all of sections 29 and 30, township 8 north, range 30 east; the north half of the southeast quarter of section 28, township 7 north, range 30 east.

(3) The part of section 21, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 28, township 7 north, range 30 east; the part of the northeast quarter of section 28, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 27, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the east half of the northwest quarter and the north half of the southeast quarter of section 34, township 7 north, range 30 east; the part of the northeast quarter of section 34, township 7 north, range 30 east, that is west of Nevada State Highway Route 31; the part of section 35, township 7 north, range 30 east, that is west of Nevada State Highway Route 31.

SEC. 2. Upon receipt of a request from the county of Mineral, State of Nevada, for the purchase of a tract of the lands described in section 1, the Secretary shall immediately cause the same to be appraised and, upon completion of such appraisal, shall notify the county of Mineral of the appraised value of such tract and the county shall have six months from the date of such notice to complete the purchase of such tract by payment of the appraised value into the Treasury of the United States whereupon the Secretary shall issue a patent or other instrument conveying such tract to such county. Any such patent or

other instrument of conveyance shall be subject to valid existing rights and easements of record; and shall contain any reservation necessary to protect the continuing uses by the United States of real property owned by the United States that is adjacent to the tract conveyed. In addition, conveyance of section 29, township 8 north, range 30 east, shall be made only in accordance with the provisions of section 209 of the said Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

SEC. 3. All moneys received from the conveyance of lands under the terms of this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received as reimbursement for costs of appraisal, surveys, and extinguishing adverse claims may be used by the Secretary for said purposes without appropriation.

SEC. 4. Subject to valid existing rights on the effective date of this Act, the lands described in section 1 which are subject to conveyance pursuant to this Act are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. Such withdrawal shall terminate automatically with respect to a particular tract upon conveyance of that tract pursuant to this Act. Such withdrawal shall terminate upon publication of an order in the Federal Register by the Secretary no sooner than five years from the effective date of this Act, with respect to any lands or interest remaining in the United States at the conclusion of such five-year period.

Publication in Federal Register.

Approved April 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-530 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-522 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Aug. 1, considered and passed House.
Oct. 28, considered and passed Senate, amended.
Vol. 124 (1978): Feb. 24, House concurred in Senate amendment with an amendment.
Apr. 12, Senate concurred in House amendment.

Public Law 95-266
95th Congress

An Act

To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

Apr. 24, 1978
[H.R. 6693]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.
42 USC 5101 note.

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) (hereinafter in this title referred to as "the Act") is amended by—

(1)(A) striking out "and publish" and inserting in lieu thereof "publish, and disseminate" in clause (1) of subsection (b);

(B) striking out "and publish" and inserting in lieu thereof a comma and "publish, and disseminate" in clause (3) of subsection (b);

(C) striking out "and" after clause (5) of subsection (b);

(D) striking out the period at the end of clause (6) of subsection (b) and inserting in lieu thereof a semicolon and "and"; and

(E) adding after clause (6) of subsection (b) the following:

Plan, submittal to Advisory Board on Child Abuse and Neglect.
42 USC 5105.

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.";

Research priorities for grants or contracts.
Publication in Federal Register.

(2) inserting at the end of subsection (c) the following new sentences: "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant."; and

Review.

(3) adding after subsection (c) the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.".

DEFINITION

SEC. 102. Section 3 of the Act (42 U.S.C. 5102) is amended by—
(1) inserting "or exploitation" after "sexual abuse"; and
(2) inserting a comma and "or the age specified by the child protection law of the State in question," after "eighteen".

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

SEC. 103. Section 4 of the Act (42 U.S.C. 5103) is amended by—
(1) amending subsection (a) by—
(A) inserting "or service" after "demonstration" in the first sentence;
(B) striking out "the development and establishment of" in clause (1); and
(C) striking out the last sentence of such subsection;
(2) amending subsection (b) by—
(A) striking out in paragraph (1) "Of the sums" and all that follows through "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make grants", and striking out "for the payment of reasonable and necessary expenses"; and
(B) inserting in paragraph (2) immediately below clause (J) the following new sentence: "If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate."; and
(3) amending the heading for such section to read as follows:

"DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS".

AUTHORIZATION OF APPROPRIATIONS, EARMARKING, AND SEXUAL ABUSE CENTERS

SEC. 104. Section 5 of the Act (42 U.S.C. 5104) is amended by—
(1) striking out "and" after "1975," and striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness, of not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978,

42 USC 5101.
42 USC 5103.

and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively."; and 42 USC 5103.

(2) inserting "(a)" after "SEC. 5." and adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, and personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel. 42 USC 5101.

"(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).

"(3) As used in this subsection, the term— Definitions.

"(A) 'sexual abuse' includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

"(B) 'child' or 'children' means any individual who has not attained the age of eighteen.

"(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.".

ADVISORY BOARD

SEC. 105. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered" both places it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) striking out subsection (b) and subsection (c) and inserting in lieu thereof the following new subsections:

Plan, submittal to President and Congress. 42 USC 5101.

"(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

Compensation.

"(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

TITLE II—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

42 USC 5111.

SEC. 201. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

MODEL ADOPTION LEGISLATION AND PROCEDURES

Publication in Federal Register. 42 USC 5112.

SEC. 202. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on

the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

Panel.
Appointment.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

Termination.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

Compensation.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

42 USC 5113.

SEC. 203. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with

appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

Report to congressional committees.
42 USC 5114.

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title. 42 USC 5115.

Approved April 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-609 (Comm. on Education and Labor).
SENATE REPORT No. 95-167 accompanying S. 961 (Comm. on Human Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 26, considered and passed House.
Oct. 27, considered and passed Senate, amended, in lieu of S. 961.
Vol. 124 (1978): Apr. 10, House agreed to Senate amendments with amendments.
Apr. 12, Senate concurred in House amendments.

Public Law 95-267
95th Congress

Joint Resolution

Apr. 24, 1978
[H.J. Res. 578]

Authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week".

Whereas architectural barriers infringe upon the rights of the physically handicapped by impeding their access to buildings and other facilities in the United States; and

Whereas the Congress has enacted legislation requiring the removal of architectural barriers at institutions receiving Federal funds; and

Whereas the Internal Revenue Code of 1954 provides deductions of as much as $25,000 per year to taxpayers to encourage the removal of architectural barriers; and

Whereas public commitment is necessary to achieve the goal of removing architectural barriers from buildings and other facilities in the United States; and

Whereas public commitment to solve the problem of architectural barriers is based upon public awareness of such problem and the means to solve such problem; and

Whereas the American National Standards Institute has developed standards which, if implemented, would increase the accessibility of buildings and other facilities in the United States to the physically handicapped: Now, therefore, be it

National Architectural Barrier Awareness Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week", and calling upon the people of the United States to observe such week with appropriate activities.

Approved April 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-918 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-727 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 6, considered and passed House.
Apr. 11, considered and passed Senate.

Public Law 95-268
95th Congress

An Act

To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

Apr. 24, 1978
[H.R. 9179]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Overseas Private Investment Corporation Amendments Act of 1978.
22 USC 2151 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1978".

PURPOSE AND POLICY

SEC. 2. Section 231 of the Foreign Assistance Act of 1961 is amended— 22 USC 2191.

(1) by inserting after the first undesignated paragraph the following new undesignated paragraph:

"The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $520 or less in 1975 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $1,000 or more in 1975 United States dollars.";

(2) by amending subsection (e) to read as follows:

"(e) to the maximum degree possible consistent with its purposes—

"(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

"(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;";

(3) in subsection (m), by striking out the period at the end thereof and inserting in lieu thereof "; and";

(4) by adding at the end thereof the following new subsection:

"(n) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States."; and

(5) by striking out subsections (f) and (l), and redesignating subsections (g), (h), (i), (j), (k), (m), and (n) as subsections (f), (g), (h), (i), (j), (k), and (l), respectively.

INVESTMENT INSURANCE AND OTHER PROGRAMS

22 USC 2194.

SEC. 3. Section 234 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a)(2), by striking out all after "total project financing" and inserting in lieu thereof a period;

(2) in subsection (a)(3) and subsection (b), by striking out "total face amount" each place it appears and inserting in lieu thereof "maximum contingent liability";

(3) by striking out paragraphs (4) through (7) of subsection (a);

(4) in subsection (c), by adding the following new sentence at the end of the first paragraph: "Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.";

(5) by striking out the last paragraph of subsection (c) and inserting in lieu thereof the following:

Loans for extraction of nonfuel minerals.

"No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.";

(6) in the first sentence of subsection (d), by striking out all after "private investors" and inserting in lieu thereof a comma and the following: "except that—

"(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

"(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000."; and

(7) in paragraph (1) of subsection (f) by striking out the period at the end thereof and inserting in lieu thereof the following: "; except that (A) such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms, and (B) the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act.".

Ante, p. 213.

ISSUING AUTHORITY

22 USC 2195.

SEC. 4. Section 235 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a)(2), by striking out ", of which guaranties of credit union investment shall not exceed $1,250,000"; and

(2) in subsection (a)(4), by striking out "December 31, 1977" and inserting in lieu thereof "September 30, 1981".

GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM

SEC. 5. Section 237(f) of the Foreign Assistance Act of 1961 is amended— 22 USC 2197.

(1) by inserting before the period at the end of the first sentence a comma and the following: "except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets"; and

(2) by inserting before the period at the end of the second sentence a comma and the following: "except that such limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties".

ACTS OF BRIBERY

SEC. 6. Section 237 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(l)(1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977. 15 USC 78a note.

"(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.". Regulations.

GENERAL PROVISIONS AND POWERS

SEC. 7. Section 239 of the Foreign Assistance Act of 1961 is amended— 22 USC 2199.

(1) in subsection (b), by striking out the second paragraph thereof;

(2) in subsection (d), by inserting after "section 231(c)" in the parenthetical the following: "or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)"; and

(3) by adding at the end thereof the following new subsections:

"(i) In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development. Development impact profile. *Ante*, p. 213.

"(j) The Corporation shall not provide any insurance, reinsurance, guaranty, loan, or other financial support authorized by section 234 *Ante*, p. 214.

for any new or significantly expanded project involving the exploration for or the mining of or other extraction of copper if such new or expanded production of copper is planned to begin before January 1, 1981, and the Corporation shall not support any such project which would begin production after such date if the project will cause injury to the primary United States copper industry.

"(k) The Corporation may not provide any insurance, reinsurance, guaranty, financing, or other financial support authorized by section 234 for any project to establish or expand production or processing of palm oil, sugar, or citrus crops for export.".

Ante, p. 214.

HUMAN RIGHTS

22 USC 2199.

SEC. 8. Section 239 of the Foreign Assistance Act of 1961, as amended by section 7 of this Act, is further amended by adding at the end thereof the following new subsection:

"(l) The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.".

22 USC 2151n.

SMALL BUSINESS DEVELOPMENT

SEC. 9. The Foreign Assistance Act of 1961 is amended by inserting after section 239 the following new section:

22 USC 2200.

"SEC. 240. SMALL BUSINESS DEVELOPMENT.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 per cent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234.".

Ante, p. 213.

REPORTS

22 USC 2200a.

SEC. 10. Section 240A of the Foreign Assistance Act of 1961 is amended to read as follows:

Reports to Congress.

"SEC. 240A. REPORTS TO THE CONGRESS.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 239(i), of the economic and social development impact and benefits of the projects with respect to which

Ante, p. 215.

such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(l); or *Ante*, p. 216.

"(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

"(b) Not later than September 30, 1980, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any reinsurance arrangements the Corporation has made with private insurance companies, multilateral organizations and institutions, or other entities.". Report to Congress.

Approved April 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-670 (Comm. on International Relations) and No. 95-1043 (Comm. of Conference).
SENATE REPORT No. 95-505 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 25, S. 1771 considered and passed Senate.
Nov. 2, 3, considered in House.
Vol. 124 (1978): Feb. 23, considered and passed House.
Mar. 6, considered and passed Senate, amended, in lieu of S. 1771.
Apr. 6, Senate agreed to conference report.
Apr. 11, House agreed to conference report.

Public Law 95-269
95th Congress

An Act

Apr. 26, 1978
[H.R. 7744]

To amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes.

Rivers and harbors, improvements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of August 11, 1888 (25 Stat. 423; 33 U.S.C. 622), is amended to read as follows:

"SEC. 3. (a) The Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gagings) shall, by contract or otherwise, carry out such work in the manner most economical and advantageous to the United States. The Secretary shall have dredging and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices and in a timely manner. During the four-year period which begins on the date of enactment of this subsection, the Secretary may limit the application of the second sentence of this subsection for work for which the federally owned fleet is available to achieve an orderly transition to full implementation of this subsection.

"(b) As private industry reasonably demonstrates its capability under subsection (a) to perform the work done by the federally owned fleet, at reasonable prices and in a timely manner, the federally owned fleet shall be reduced in an orderly manner, as determined by the Secretary, by retirement of plant. To carry out emergency and national defense work the Secretary shall retain only the minimum federally owned fleet capable of performing such work and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet fully operational, as determined by the Secretary, after the minimum fleet requirements have been determined. Notwithstanding the preceding sentence, in carrying out the reduction of the federally owned fleet, the Secretary may retain so much of the federally owned fleet as he determines necessary, for so long as he determines necessary, to insure the capability of the Federal Government and private industry together to carry out projects for improvements of rivers and harbors. For the purpose of making the determination required by the preceding sentence the Secretary shall not exempt any work from the requirements of this section. The minimum federally owned fleet shall be maintained to technologically modern and efficient standards, including replacement as necessary. The Secretary is authorized and directed to undertake a study to determine the minimum federally owned fleet required to perform emergency and national defense work. The study, which shall be submitted to Congress within two years after enactment of this subsection, shall also include preservation of employee rights of persons presently employed on the existing federally owned fleet.".

Study.

Submittal to Congress.

SEC. 2. Section 8 of the Act of March 2, 1919 (40 Stat. 1290; 33 U.S.C. 624), is amended to read as follows:

"SEC. 8. (a) No works of river and harbor improvement shall be done by private contract—

"(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

"(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

"(b) In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

"(c) In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.".

Approved April 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-605 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-722 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 27, considered and passed House.
Vol. 124 (1978): Apr. 5, considered and passed Senate, amended.
Apr. 13, House agreed to Senate amendments.

39-194 O—80—pt 1——18 : QL3

Public Law 95-270
95th Congress

An Act

Apr. 27, 1978
[S. 2452]

To authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act".

Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act. 20 USC 2566 note.

SEC. 2. (a) In recognition of the public service of Senator Hubert H. Humphrey, the Commissioner of Education (hereafter in this Act referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(b) In recognition of the public service of Senator Everett McKinley Dirksen, the Commissioner is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

20 USC 2566.
20 USC 2567.

20 USC 2568.

SEC. 3. No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require.

Appropriation authorization. 20 USC 2569.

SEC. 4. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2(a) of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated pursuant to this Act shall remain available until expended.

Effective date. 20 USC 2566 note.

(d) This Act shall take effect October 1, 1978.

Approved April 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-888 accompanying H.R. 10606 (Comm. on Education and Labor).
SENATE REPORT No. 95-706 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 21, H.R. 10606 considered and passed House.
Mar. 22, considered and passed Senate.
Apr. 18, considered and passed House, amended.
Apr. 19, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 17:
Apr. 27, Presidential statement.

Public Law 95-271
95th Congress

An Act

To amend title 28, United States Code, to move the place for holding court for the district court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes.

Apr. 28, 1978
[S. 2597]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section 112(c) of title 28, United States Code, is amended to read as follows:

New York District Court relocation.

"Court for the Eastern District shall be held at Brooklyn and Hempstead (including the village of Uniondale).".

SEC. 2. The United States District Court for the Eastern District of New York, by order made anywhere within its district, may pretermit the regular session of court at Hempstead until Federal quarters and accommodations are available and ready for occupancy, except that for the entire period and such pretermission, a special session of the court shall be held at Westbury. Pretermission may be ordered without regard to the provisions of section 140(a) of title 28, United States Code.

28 USC 112 note.

SEC. 3. Notwithstanding the provisions of section 142 of title 28, United States Code, the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, shall continue to provide existing quarters and accommodations at Westbury for the duration of the special session held pursuant to section 2 of this Act. Appropriations to the judicial branch of Government shall be available to the Director to make necessary disbursements for such quarters and accommodations, and to pay user charges as required by section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), at rates otherwise authorized by law.

28 USC 112 note.

SEC. 4. Notwithstanding the provisions of section 456 of title 28, United States Code, any judge, and any officer or employee of the judicial branch, whose official station is, on the day before the date of enactment of this Act, Westbury, may maintain that official station for the duration of the special session held pursuant to section 2 of this Act.

28 USC 112 note.

SEC. 5. The Director of the Administrative Office of the United States Courts may pay travel and transportation expenses in accordance with subchapter II, chapter 57 of title 5, United States Code, to any officer or employee of the judicial branch whose official station changes as a consequence of this Act and who relocates his residence incident to such change of official station.

28 USC 112 note.

5 USC 5721 *et seq.*

Approved April 28, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-728 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 12, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 95-272
95th Congress

Joint Resolution

May 3, 1978
[H.J. Res. 649]

To authorize the President to call a White House Conference on the Arts, and to authorize the President to call a White House Conference on the Humanities.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

White House Conferences on Arts and Humanities. 1979 White House Conference on the Arts Act. 20 USC 951 note.

TITLE I—WHITE HOUSE CONFERENCE ON THE ARTS

SHORT TITLE

SEC. 101. This title may be referred to as the "1979 White House Conference on the Arts Act".

FINDINGS

20 USC 951 note.

SEC. 102. The Congress hereby finds and declares—

(1) that the development and encouragement of arts activity in the United States are of the utmost importance to the Nation's life and heritage;

(2) that concern for the quality of life in the United States requires constant dedication, planning, and reflection on the state of the arts in the Nation;

(3) that the arts have an increasingly significant impact on the economic sector of our society;

(4) that it is appropriate to encourage the maximum and broadest participation by the Nation's citizenry, including, but not limited to, artists, knowledgeable citizens and other interested persons, representatives of State and local governments, labor, agriculture, business and industry, educators (including art educators) and experts in all fields of the arts, in the process of insuring needed support for the arts among all parties concerned at Federal, State, and local levels; and

(5) that in order to implement these findings, it is desirable to call a White House Conference on the Arts.

WHITE HOUSE CONFERENCE ON THE ARTS

20 USC 951 note.

SEC. 103. (a) The President shall call a White House Conference on the Arts to be held no later than December 31, 1979. The purpose of the Conference shall be to help develop a climate in which the arts can flourish, and recommendations to formulate an assessment of problems and issues relating to the arts, and to develop recommendations relating to the appropriate growth of the arts in all parts of the Nation.

(b) The Conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on the Arts headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel; as may reasonably be required by the Council.

NATIONAL CONFERENCE PLANNING COUNCIL ON THE ARTS

SEC. 104. (a) There is hereby established a National Conference Planning Council on the Arts. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the Conference. Establishment. 20 USC 951 note.

(b)(1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS-18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently. Compensation. Travel expenses.

(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 105. Termination.

REPORT

SEC. 105. A report of the Conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the Conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The report shall immediately be made available to the public. Reports to President and Congress. 20 USC 951 note. Public availability.

ADMINISTRATIVE PROVISIONS

SEC. 106. In carrying out the provisions of this title, the Council and the Chairman shall— 20 USC 951 note.

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the arts;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the arts before the Conference;

(3) prepare and make available necessary background materials for the use of delegates to the Conference;

(4) prepare and distribute such interim reports of the Conference as may be appropriate; and

(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 in section 5332 of such title. Appointments. 5 USC 5101, 5331.

GRANTS

SEC. 107. From any sums appropriated under section 108, the Chairman, with the approval of the Council, may make a grant to each State, upon application by the State arts agency of the State, in order 20 USC 951 note.

to assist in defraying the costs of the State in participating in the Conference program, including the conduct of at least one conference within the State: *Provided*, That broad and maximum public participation is assured by such State arts agency which would include, but not be limited to, artists, knowledgeable citizens and other interested persons, representatives of State and local government, labor, agriculture, business and industry, educators (including art educators), and experts in all fields of the arts.

AUTHORIZATION OF APPROPRIATIONS

20 USC 951 note.

SEC. 108. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

DEFINITIONS

20 USC 951 note.

SEC. 109. For purposes of this title—

(1) the term "Chairman" means the Chairman of the National Conference Planning Council on the Arts;

(2) the term "Conference" means the White House Conference on the Arts;

(3) the term "Council" means the National Conference Planning Council on the Arts;

(4) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Marianas, and any other territory or possession of the United States; and

(5) the term "arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, theater, folk, art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape, and sound recording, and the arts related to the presentation, performance, execution, and exhibition of such major art forms.

TITLE II—WHITE HOUSE CONFERENCE ON THE HUMANITIES

1979 White House Conference on the Humanities Act.

SHORT TITLE

20 USC 951 note.

SEC. 201. This title may be cited as the "1979 White House Conference on the Humanities Act".

FINDINGS

20 USC 951 note.

SEC. 202. The Congress hereby finds and declares—

(1) that the development and encouragement of national strength in the humanities is of the utmost importance to the life and heritage of the United States;

(2) that concern for the vitality of democratic institutions, the character of national policies, and the application of our national heritage to the needs of the present and future requires full commitment to, planning for, and reflection on the role of the humanities in national life;

(3) that the humanities make an increasingly significant contribution to public and private decisions having major social and economic impact;

(4) that the relationship of the humanities to the health and pluralism of the Nation's culture and system of education is of fundamental importance;

(5) that it is appropriate to encourage the maximum and broadest participation by the Nation's citizenry, including knowledgeable citizens and other interested persons, State and local government, institutions and organizations in the humanities, representatives of labor, agriculture, business and industry, educators, scholars, and other participants in all fields of the humanities in the process of insuring needed support among all parties concerned at Federal, State, and local levels;

(6) that in order to implement these findings, it is desirable to call a White House Conference on the Humanities.

WHITE HOUSE CONFERENCE ON THE HUMANITIES

SEC. 203. (a) The President shall call a White House Conference on the Humanities to be held no later than December 31, 1979. The purpose of the Conference shall be to help develop a climate in which the humanities can flourish, to formulate an assessment of problems and issues relating to the humanities, and to develop recommendations relating to strengthening the humanities in all parts of the Nation. 20 USC 951 note.

(b) The Conference shall be planned and conducted under the direction of a Presidentially appointed National Planning Council on the Humanities headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Council.

NATIONAL PLANNING COUNCIL ON THE HUMANITIES

SEC. 204. (a) There is hereby established a National Planning Council on the Humanities. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the Conference. Establishment. 20 USC 951 note.

(b) (1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS–18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently. Compensation. Travel expenses.

(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 205. Termination.

REPORT

SEC. 205. A report of the Conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the Conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The report shall immediately be made available to the public. Reports to President and Congress. 20 USC 951 note. Public availability.

ADMINISTRATIVE PROVISIONS

20 USC 951 note.

SEC. 206. In carrying out the provisions of this title, the Council and the Chairman shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the humanities;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the humanities before the Conference;

(3) prepare and make available necessary background materials for the use of delegates to the Conference;

(4) prepare and distribute such interim reports of the Conference as may be appropriate; and

(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS–18 in section 5332 of such title.

5 USC 5101, 5331.

GRANTS

20 USC 951 note.

SEC. 207. (a) From any sums appropriated under section 208, the Chairman with the approval of Council, may make a grant to each State, upon application by the State humanities entity of the State, in order to assist in defraying the costs of the State in participating in the Conference program, including the conduct of at least one conference within the State: *Provided*, That the broadest and maximum public participation is assured by such State humanities entity which would include, but would not be limited to, knowledgeable citizens and other interested persons, State and local government, institutions and organizations in the humanities, representatives of labor, agriculture, business and industry, educators, scholars, and other participants in all fields of the humanities.

AUTHORIZATION OF APPROPRIATIONS

20 USC 951 note.

SEC. 208. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

DEFINITIONS

20 USC 951 note.

SEC. 209. For purposes of this title—

(1) the term "Chairman" means the Chairman of the National Planning Council on the Humanities;

(2) the term "Conference" means the White House Conference on the Humanities;

(3) the term "Council" means the National Planning Council on the Humanities;

(4) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Marianas, and any other territory or possession of the United States; and

(5) the term "humanities" includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, theory, and practice of the arts; those aspects of the Social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life.

TITLE III—GENERAL PROVISIONS

WHITE HOUSE CONFERENCE ON EDUCATION

SEC. 301. (a) Section 804 of the Education Amendments of 1974 (20 U.S.C. 1221–1 note) is amended by striking out "1977" each place it appears therein and inserting in lieu thereof "1980".

(b) Section 804(e) of the Education Amendments of 1974 (20 U.S.C. 1221–1 note) is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981".

Approved May 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-887 (Comm. on Education and Labor).
SENATE REPORT No. 95-736 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 21, considered and passed House.
Apr. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 18:
May 3, Presidential statement.

Public Law 95-273
95th Congress

An Act

May 8, 1978
[S. 1617]

To establish a program of ocean pollution research, development, and monitoring, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Ocean Pollution Research and Development and Monitoring Planning Act of 1978".

National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.
33 USC 1701 note.

SEC. 2. FINDINGS AND PURPOSES.

33 USC 1701.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Man's activities in the marine environment can have a profound short-term and long-term impact on such environment and greatly affect ocean and coastal resources therein.

(2) There is a need to establish a comprehensive Federal plan for ocean pollution research and development and monitoring, with particular attention being given to the inputs, fates, and effects of pollutants in the marine environment.

(3) Man will increasingly be forced to rely on ocean and coastal resources as other resources are depleted. Our ability to protect, preserve, develop, and utilize these ocean and coastal resources is directly related to our understanding of the effects which ocean pollution has upon such resources.

(4) Numerous departments, agencies, and instrumentalities of the Federal Government sponsor, support, or fund activities relating to ocean pollution research and development and monitoring. However, such activities are often uncoordinated and can result in unnecessary duplication.

(5) Better planning and more effective use of available funds, personnel, vessels, facilities, and equipment is the key to effective Federal action regarding ocean pollution research and development and monitoring.

(b) PURPOSES.—It is therefore the purpose of the Congress in this Act—

(1) to establish a comprehensive 5-year plan for Federal ocean pollution research and development and monitoring programs in order to provide planning for, coordination of, and dissemination of information with respect to such programs within the Federal Government;

(2) to develop the necessary base of information to support, and to provide for, the rational, efficient, and equitable utilization, conservation, and development of ocean and coastal resources; and

(3) to designate the National Oceanic and Atmospheric Administration as the lead Federal agency for preparing the plan referred to in paragraph (1) and to require the Administration to carry out a comprehensive program of ocean pollution research and development and monitoring under the plan.

33 USC 1702.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the Administration.

(3) The term "Director" means the Director of the Office of Science and Technology Policy in the Executive Office of the President.

(4) The term "marine environment" means the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1))); the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf.

(5) The term "ocean and coastal resource" has the same meaning as is given such term in section 203(7) of the National Sea Grant Program Act (33 U.S.C. 1122(7)).

(6) The term "ocean pollution" means any short-term or long-term change in the marine environment.

SEC. 4. COMPREHENSIVE FEDERAL PLAN RELATING TO OCEAN POLLUTION.

33 USC 1703.

(a) LEAD AGENCY FOR PLAN.—The Administrator, in consultation with the Director and other appropriate Federal officials having authority over ocean pollution research and development and monitoring programs, shall prepare, in accordance with this section, a comprehensive 5-year plan (hereinafter in this Act referred to as the "Plan") for the overall Federal effort in ocean pollution research and development and monitoring. The Plan shall be prepared and submitted to Congress and the President on or before February 15, 1979, and a revision of the Plan shall be prepared and so submitted by February 15 of each odd-numbered year occurring after 1979.

Responsibility.

Submittal to President and Congress.

(b) CONTENT OF PLAN.—The Plan shall contain, but need not be limited to, the following elements:

(1) ASSESSMENT AND ORDERING OF NATIONAL NEEDS AND PROBLEMS.—The Plan shall—

National priorities.

(A) identify those national needs and problems, which relate to specific aspects of ocean pollution (including, but not limited to, the effects of ocean pollution on the economic, social, and environmental values of ocean and coastal resources), which exist and will arise during the Plan period;

(B) establish the priority, based upon the value and cost of information which can be obtained from specific ocean pollution research and development and monitoring programs and projects, in which such needs should be met, and such problems should be solved, during the Plan period; and

(C) contain, if pursuant to the preparation of any revision of the Plan required under subsection (a) it is determined that any national need or problem or priority set forth in the preceding version of the Plan should be changed, a detailed explanation of the reasons for the change.

(2) EXISTING FEDERAL CAPABILITY.—The Plan shall contain—

Existing Federal capability.

(A) a detailed listing of all existing Federal programs relating to ocean pollution research and development and monitoring (including, but not limited to, general research on marine ecosystems), which listing shall include, with respect to each such program—

(i) a catalogue of the Federal personnel, facilities, vessels and other equipment currently assigned to, or used for, the program, and

(ii) a detailed description of the existing goals and costs of the program, including, but not limited to, a categorical breakdown of the funds currently being expended, and planned to be expended, to conduct the program; and

(B) an analysis of the extent to which each such program, if continued on the basis and at the funding level described pursuant to subparagraph (A)(ii), will assist in meeting the priorities set forth pursuant to paragraph (1)(B) during the Plan period.

(3) POLICY RECOMMENDATIONS.—If it is determined, as a result of the analysis required to be made under paragraph (2)(B), that the priorities set forth pursuant to paragraph (1)(B) will not be adequately met during the Plan period using the existing Federal capability described pursuant to paragraph (2)(A), the Plan shall contain those recommendations for changes in the overall Federal effort in ocean pollution research and development and monitoring which would ensure that those priorities are adequately met during the Plan period. Such recommendations may include, but need not be limited to—

(A) changes in the goals to be achieved under various existing Federal ocean pollution research and development and monitoring programs;

(B) suggested increases and decreases in the funding for any such existing program consistent with the extent to which such program contributes to the meeting of such priorities;

(C) specific proposals for interagency cooperation in cases in which the pooling of the resources of two or more Federal departments, agencies, or instrumentalities under existing programs could further efforts to meet such priorities or would eliminate duplication of effort; and

(D) suggested legislation to establish new Federal programs considered to be necessary if such priorities are to be met.

Budget review.

(4) BUDGET REVIEW.—The Plan shall contain a description of actions taken by the Administrator and the Director to coordinate the budget review process for the purpose of ensuring interagency coordination and cooperation in (A) the carrying out of Federal ocean pollution research and development and monitoring programs; and (B) eliminating unnecessary duplication of effort among such programs.

"Plan Period."

(c) For purposes of this section, the term "Plan period" means—

(1) with respect to the Plan as required to be submitted on February 15, 1979, the period of 5 fiscal years beginning on October 1, 1978; and

(2) with respect to each revision of the Plan, the period of 5 fiscal years beginning on October 1 of the year before the year in which the revision is required to be prepared under subsection (a).

33 USC 1704.

SEC. 5. COMPREHENSIVE OCEAN POLLUTION PROGRAM IN THE ADMINISTRATION.

Establishment.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish within the Administration a comprehensive, coordinated, and effective ocean pollution research and development and monitoring program. The Administrator shall carry out all projects and activities under the program in a manner consistent with the Plan.

(b) CONTENT OF THE PROGRAM.—The program required to be established under subsection (a) shall include, but not be limited to—

(1) all projects and activities relating to ocean pollution research and development and monitoring for which the Administrator has responsibility under provisions of law (including, but not limited to, title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441-1444)) other than paragraph (2);

(2) such projects and activities addressed to the priorities set forth in the Plan pursuant to section 4(b)(1)(B) that can be appropriately conducted within the Administration; and

(3) the provision of financial assistance under section 6.

SEC. 6. FINANCIAL ASSISTANCE.

33 USC 1705.

(a) GRANTS AND CONTRACTS.—The Administrator may provide financial assistance in the form of grants or contracts for research and development and monitoring projects or activities which are needed to meet priorities set forth in the Plan pursuant to section 4(b)(1)(B), if such priorities are not being adequately addressed by any Federal department, agency, or instrumentality.

Grants and contracts.

(b) APPLICATIONS FOR ASSISTANCE.—Any person, including institutions of higher education and departments, agencies, and instrumentalities of the Federal Government or of any State or political subdivision thereof, may apply for financial assistance under this section for the conduct of projects and activities described in subsection (a), and, in addition, specific proposals may be invited. Each application for financial assistance shall be made in writing in such form and manner, and contain such information, as the Administrator may require. The Administrator may enter into contracts under this section without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

Contract authority.

(c) EXISTING PROGRAMS.—The projects and activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Federal programs (including, but not limited to, the National Sea Grant Program) concerned with ocean pollution research and development and monitoring.

(d) ACTION BY ADMINISTRATOR.—The Administrator shall act upon each application for a grant or contract under this section within six months after the date on which all required information is received by the Administrator from the applicant. Each grant made or contract entered into under this section shall be subject to such terms and conditions as the Secretary deems necessary in order to protect the interests of the United States. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the project or activity involved.

(e) RECORDS.—Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or activity in connection with which such assistance was given or used, the amount of that portion of the cost of the project or activity which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such project or activity. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and

Recordkeeping.

Accessibility.

records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent to such financial assistance.

33 USC 1706.

SEC. 7. INTERAGENCY COOPERATION.

The head of each department, agency, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, programs relating to ocean pollution research and development and monitoring—

(1) shall cooperate with the Administrator in carrying out the purposes of this Act;

(2) may, upon written request from the Administrator or Director, make available to the Administrator or Director, on a reimbursable basis or otherwise, such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator or the Director to achieve the purposes of this Act; and

(3) shall, upon a written request from the Administrator or Director, furnish such data or other information as the Administrator or Director deems necessary to fulfill the purposes of this Act.

33 USC 1707.

SEC. 8. DISSEMINATION OF INFORMATION.

The Administrator shall ensure that the results, findings, and information regarding ocean pollution research and development and monitoring programs conducted or sponsored by the Federal Government be disseminated in a timely manner, and in useful forms, to relevant departments, agencies, and instrumentalities of the Federal Government, and to other persons having an interest in ocean pollution research and development and monitoring.

33 USC 1708.

SEC. 9. EFFECT ON OTHER LAWS.

Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal department, agency, or instrumentality, under any law, to undertake research and development and monitoring relating to ocean pollution.

33 USC 1709.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administration for the purposes of carrying out this Act not to exceed $5,000,000 for the fiscal year ending September 30, 1979.

Approved May 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-626 pt. 1 (Comm. on Science and Technology) and 95-626 pt. 2 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Aug. 3, considered and passed Senate.

Vol. 124 (1978): Feb. 28, considered and passed House, amended.
Apr. 24, Senate agreed to House amendment.

Public Law 95-274
95th Congress

Joint Resolution

To provide for the reappointment of A. Leon Higginbotham, Junior, as a citizen regent of the Board of Regents of the Smithsonian Institution.

May 10, 1978
[S.J. Res. 106]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of A. Leon Higginbotham, Junior, of Pennsylvania on May 11, 1978, be filled by the reappointment of the present incumbent for the statutory term of six years.

Smithsonian Institution.

Approved May 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1064 (Comm. on House Administration).
SENATE REPORT No. 95-662 (Comm. on Rules and Administration)
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 6, considered and passed Senate.
May 1, considered and passed House.

Public Law 95-275
95th Congress

Joint Resolution

May 10, 1978
[S.J. Res. 107]

To provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of John Paul Austin of Georgia on May 11, 1978, be filled by the reappointment of the present incumbent for the statutory term of six years.

Approved May 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1065 (Comm. on House Administration).
SENATE REPORT No. 95-663 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 6, considered and passed Senate.
May 1, considered and passed House.

Public Law 95-276
95th Congress

Joint Resolution

To provide for the appointment of Anne Legendre Armstrong as citizen regent of the Board of Regents of the Smithsonian Institution.

May 10, 1978
[S.J. Res. 108]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the resignation of Robert Francis Goheen of New Jersey on May 14, 1977, be filled by the appointment of Anne Legendre Armstrong of Texas for the statutory term of six years.

Smithsonian Institution.

Approved May 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1066 (Comm. on House Administration).
SENATE REPORT No. 95-664 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 6, considered and passed Senate.
May 1, considered and passed House.

39-194 O—80—pt 1——19 · QL3

Public Law 95-277
95th Congress

An Act

May 12, 1978
[S. 2220]

To authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board.

Library of Congress Trust Fund Board.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of the first section of the Act entitled "An Act to create a Library of Congress Trust Fund Board, and for other purposes", approved March 3, 1925 (2 U.S.C. 154), is amended by inserting after "Secretary of the Treasury" the following: "(or an Assistant Secretary designated in writing by the Secretary of the Treasury)".

Approved May 12, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1067 (Comm. on House Administration).
SENATE REPORT No. 95-616 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 27, considered and passed Senate.
May 1, considered and passed House.

Public Law 95-278
95th Congress

An Act

To provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nevada, to the University of Nevada.

May 12, 1978
[S. 917]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey to the University of Nevada upon its application the following lands located in the State of Nevada, or any portion thereof, under the provisions of the Act of June 14, 1926, as amended (44 Stat. 741, as amended; 43 U.S.C. 869), but notwithstanding the acreage limitations in subsection (b)(ii) or the limitation on disposition in the last sentence of subsection (c) of the first section of that Act:

University of Nevada.
Land conveyance.

1. East half southwest quarter, section 7, township 24 north, range 48 east, 80 acres;
2. Southeast quarter northwest quarter, section 7, township 24 north, range 48 east, 40 acres;
3. South half northeast quarter, section 7, township 24 north, range 48 east, 80 acres;
4. South half northwest quarter, section 8, township 24 north, range 48 east, 80 acres;
5. South half southeast quarter, section 8, township 24 north, range 48 east, 80 acres;
6. West half, section 16, township 24 north, range 48 east, 320 acres;
7. West half southeast quarter, section 16, township 24 north, range 48 east, 80 acres;
8. Southwest quarter northeast quarter, section 16, township 24 north, range 48 east, 40 acres;
9. Entire, section 17, township 24 north, range 48 east, 640 acres;
10. Northeast quarter northwest quarter, section 18, township 24 north, range 48 east, 40 acres;
11. North half northeast quarter, section 18, township 24 north, range 48 east, 80 acres;
12. Northwest quarter northwest quarter, section 20, township 24 north, range 48 east, 40 acres;
13. East half northwest quarter, section 20, township 24 north, range 48 east, 80 acres;
14. East half, section 20, township 24 north, range 48 east, 320 acres;
15. West half, section 21, township 24 north, range 48 east, 320 acres;
16. West half northeast quarter, section 21, township 24 north, range 48 east, 80 acres;
17. Northwest quarter southeast quarter, section 21, township 24 north, range 48 east, 40 acres;
18. West half, section 28, township 24 north, range 48 east, 320 acres;
19. East half, section 29, township 24 north, range 48 east, 320 acres;
20. South half northwest quarter, section 4, township 23 north, range 48 east, 80 acres;

21. Southwest quarter, section 4, township 23 north, range 48 east, 160 acres;
22. West half southwest quarter, section 5, township 23 north, range 48 east, 80 acres;
23. Southwest quarter northwest quarter, section 5, township 23 north, range 48 east, 40 acres;
24. East half southeast quarter, section 7, township 23 north, range 48 east, 80 acres;
25. West half west half, section 8, township 23 north, range 48 east, 160 acres;
26. East half east half, section 8, township 23 north, range 48 east, 160 acres;
27. Southwest quarter, section 9, township 23 north, range 48 east, 160 acres;
28. South half northwest quarter, section 9, township 23 north, range 48 east, 80 acres;
29. Northwest quarter northwest quarter, section 9, township 23 north, range 48 east, 40 acres;
30. West half, section 16, township 23 north, range 48 east, 320 acres;
31. East half east half, section 17, township 23 north, range 48 east, 160 acres;
32. West half west half, section 17, township 23 north, range 48 east, 160 acres;
33. East half, section 18, township 23 north, range 48 east, 320 acres;
34. Lots 3 and 4, east half, southwest quarter, section 19, township 23 north, range 48 east, 110.79 acres;
35. West half southeast quarter, section 19, township 23 north, range 48 east, 80 acres;
36. Northeast quarter, section 19, township 23 north, range 48 east, 160 acres;
37. West half northwest quarter, section 20, township 23 north, range 48 east, 80 acres;
38. East half southwest quarter, section 20, township 23 north, range 48 east, 80 acres;
39. Southeast quarter, section 20, township 23 north, range 48 east, 160 acres;
40. East half northeast quarter, section 20, township 23 north, range 48 east, 80 acres;
41. West half west half, section 21, township 23 north, range 48 east, 160 acres;
42. Northeast quarter, section 29, township 23 north, range 48 east, 160 acres;
43. West half southeast quarter, section 29, township 23 north, range 48 east, 80 acres;
44. West half, section 29, township 23 north, range 48 east, 320 acres;
45. Entire, section 30, township 23 north, range 48 east, 542.28 acres;
46. Entire, section 31, township 23 north, range 48 east, 543.44 acres;
47. Northwest quarter, section 32, township 23 north, range 48 east, 160 acres.

Conditions.

SEC. 2. No conveyance shall be made under this Act unless application therefor by the University of Nevada is received by the Secretary of the Interior within one year of the effective date of this Act.

SEC. 3. The land conveyed by this Act shall be used for the establishment and operation of a rangeland research station and for the conduct of associated experimental range management and improvement programs. The patent or other document of conveyance issued pursuant to this Act shall incorporate the limitation set forth in this section and shall provide that title to the land shall revert to the United States if the land is used for any other purpose.

Approved May 12, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1006 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-521 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 27, considered and passed Senate.
Vol. 124 (1978): May 1, considered and passed House.

Public Law 95-279
95th Congress

An Act

May 15, 1978
[H.R. 6782]

To provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wheat, feed grains, and upland cotton, emergency assistance.

TITLE I—PRICE SUPPORT FOR PRODUCERS OF WHEAT, FEED GRAINS, AND UPLAND COTTON

7 USC 1309.

SEC. 101. Section 1001 of the Food and Agriculture Act of 1977 is amended by inserting "(a)" after the section designation and adding a new subsection (b) as follows:

"(b) Notwithstanding any other provision of law, whenever a set-aside is in effect for one or more of the 1978 through 1981 crops of wheat, feed grains, and upland cotton, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for participation in such set-aside. In determining the amount of any such increase, the Secretary shall take into account changes in the cost of production resulting from participation in the set-aside involved. If the established price is increased for any commodity for which a set-aside is in effect, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program. The Secretary shall adjust any increase in the established price to reflect, in whole or in part, any land diversion payments for the crop for which an increase is determined.".

7 USC 1444.

SEC. 102. Effective only with respect to the 1978 through 1981 crops of upland cotton, section 103(f) of the Agricultural Act of 1949 is amended by striking out the first sentence of paragraph (1) and inserting in lieu thereof the following: "The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available for the 1978 through 1981 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (i) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, or (ii) 90 percent of the average, for the fifteen-week period beginning July 1 of the year in which the loan level is announced, of the five lowest priced growths of the growths quoted for Strict Middling one and one-sixteenth inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is

announced between such average Northern Europe price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9)): *Provided*, That in no event shall such loan level be less than 48 cents per pound. If for any crop the average Northern Europe price determined under clause (ii) of the first sentence of this paragraph is less than the average United States spot market price determined under clause (i) of the first sentence of this paragraph, the Secretary may, notwithstanding the foregoing provisions of this paragraph, increase the loan level to such level as the Secretary may deem appropriate, not in excess of the average United States spot market price determined under clause (i) of the first sentence of this paragraph.".

SEC. 103. Sections 101 and 102 of this title shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, may elect after September 30, 1978, to receive loans and payments as computed under this title.

Effective date.
7 USC 1309 note.
7 USC 1421 note.
7 USC 1281 note.

TITLE II—AGRICULTURAL COMMODITIES UTILIZATION PROGRAM

SEC. 201. Title I of the Agricultural Act of 1949 is amended by adding at the end thereof a new section 112 as follows:

"AGRICULTURAL COMMODITIES UTILIZATION PROGRAM

"SEC. 112. Notwithstanding any other provision of this Act— 7 USC 1445g.

"(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this title to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

"(b)(1) During any year in which there is no set-aside or diversion of acreage under this title, the Secretary may formulate and administer a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion

into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

"(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

Regulations.

"(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

Effective date.

"(5) The provisions of this subsection shall become effective October 1, 1978.".

TITLE III—INCREASE IN THE BORROWING AUTHORITY OF THE COMMODITY CREDIT CORPORATION

SEC. 301. (a) Section 4(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(i)) is amended by striking out "$14,500,000,000" and inserting in lieu thereof "$25,000,000,000".

(b) Section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4), is amended by striking out "$14,500,000,000" and inserting in lieu thereof "$25,000,000,000".

15 USC 714b note.

(c) The increase in the borrowing authority of the Commodity Credit Corporation made by this section shall be effective only to the extent provided in appropriation Acts.

Effective date.
15 USC 713a-4 note.

(d) The provisions of this section shall become effective October 1, 1978.

TITLE IV—RAISIN MARKETING ORDERS

7 USC 608c.

SEC. 401. (a) Effective October 1, 1978, section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) inserting "raisins," after "apples,"; and

(2) inserting ", raisins," after "with respect to almonds".

(b) Within a period of sixty days following the second anniversary of the implementation of this section, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that shall describe in detail how this section has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted.

Report to Congress.
7 USC 608c note.

Approved May 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-641 (Comm. on Agriculture), No. 95-1044 (Comm. of Conference), and No. 95-1103 (Comm. of Conference).
SENATE REPORTS: No. 95-699 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-705 (Comm. on Appropriations).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 31, considered and passed House.
Vol. 124 (1978): Mar. 21, considered and passed Senate, amended, in lieu of S. 2481.
Apr. 10, Senate agreed to conference report.
Apr. 12, House rejected conference report.
May 2, Senate agreed to second conference report.
May 4, House agreed to second conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 20 (1978): May 15, Presidential statement.

Public Law 95-280
95th Congress

An Act

May 15, 1978
[S. 482]

To direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire, through purchase or exchange, the lands described in subsection (b).

Zuni Indian Tribe, New Mex. Lands in trust.

(b) The lands to be acquired under subsection (a) are lands in the State of New Mexico upon which the Zuni Salt Lake is located and which are more particularly described as follows: Lots 3 and 4, east half southwest quarter, west half southeast quarter, section 30, township 3 north, range 18 west, lots 1 and 2, east half northwest quarter, west half northeast quarter, section 31, township 3 north, range 18 west, southeast quarter southeast quarter, section 25, and east half northeast quarter, section 36, township 3 north, range 19 west, all of the New Mexico principal meridian, New Mexico, containing approximately 618.41 acres, more or less.

Land titles.

(c) Title to the lands to be acquired under subsection (a) shall be taken and held in trust in the name of the United States for the benefit of the Zuni Indian Tribe of New Mexico (hereinafter in this Act referred to as the "tribe"), and such lands shall be exempt from State and local taxation.

Jurisdiction.

SEC. 2. (a) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims of the Zuni Indian Tribe of New Mexico against the United States with respect to any lands or interests therein in the State of New Mexico or the State of Arizona held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States: *Provided*, That jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after approval of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedies.

(b) (1) Any award made to any Indian tribe other than the Zuni Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under subsection (a) shall not be considered as a defense, estoppel, or setoff to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

(2) Any award made to the tribe pursuant to subsection (a) shall not be considered as a defense, estoppel, or setoff to the claims pending before the Indian Claims Commission on the date of the enactment of this Act in docket 196 (filed August 3, 1951) and docket 229 (filed August 8, 1951), and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claims.

Approved May 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-953 accompanying H.R. 3787 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-111 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 3, considered and passed Senate.
Vol. 124 (1978): Apr. 18, considered and passed House, amended, in lieu of H.R. 3787.
May 2, Senate concurred in House amendment.

Public Law 95-281
95th Congress

An Act

May 15, 1978
[S. 661]

To reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes.

Indian Tribes of Oklahoma, reinstatement.
25 USC 861.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Federal recognition is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the provisions of the Acts repealed by subsection (b) of this section notwithstanding.

Repeals.

(b) The following Acts are hereby repealed:

(1) the Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807), relating to the Wyandotte Tribe;

(2) the Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826), relating to the Peoria Tribe; and

(3) the Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853), relating to the Ottawa Tribe.

Rights and privileges.

(c) There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them which is repealed by subsection (b) of this section. Nothing contained in this Act shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

Modoc Indian Tribe.
25 USC 861a.

SEC. 2. (a)(1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936, as amended (49 Stat. 1967; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

Organization assistance.

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States as provided in sections 6(c) and 21 of said Act, as amended (25 U.S.C. 564e and 564t).

Tribal membership.

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary of the Interior, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act is re-extended to them and their members by this Act. Ottawa Indian Tribe. Peoria Indian Tribe.

(c) The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act to such tribe and its members is hereby confirmed. Wyandotte Indian Tribe.

SEC. 3. (a) It is hereby declared that enactment of this Act fulfills the requirements of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma. 25 USC 861b.

(b) It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in section 3(a) of this Act shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trust by the United States for the eight tribes named in said Act. Publication in Federal Register.

SEC. 4. The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including, but not limited to, those under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and for purposes of the Act of August 16, 1957 (71 Stat. 370; 42 U.S.C. 2005–2005F). The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957. 25 USC 861c.

Approved May 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1019 accompanying H.R. 2497 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-574 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 3, considered and passed Senate.
Apr. 11, H.R. 2497 considered and passed House; passage vacated; S. 661 passed in lieu with amendment.
Vol. 124 (1978): May 2, Senate concurred in House amendment.

Public Law 95-282
95th Congress

Joint Resolution

May 19, 1978
[H.J. Res. 859]

Making supplemental appropriations for the United States Railway Association for the fiscal year ending September 30, 1978, and for other purposes.

U.S. Railway Association, supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978, and for other purposes, namely:

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For an additional amount for "Administrative Expenses", $13,000,000, to remain available until September 30, 1979.

Approved May 19, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1083 (Comm. on Appropriations).
SENATE REPORT No. 95-800 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 27, considered and passed House.
May 11, considered and passed Senate.

Public Law 95-283
95th Congress

An Act

To amend the Securities Investor Protection Act of 1970.

May 21, 1978
[H.R. 8331]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Securities Investor Protection Act Amendments of 1978.
15 USC 78aaa note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Securities Investor Protection Act Amendments of 1978".

MEMBERSHIP OF SIPC

SEC. 2. (a) Section 3(a) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ccc(a)) is amended to read as follows:

"(a) CREATION AND MEMBERSHIP.—

"(1) CREATION.—There is hereby established a body corporate to be known as the 'Securities Investor Protection Corporation' (hereafter in this Act referred to as 'SIPC'). SIPC shall be a nonprofit corporation and shall have succession until dissolved by Act of the Congress. SIPC shall—

"(A) not be an agency or establishment of the United States Government; and

"(B) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29-1001 and fol.).

"(2) MEMBERSHIP.—

"(A) MEMBERS OF SIPC.—SIPC shall be a membership corporation the members of which shall be all persons registered as brokers or dealers under section 15(b) of the 1934 Act, other than— 15 USC 78o.

"(i) persons whose principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions; and

"(ii) persons whose business as a broker or dealer consists exclusively of (I) the distribution of shares of registered open end investment companies or unit investment trusts, (II) the sale of variable annuities, (III) the business of insurance, or (IV) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts.

"(B) COMMISSION REVIEW.—SIPC shall file with the Commission a copy of any determination made pursuant to subparagraph (A)(i). Within thirty days after the date of such filing, or within such longer period as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall, consistent

with the public interest and the purposes of this Act, affirm, reverse, or amend any such determination of SIPC.

"(C) ADDITIONAL MEMBERS.—SIPC shall provide by rule that persons excluded from membership in SIPC under subparagraph (A)(i) may become members of SIPC under such conditions and upon such terms as SIPC shall require by rule, taking into account such matters as the availability of assets and the ability to conduct a liquidation if necessary.

"(D) DISCLOSURE.—Any broker or dealer excluded from membership in SIPC under subparagraph (A)(i) shall, as required by the Commission by rule, make disclosures of its exclusion and other relevant information to the customers of such broker or dealer who are living in the United States or its territories and possessions.".

Repeal. (b) Section 3(f) of such Act (15 U.S.C. 78ccc(f)) is repealed.

POWERS OF SIPC

SEC. 3. Section 3(b) of such Act (15 U.S.C. 78ccc(b)) is amended—

(1) in paragraph (1), by striking out "court, State, or Federal" and inserting "State, Federal, or other court" in lieu thereof; and

(2) by striking out paragraph (3), redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively, and inserting immediately after paragraph (2) the following new paragraphs:

"(3) to adopt, amend, and repeal, by its Board of Directors, such bylaws as may be necessary or appropriate to carry out the purposes of this Act, including bylaws relating to—

"(A) the conduct of its business; and

"(B) the indemnity of its directors, officers, and employees (including any such person acting as trustee or otherwise in connection with a liquidation proceeding) for liabilities and expenses actually and reasonably incurred by any such person in connection with the defense or settlement of an action or suit if such person acted in good faith and in a manner reasonably believed to be consistent with the purposes of this Act.

"(4) to adopt, amend, and repeal, by its Board of Directors, such rules as may be necessary or appropriate to carry out the purposes of this Act, including rules relating to—

"(A) the definition of terms used in this Act, other than those terms for which a definition is provided in section 16;

Post, p. 260.

"(B) the procedures for the liquidation of members and direct payment procedures, including the transfer of customer accounts, the distribution of customer property, and the advance and payment of SIPC funds; and

"(C) the exercise of all other rights and powers granted to it by this Act;".

BOARD OF DIRECTORS

SEC. 4. (a) Section 3(c)(2)(C)(ii) of such Act (15 U.S.C. 78ccc(c)(2)(C)(ii)) is amended by striking out "associated with any" and all that follows through "group" and inserting in lieu thereof "associated with a broker or dealer or associated with a member of a national securities exchange, within the meaning of section 3(a)(18)

or section 3(a)(21), respectively, of the 1934 Act, or similarly associated with any self-regulatory organization or other securities industry group,". 15 USC 78c.

(b) Section 3(c)(5) of such Act (15 U.S.C. 78ccc(c)(5)) is amended to read as follows:

"(5) COMPENSATION.—All matters relating to compensation of directors shall be as provided in the bylaws of SIPC.".

BYLAWS AND RULES

SEC. 5. Section 3(e) of such Act (15 U.S.C. 78ccc(e)) is amended to read as follows:

"(e) BYLAWS AND RULES.—

"(1) PROPOSED BYLAW CHANGES.—The Board of Directors of SIPC shall file with the Commission a copy of any proposed bylaw or any proposed amendment to or repeal of any bylaw of SIPC (hereinafter in this paragraph collectively referred to as a 'proposed bylaw change'), accompanied by a concise general statement of the basis and purpose of such proposed bylaw change. Each such proposed bylaw change shall take effect thirty days after the date of the filing of a copy thereof with the Commission, or upon such later date as SIPC may designate or such earlier date as the Commission may determine, unless—

"(A) the Commission, by notice to SIPC setting forth the reasons therefor, disapproves such proposed bylaw change as being contrary to the public interest or contrary to the purposes of this Act; or

"(B) the Commission finds that such proposed bylaw change involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying SIPC in writing of such finding, require that the procedures set forth in paragraph (2) be followed with respect to such proposed bylaw change, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

"(2) PROPOSED RULE CHANGES.—

"(A) FILING OF PROPOSED RULE CHANGES.—The Board of Directors of SIPC shall file with the Commission, in accordance with such rules as the Commission may prescribe, a copy of any proposed rule or any proposed amendment to or repeal of any rule of SIPC (hereinafter in this subsection collectively referred to as a 'proposed rule change'), accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof, together with the terms of substance of such proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments with respect to such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this paragraph. Notice.

"(B) ACTION BY THE COMMISSION.—Within thirty-five days after the date of publication of notice of the filing of a proposed rule change, or within such longer period as the

Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which SIPC consents, the Commission shall—

"(i) by order approve such proposed rule change; or

"(ii) institute proceedings to determine whether such proposed rule change should be disapproved.

Notice. Hearing.

"(C) PROCEEDINGS.—Proceedings instituted with respect to a proposed rule change pursuant to subparagraph (B)(ii) shall include notice of the grounds for disapproval under consideration and opportunity for hearing, and shall be concluded within one hundred eighty days after the date of publication of notice of the filing of such proposed rule change. At the conclusion of such proceedings, the Commission shall, by order, approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for not more than sixty days if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which SIPC consents.

"(D) GROUNDS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change if it finds that such proposed rule change is in the public interest and is consistent with the purposes of this Act, and any proposed rule change so approved shall be given force and effect as if promulgated by the Commission. The Commission shall disapprove a proposed rule change if it does not make the finding referred to in the preceding sentence. The Commission shall not approve any proposed rule change prior to thirty days after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

"(E) EXCEPTION.—Notwithstanding any other provision of this paragraph, a proposed rule change may take effect—

"(i) upon the date of filing with the Commission, if such proposed rule change is designated by SIPC as relating solely to matters which the Commission, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

"(ii) upon such date as the Commission shall for good cause determine. Any proposed rule change which takes effect under this clause shall be filed promptly thereafter and reviewed in accordance with the provisions of subparagraph (A).

At any time within sixty days after the date of filing of any rule change which has taken effect pursuant to this subparagraph, the Commission may summarily abrogate such rule change and require that it be refiled and reviewed in accordance with the provisions of this paragraph, if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Any action of the Commission pursuant to the preceding sentence shall not affect the validity or force of

a rule change during the period it was in effect and shall not be reviewable under section 25 of the 1934 Act or deemed to be final agency action for purposes of section 704 of title 5, United States Code. 15 USC 78y.

"(3) ACTION REQUIRED BY COMMISSION.—The Commission may, by such rules as it determines to be necessary or appropriate in the public interest or to carry out the purposes of this Act, require SIPC to adopt, amend, or repeal any SIPC bylaw or rule, whenever adopted.".

SIPC FUND

SEC. 6. (a) Section 4(a) such Act (15 U.S.C. 78ddd(a)) is amended—

(1) in paragraph (2), by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this section, the";

(2) by amending paragraph (2)(C) to read as follows:

"(C) Such confirmed lines of credit as SIPC may from time to time maintain, other than those maintained pursuant to paragraph (4)."; and

(3) by adding at the end thereof the following new paragraph:

"(4) OTHER LINES.—SIPC may maintain such other confirmed lines of credit as it considers necessary or appropriate, and such other confirmed lines of credit shall not be included in the balance of the fund, but amounts received from such lines of credit may be disbursed by SIPC under this Act as though such amounts were part of the fund.".

(b) Section 4(c) of such Act (15 U.S.C. 78ddd(c)) is amended—

(1) by striking out "or rule" each place it appears; and

(2) in paragraph (3), by striking out "(other than section 3(f))".

(c) Section 4(d)(1) of such Act (15 U.S.C. 78ddd(d)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C) MINIMUM ASSESSMENT.—The minimum assessment imposed upon each member of SIPC shall be $25 per annum through the year ending December 31, 1979, and thereafter shall be the amount from time to time set by SIPC bylaw, but in no event shall the minimum assessment be greater than $150 per annum.".

(d) Section 4(e) of such Act (15 U.S.C. 78ddd(e)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) OVERPAYMENTS.—To the extent that any payment by a member exceeds the maximum rate permitted by subsection (c) of this section, the excess shall be recoverable only against future payments by such member, except as otherwise provided by SIPC bylaw."; and

(2) by amending paragraph (3) to read as follows:

"(3) UNDERPAYMENTS.—If a member fails to pay when due all or any part of an assessment made upon such member, the unpaid portion thereof shall bear interest at such rate as may be determined by SIPC bylaw and, in addition to such interest, SIPC may impose such penalty charge as may be determined by SIPC bylaw. Any such penalty charge imposed upon a SIPC member shall not exceed 25 per centum of any unpaid portion of Penalty charge.

Waiver.

the assessment. SIPC may waive such penalty charge in whole or in part in circumstances where it considers such waiver appropriate.".

(e) Section 4(f) of such Act (15 U.S.C. 78ddd(f)) is amended by striking out "examining authority as".

Loans.
Transaction fee.

(f) Section 4(g) of such Act (15 U.S.C. 78ddd(g)) is amended by striking out the last two sentences and inserting in lieu thereof the following: "For the purposes of the next preceding sentence, (1) the fee shall be based upon the total dollar amount of each purchase; (2) the fee shall not apply to any purchase on a national securities exchange or in an over-the-counter market by or for the account of a broker or dealer registered under section 15(b) of the 1934 Act unless such purchase is for an investment account of such broker or dealer (and for this purpose any transfer from a trading account to an investment account shall be deemed a purchase at fair market value); and (3) the Commission may, by rule, exempt any transaction in the over-the-counter markets or on any national securities exchange where necessary to provide for the assessment of fees on purchasers in transactions in such markets and exchanges on a comparable basis. Such fee shall be collected by the broker or dealer effecting the transaction for or with the purchaser, or by such other person as provided by the Commission by rule, and shall be paid to SIPC in the same manner as assessments imposed pursuant to subsection (c) but without regard to the limits on such assessments, or in such other manner as the Commission may by rule provide.".

15 USC 78o.

(g) Section 4(i) of such Act (15 U.S.C. 78ddd(i)) is amended to read as follows:

"(i) CONSOLIDATED GROUP.—Except as otherwise provided by SIPC bylaw, gross revenues from the securities business of a member of SIPC shall be computed on a consolidated basis for such member and all its subsidiaries (other than the foreign subsidiaries of such member), and the operations of a member of SIPC shall include those of any business to which such member has succeeded.".

PROTECTION OF INVESTORS

SEC. 7. (a) Section 5(a) of such Act (15 U.S.C. 78eee(a)) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) ACTION BY SELF-REGULATORY ORGANIZATION.—If a self-regulatory organization has given notice to SIPC pursuant to subsection (a)(1) with respect to a broker or dealer, and such broker or dealer undertakes to liquidate or reduce its business either pursuant to the direction of a self-regulatory organization or voluntarily, such self-regulatory organization may render such assistance or oversight to such broker or dealer as it considers appropriate to protect the interests of customers of such broker or dealer. The assistance or oversight by a self-regulatory organization shall not be deemed the assumption or adoption by such self-regulatory organization of any obligation or liability to customers, other creditors, shareholders, or partners of the broker or dealer, and shall not prevent or act as a bar to any action by SIPC.

"(3) ACTION BY SIPC.—If SIPC determines that—

"(A) any member of SIPC (including any person who

was a member within one hundred eighty days prior to such determination) has failed or is in danger of failing to meet its obligations to customers; and

"(B) one or more of the conditions specified in subsection (b)(1) exist with respect to such member,

SIPC may, upon notice to such member, file an application for a protective decree with any court of competent jurisdiction specified in section 21(e) or 27 of the 1934 Act, except that no such application shall be filed with respect to a member the only customers of which are persons whose claims could not be satisfied by SIPC advances pursuant to section 9. 15 USC 78u, 78aa. 15 USC 78iii.

"(4) EFFECT OF OTHER PENDING ACTIONS.—An application with respect to a member of SIPC filed with a court under paragraph (3)—

"(A) may, with the consent of the Commission, be combined with any action brought by the Commission, including an action by the Commission for a temporary receiver pending an appointment of a trustee under subsection (b)(3); and

"(B) may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding or any proceeding to reorganize, conserve, or liquidate such member or its property, or any proceeding to enforce a lien against property of such member.".

(b) Section 5(b) of such Act (15 U.S.C. 78eee(b)) is amended to read as follows:

"(b) COURT ACTION.—

"(1) ISSUANCE OF PROTECTIVE DECREE.—Upon receipt of an application by SIPC under subsection (a)(3), the court shall forthwith issue a protective decree if the debtor consents thereto, if the debtor fails to contest such application, or if the court finds that such debtor—

"(A) is insolvent within the meaning of the Bankruptcy Act, or is unable to meet its obligations as they mature; *Post*, p. 2549.

"(B) has committed an act of bankruptcy within the meaning of the Bankruptcy Act;

"(C) is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such debtor has been appointed;

"(D) is not in compliance with applicable requirements under the 1934 Act or rules of the Commission or any self-regulatory organization with respect to financial responsibility or hypothecation of customers' securities; or 15 USC 78a.

"(E) is unable to make such computations as may be necessary to establish compliance with such financial responsibility or hypothecation rules.

Unless the debtor consents to the issuance of a protective decree, the application shall be heard three business days after the date on which it is filed, or at such other time as the court shall determine, taking into consideration the urgency which the circumstances require.

"(2) JURISDICTION AND POWERS OF COURT.—

"(A) EXCLUSIVE JURISDICTION.—Upon the filing of an

application with a court for a protective decree with respect to a debtor, such court—

"(i) shall have exclusive jurisdiction of such debtor and its property wherever located (including property located outside the territorial limits of such court and property held by any other person as security for a debt or subject to a lien);

"(ii) shall have exclusive jurisdiction of any suit against the trustee with respect to a liquidation proceeding; and

"(iii) except as inconsistent with the provisions of this Act, shall have the jurisdiction, powers, and duties conferred upon a court of bankruptcy by the Bankruptcy Act, together with such other jurisdiction, powers, and duties as are prescribed by this Act.

"(B) STAY OF PENDING ACTIONS.—Pending the issuance of a protective decree under paragraph (1), the court with which an application has been filed—

"(i) shall stay any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the debtor or its property and any other suit against any receiver, conservator, or trustee of the debtor or its property, and shall continue such stay upon appointment of a trustee pursuant to paragraph (3);

"(ii) may stay any proceeding to enforce a lien against property of the debtor or any other suit against the debtor, including a suit by stockholders of the debtor which interferes with prosecution by the trustee of claims against former directors, officers, or employees of the debtor, and may continue such stay upon appointment of a trustee pursuant to paragraph (3);

"(iii) may stay enforcement of, and upon appointment of a trustee pursuant to paragraph (3), may continue the stay for such period of time as may be appropriate, but shall not abrogate, the right of setoff provided in section 68 of the Bankruptcy Act, and the right to enforce a valid, nonpreferential lien or pledge against the property of the debtor; and

Post, p. 2549.

"(iv) may appoint a temporary receiver.

"(3) APPOINTMENT OF TRUSTEE AND ATTORNEY.—If the court issues a protective decree under paragraph (1), such court shall forthwith appoint, as trustee for the liquidation of the business of the debtor and as attorney for the trustee, such persons as SIPC, in its sole discretion, specifies. The persons appointed as trustee and as attorney for the trustee may be associated with the same firm. SIPC may, in its sole discretion, specify itself or one of its employees as trustee in any case in which SIPC has determined that the liabilities of the debtor to unsecured general creditors and to subordinated lenders appear to aggregate less than $750,000 and that there appear to be fewer than five hundred customers of such debtor. No person may be appointed to serve as trustee or attorney for the trustee if such person is not disinterested within the meaning of paragraph (6), except that for any specified purpose other than to represent a trustee in

conducting a liquidation proceeding, the trustee may, with the approval of SIPC and the court, employ an attorney who is not disinterested. A trustee appointed under this paragraph shall qualify by filing a bond in the manner prescribed by the applicable provisions of the Bankruptcy Act, except that neither SIPC nor any employee of SIPC shall be required to file a bond when appointed as trustee.

Post, p. 2549.

"(4) REFERENCE TO REFEREE IN BANKRUPTCY.—If the court issues a protective decree and appoints a trustee under this section, such court may, at any stage of the proceeding, refer the proceeding to a referee in bankruptcy to hear and determine any or all matters, or to a referee in bankruptcy as special master to hear and report generally or upon specified matters. Only under special circumstances shall a reference be made to a special master who is not a referee in bankruptcy.

"(5) COMPENSATION FOR SERVICES AND REIMBURSEMENT OF EXPENSES.—

"(A) ALLOWANCES IN GENERAL.—The court shall grant reasonable compensation for services rendered and reimbursement for proper costs and expenses incurred (hereinafter in this paragraph referred to as 'allowances') by a trustee, and by the attorney for such a trustee, in connection with a liquidation proceeding. No allowances (other than reimbursement for proper costs and expenses incurred) shall be granted to SIPC or any employee of SIPC for serving as trustee. Allowances may be granted on an interim basis during the course of the liquidation proceeding at such times and in such amounts as the court considers appropriate.

"(B) ALLOWANCES TO REFEREE IN BANKRUPTCY OR SPECIAL MASTER.—In the event a proceeding has been referred to a referee in bankruptcy or special master, the district judge may grant reasonable allowances to such referee in bankruptcy or a special master, in the manner provided for in a case filed under chapter X of the Bankruptcy Act, as now in effect or as amended from time to time.

"(C) APPLICATION FOR ALLOWANCES.—Any person seeking allowances shall file with the court an application which complies in form and content with the provisions of the Bankruptcy Act governing applications for allowances under such Act. A copy of such application shall be served upon SIPC when filed. The court shall fix a time for a hearing on such application, and notice of such hearing shall be given to the applicant, the trustee, the debtor, the creditors, SIPC, and such other persons as the court may designate, except that notice need not be given to customers whose claims have been or will be satisfied in full or to creditors who cannot reasonably be expected to receive any distribution during the course of the liquidation proceeding.

Hearing.
Notice.

"(D) RECOMMENDATIONS OF SIPC AND AWARDING OF ALLOWANCES.—Whenever an application for allowances is filed pursuant to subparagraph (C), SIPC shall file its recommendation with respect to such allowances with the court prior to the hearing on such application and shall, if it so requests, be allowed a reasonable time after such hearing within which to file a further recommendation. In any case

in which such allowances are to be paid by SIPC without reasonable expectation of recoupment thereof as provided in this Act and there is no difference between the amounts requested and the amounts recommended by SIPC, the court shall award the amounts recommended by SIPC. In determining the amount of allowances in all other cases, the court shall give due consideration to the nature, extent, and value of the services rendered, and shall place considerable reliance on the recommendation of SIPC.

"(E) APPLICABLE RESTRICTIONS.—The restrictions on sharing of compensation set forth in the Bankruptcy Act shall apply to allowances.

Post, p. 2549.

"(F) CHARGE AGAINST ESTATE.—Allowances granted by the court, including interim allowances, shall be charged against the general estate of the debtor as a cost and expense of administration. If the general estate is insufficient to pay allowances in whole or in part, SIPC shall advance such funds as are necessary for such payment.

"(6) DISINTERESTEDNESS.—

"(A) STANDARDS.—For purposes of paragraph (3), a person shall not be deemed disinterested if—

"(i) such person is a creditor (including a customer), stockholder, or partner of the debtor;

"(ii) such person is or was an underwriter of any of the outstanding securities of the debtor or within five years prior to the filing date was the underwriter of any securities of the debtor;

"(iii) such person is, or was within two years prior to the filing date, a director, partner, officer, or employee of the debtor or such an underwriter, or an attorney for the debtor or such an underwriter; or

"(iv) it appears that such person has, by reason of any other direct or indirect relationship to, connection with, or interest in the debtor or such an underwriter, or for any other reason, an interest materially adverse to the interests of any class of creditors (including customers) or stockholders,

except that SIPC shall in all cases be deemed disinterested, and an employee of SIPC shall be deemed disinterested if such employee would, except for his association with SIPC, meet the standards set forth in this subparagraph.

"(B) HEARING.—The court shall fix a time for a hearing on disinterestedness, to be held promptly after the appointment of a trustee. Notice of such hearing shall be mailed at least ten days prior thereto to each person who, from the books and records of the debtor, appears to have been a customer of the debtor with an open account within the past twelve months, to the address of such person as it appears from the books and records of the debtor, and to the creditors and stockholders of the debtor, to SIPC, and to such other persons as the court may designate. The court may, in its discretion, also require that notice be given by publication in such newspaper or newspapers of general circulation as it may designate. At such hearing, at any adjournment thereof, or upon application, the court shall hear objections to the

Notice, publication.

retention in office of a trustee or attorney for a trustee on the grounds that such person is not disinterested.".

(c) Section 5 of such Act (15 U.S.C. 78eee) is amended by adding at the end thereof the following new subsection:

"(d) SIPC PARTICIPATION.—SIPC shall be deemed to be a party in interest as to all matters arising in a liquidation proceeding, with the right to be heard on all such matters, and shall be deemed to have intervened with respect to all such matters with the same force and effect as if a petition for such purpose had been allowed by the court.".

GENERAL PROVISIONS OF A LIQUIDATION PROCEEDING

SEC. 8. Section 6 of such Act (15 U.S.C. 78fff) is amended to read as follows:

"SEC. 6. GENERAL PROVISIONS OF A LIQUIDATION PROCEEDING.

"(a) PURPOSES.—The purposes of a liquidation proceeding under this Act shall be—

"(1) as promptly as possible after the appointment of a trustee in such liquidation proceeding, and in accordance with the provisions of this Act—

"(A) to deliver customer name securities to or on behalf of the customers of the debtor entitled thereto as provided in section 8(c)(2); and

Post, p. 261.

"(B) to distribute customer property and (in advance thereof or concurrently therewith) otherwise satisfy net equity claims of customers to the extent provided in this section;

"(2) to sell or transfer offices and other productive units of the business of the debtor;

"(3) to enforce rights of subrogation as provided in this Act; and

"(4) to liquidate the business of the debtor.

"(b) APPLICATION OF BANKRUPTCY ACT.—To the extent consistent with the provisions of this Act, a liquidation proceeding shall be conducted in accordance with, and as though it were being conducted under, the Bankruptcy Act. For purposes of applying the Bankruptcy Act to this Act, any reference in the Bankruptcy Act to the date of commencement of proceedings under the Bankruptcy Act shall be deemed to be a reference to the filing date under this Act.

Post, p. 2549.

"(c) DETERMINATION OF CUSTOMER STATUS.—In a liquidation proceeding under this Act, whenever a person has acted with respect to cash or securities with the debtor after the filing date and in a manner which would have given him the status of a customer with respect to such cash or securities had the action occurred prior to the filing date, and the trustee is satisfied that such action was taken by the customer in good faith and prior to the appointment of the trustee, the date on which such action was taken shall be deemed to be the filing date for purposes of determining the net equity of such customer with respect to such cash or securities.

"(d) APPORTIONMENT.—In a liquidation proceeding under this Act, any cash or securities remaining after the liquidation of a lien or pledge made by a debtor shall be apportioned between his general estate and customer property in the proportion in which the general property of the debtor and the cash and securities of the customers of such debtor contributed to such lien or pledge. Securities apportioned

to the general estate under this subsection shall be subject to the provisions of section 16(5)(A).

Post, p. 271.

"(e) COSTS AND EXPENSES OF ADMINISTRATION.—All costs and expenses of administration of the estate of the debtor and of the liquidation proceeding shall be borne by the general estate of the debtor to the extent it is sufficient therefor, and the priorities of distribution from the general estate shall be as provided in the Bankruptcy Act. Costs and expenses of administration shall include payments pursuant to section 8(e) and section 9(c)(1) (to the extent such payments recovered securities which were apportioned to the general estate pursuant to subsection (d)) and costs and expenses of SIPC employees utilized by the trustee pursuant to section 7(a)(2). All funds advanced by SIPC to a trustee for such costs and expenses of administration shall be recouped from the general estate as a first priority under the Bankruptcy Act.".

Post, p. 2549.
Post, p. 261.
Infra.

NEW SECTIONS OF THE SECURITIES INVESTOR PROTECTION ACT OF 1970

15 USC 78*o*, 78ggg–78*lll*.

SEC. 9. The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) is amended by redesignating sections 7 through 12 as sections 11 through 16, respectively, and by inserting immediately after section 6 the following new sections:

15 USC 78fff–1.

"SEC. 7. POWERS AND DUTIES OF A TRUSTEE.

"(a) TRUSTEE POWERS.—A trustee shall be vested with the same powers and title with respect to the debtor and the property of the debtor, including the same rights to avoid preferences, as a trustee in bankruptcy under the Bankruptcy Act has with respect to a bankrupt and the property of a bankrupt. In addition, a trustee may, with the approval of SIPC but without any need for court approval—

"(1) hire and fix the compensation of all personnel (including officers and employees of the debtor and of its examining authority) and other persons (including accountants) that are deemed by the trustee necessary for all or any purposes of the liquidation proceeding;

"(2) utilize SIPC employees for all or any purposes of a liquidation proceeding; and

"(3) margin and maintain customer accounts of the debtor for the purposes of section 8(f).

"(b) TRUSTEE DUTIES.—To the extent consistent with the provisions of this Act or as otherwise ordered by the court, a trustee shall be subject to the same duties as a trustee in bankruptcy, except that a trustee may, but shall have no duty to, reduce to money any securities constituting customer property or in the general estate of the debtor. In addition, the trustee shall—

"(1) deliver securities to or on behalf of customers to the maximum extent practicable in satisfaction of customer claims for securities of the same class and series of an issuer; and

"(2) subject to the prior approval of SIPC but without any need for court approval, pay or guarantee all or any part of the indebtedness of the debtor to a bank, lender, or other person if the trustee determines that the aggregate market value of securities to be made available to the trustee upon the payment or guarantee of such indebtedness does not appear to be less than the total amount of such payment or guarantee.

"(c) REPORTS BY TRUSTEE TO COURT.—The trustee shall make to the court and to SIPC such written reports as may be required by the Bankruptcy Act, and shall include in such reports information with respect to the progress made in distributing cash and securities to customers. Such reports shall be in such form and detail as the Commission determines by rule to present fairly the results of the liquidation proceeding as of the date of or for the period covered by such reports, having due regard for the requirements of section 17 of the 1934 Act and the rules prescribed under such section and the magnitude of items and transactions involved in connection with the operations of a broker or dealer.

Post p. 2549.

15 USC 78q.

"(d) INVESTIGATIONS.—The trustee shall—

"(1) as soon as practicable, investigate the acts, conduct, property, liabilities, and financial condition of the debtor, the operation of its business, and any other matter, to the extent relevant to the liquidation proceeding, and report thereon to the court;

"(2) examine, by deposition or otherwise, the directors and officers of the debtor and any other witnesses concerning any of the matters referred to in paragraph (1);

"(3) report to the court any facts ascertained by the trustee with respect to fraud, misconduct, mismanagement, and irregularities, and to any causes of action available to the estate; and

"(4) as soon as practicable, prepare and submit, to SIPC and such other persons as the court designates and in such form and manner as the court directs, a statement of his investigation of matters referred to in paragraph (1).

"SEC. 8. SPECIAL PROVISIONS OF A LIQUIDATION PROCEEDING. 15 USC 78fff-2.

"(a) NOTICE AND CLAIMS.—

"(1) NOTICE OF PROCEEDINGS.—Promptly after the appointment of the trustee, such trustee shall cause notice of the commencement of proceedings under this section to be published in one or more newspapers of general circulation in the form and manner determined by the court, and at the same time shall cause a copy of such notice to be mailed to each person who, from the books and records of the debtor, appears to have been a customer of the debtor with an open account within the past twelve months, to the address of such person as it appears from the books and records of the debtor. Notice to creditors other than customers shall be given in the manner prescribed by the Bankruptcy Act, except that such notice shall be given by the trustee.

Publication.

"(2) STATEMENT OF CLAIM.—A customer shall file with the trustee a written statement of claim but need not file a formal proof of claim, except that no obligation of the debtor to any person associated with the debtor within the meaning of section 3(a)(18) or section 3(a)(21) of the 1934 Act, any beneficial owner of 5 per centum or more of the voting stock of the debtor, or any member of the immediate family of any such person or owner may be satisfied without formal proof of claim.

15 USC 78c.

"(3) TIME LIMITATIONS.—No claim of a customer or other creditor of the debtor which is received by the trustee after the expiration of the six-month period beginning on the date of publication of notice under paragraph (1) shall be allowed, except that the court may, upon application within such period and for cause shown, grant a reasonable, fixed extension of time for the filing of a claim by the United States, by a State or political subdivision

thereof, or by an infant or incompetent person without a guardian. Any claim of a customer for net equity which is received by the trustee after the expiration of such period of time as may be fixed by the court (not exceeding sixty days after the date of publication of notice under paragraph (1)) need not be paid or satisfied in whole or in part out of customer property, and, to the extent such claim is satisfied from moneys advanced by SIPC, it shall be satisfied in cash or securities (or both) as the trustee determines is most economical to the estate.

"(4) EFFECT ON CLAIMS.—Except as otherwise provided in this section, and without limiting the powers and duties of the trustee to discharge obligations promptly as specified in this section, nothing in this section shall limit the right of any person, including any subrogee, to establish by formal proof or otherwise as the court may provide such claims as such person may have against the debtor, including claims for the payment of money and the delivery of specific securities, without resort to moneys advanced by SIPC to the trustee.

"(b) PAYMENTS TO CUSTOMERS.—After receipt of a written statement of claim pursuant to subsection (a)(2), the trustee shall promptly discharge, in accordance with the provisions of this section, all obligations of the debtor to a customer relating to, or net equity claims based upon, securities or cash, by the delivery of securities or the making of payments to or for the account of such customer (subject to the provisions of subsection (d) and section 9(a)) insofar as such obligations are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee. For purposes of distributing securities to customers, all securities shall be valued as of the close of business on the filing date. For purposes of this subsection, the court shall, among other things—

"(1) with respect to net equity claims, authorize the trustee to satisfy claims out of moneys made available to the trustee by SIPC notwithstanding the fact that there has not been any showing or determination that there are sufficient funds of the debtor available to satisfy such claims; and

"(2) with respect to claims relating to, or net equities based upon, securities of a class and series of an issuer which are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, authorize the trustee to deliver securities of such class and series if and to the extent available to satisfy such claims in whole or in part, with partial deliveries to be made pro rata to the greatest extent considered practicable by the trustee.

Any payment or delivery of property pursuant to this subsection may be conditioned upon the trustee requiring claimants to execute, in a form to be determined by the trustee, appropriate receipts, supporting affidavits, releases, and assignments, but shall be without prejudice to any right of a claimant to file formal proof of claim within the period specified in subsection (a)(3) for any balance of securities or cash to which such claimant considers himself entitled.

"(c) CUSTOMER RELATED PROPERTY.—

"(1) ALLOCATION OF CUSTOMER PROPERTY.—The trustee shall allocate customer property of the debtor as follows:

"(A) first, to SIPC in repayment of advances made by SIPC pursuant to section 9(c)(1), to the extent such

advances recovered securities which were apportioned to customer property pursuant to section 6(d);

Ante, p. 259.

"(B) second, to customers of such debtor, who shall share ratably in such customer property on the basis and to the extent of their respective net equities;

"(C) third, to SIPC as subrogee for the claims of customers;

"(D) fourth, to SIPC in repayment of advances made by SIPC pursuant to section 9(c)(2).

Any customer property remaining after allocation in accordance with this paragraph shall become part of the general estate of the debtor. To the extent customer property and SIPC advances pursuant to section 9(a) are not sufficient to pay or otherwise satisfy in full the net equity claims of customers, such customers shall be entitled, to the extent only of their respective unsatisfied net equities, to participate in the general estate as unsecured creditors. For purposes of allocating customer property under this paragraph, securities to be delivered in payment of net equity claims for securities of the same class and series of an issuer shall be valued as of the close of business on the filing date.

"(2) DELIVERY OF CUSTOMER NAME SECURITIES.—The trustee shall deliver customer name securities to or on behalf of a customer of the debtor entitled thereto if the customer is not indebted to the debtor. If the customer is so indebted, such customer may, with the approval of the trustee, reclaim customer name securities upon payment to the trustee, within such period of time as the trustee determines, of all indebtedness of such customer to the debtor.

"(3) RECOVERY OF TRANSFERS.—Whenever customer property is not sufficient to pay in full the claims set forth in subparagraphs (A) through (D) of paragraph (1), the trustee may recover any property transferred by the debtor which, except for such transfer, would have been customer property if and to the extent that such transfer is voidable or void under the provisions of the Bankruptcy Act. Such recovered property shall be treated as customer property. For purposes of such recovery, the property so transferred shall be deemed to have been the property of the debtor and, if such transfer was made to a customer or for his benefit, such customer shall be deemed to have been a creditor, the laws of any State to the contrary notwithstanding.

Post, p. 2549.

"(d) PURCHASE OF SECURITIES.—The trustee shall, to the extent that securities can be purchased in a fair and orderly market, purchase securities as necessary for the delivery of securities to customers in satisfaction of their claims for net equities based on securities under section 7(b)(1) and for the transfer of customer accounts under subsection (f), in order to restore the accounts of such customers as of the filing date. To the extent consistent with subsection (c), customer property and moneys advanced by SIPC may be used by the trustee to pay for securities so purchased. Moneys advanced by SIPC for each account of a separate customer may not be used to purchase securities to the extent that the aggregate value of such securities on the filing date exceeded the amount permitted to be advanced by SIPC under the provisions of section 9(a).

"(e) CLOSEOUTS.—

"(1) IN GENERAL.—Any contract of the debtor for the purchase or sale of securities in the ordinary course of its business with other brokers or dealers which is wholly executory on the filing date shall not be completed by the trustee, except to the extent permitted by SIPC rule. Upon the adoption by SIPC of rules with respect to the closeout of such a contract but prior to the adoption of rules with respect to the completion of such a contract, the other broker or dealer shall close out such contract, without unnecessary delay, in the best available market and pursuant to such SIPC rules. Until such time as SIPC adopts rules with respect to the completion or closeout of such a contract, such a contract shall be closed out in accordance with Commission Rule S6(d)-1 as in effect on the date of enactment of this section, or any comparable rule of the Commission subsequently adopted, to the extent not inconsistent with the provisions of this subsection.

"(2) NET PROFIT OR LOSS.—A broker or dealer shall net all profits and losses on all contracts closed out under this subsection and—

"(A) if such broker or dealer shows a net profit on such contracts, he shall pay such net profit to the trustee; and

"(B) if such broker or dealer sustains a net loss on such contracts, he shall be entitled to file a claim against the debtor with the trustee in the amount of such net loss.

To the extent that a net loss sustained by a broker or dealer arises from contracts pursuant to which such broker or dealer was acting for its own customer, such broker or dealer shall be entitled to receive funds advanced by SIPC to the trustee in the amount of such loss, except that such broker or dealer may not receive more than $40,000 for each separate customer with respect to whom it sustained a loss. With respect to a net loss which is not payable under the preceding sentence from funds advanced by SIPC, the broker or dealer shall be entitled to participate in the general estate as an unsecured creditor.

"(3) REGISTERED CLEARING AGENCIES.—Neither a registered clearing agency which by its rules has an established procedure for the closeout of open contracts between an insolvent broker or dealer and its participants, nor its participants to the extent such participants' claims are or may be processed within the registered clearing agency, shall be entitled to receive SIPC funds in payment of any losses on such contracts, except as SIPC may otherwise provide by rule. If such registered clearing agency or its participants sustain a net loss on the closeout of such contracts with the debtor, they shall have the right to participate in the general estate as unsecured creditors to the extent of such loss. Any funds or other property owed to the debtor, after the closeout of such contracts, shall be promptly paid to the trustee. Rules adopted by SIPC under this paragraph shall provide that in no case may a registered clearing agency or its participants, to the extent such participants' claims are or may be processed within the registered clearing agency, be entitled to receive funds advanced by SIPC in an amount greater, in the aggregate, than could be received by the participants if such participants proceeded individually under paragraphs (1) and (2).

"(4) DEFINITION.—For purposes of this subsection, the term 'customer' does not include any person who—

"(A) is a broker or dealer;

"(B) had a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, was part of the capital of the claiming broker or dealer or was subordinated to the claims of any or all creditors of such broker or dealer; or

"(C) had a relationship of the kind specified in section 9(a)(5) with the debtor.

A claiming broker or dealer shall be deemed to have been acting on behalf of its customer if it acted as agent for such customer or if it held such customer's order which was to be executed as a part of its contract with the debtor.

"(f) TRANSFER OF CUSTOMER ACCOUNTS.—In order to facilitate the prompt satisfaction of customer claims and the orderly liquidation of the debtor, the trustee may, pursuant to terms satisfactory to him and subject to the prior approval of SIPC, sell or otherwise transfer to another member of SIPC, without consent of any customer, all or any part of the account of a customer of the debtor. In connection with any such sale or transfer to another member of SIPC and subject to the prior approval of SIPC, the trustee may—

"(1) waive or modify the need to file a written statement of claim pursuant to subsection (a)(2); and

"(2) enter into such agreements as the trustee considers appropriate under the circumstances to indemnify any such member of SIPC against shortages of cash or securities in the customer accounts sold or transferred.

The funds of SIPC may be made available to guarantee or secure any indemnification under paragraph (2). The prior approval of SIPC to such indemnification shall be conditioned, among such other standards as SIPC may determine, upon a determination by SIPC that the probable cost of any such indemnification can reasonably be expected not to exceed the cost to SIPC of proceeding under section 9(a) and section 9(b).

"SEC. 9. SIPC ADVANCES. 15 USC 78fff-3.

"(a) ADVANCES FOR CUSTOMERS' CLAIMS.—In order to provide for prompt payment and satisfaction of net equity claims of customers of the debtor, SIPC shall advance to the trustee such moneys, not to exceed $100,000 for each customer, as may be required to pay or otherwise satisfy claims for the amount by which the net equity of each customer exceeds his ratable share of customer property, except that—

"(1) if all or any portion of the net equity claim of a customer in excess of his ratable share of customer property is a claim for cash, as distinct from a claim for securities, the amount advanced to satisfy such claim for cash shall not exceed $40,000 for each such customer;

"(2) a customer who holds accounts with the debtor in separate capacities shall be deemed to be a different customer in each capacity;

"(3) if all or any portion of the net equity claim of a customer in excess of his ratable share of customer property is satisfied by the delivery of securities purchased by the trustee pursuant to section 8(d), the securities so purchased shall be valued as of the filing date for purposes of applying the dollar limitations of this subsection;

"(4) no advance shall be made by SIPC to the trustee to pay or otherwise satisfy, directly or indirectly, any net equity claim of a customer who is a general partner, officer, or director of the debtor, a beneficial owner of five per centum or more of any class of equity security of the debtor (other than a nonconvertible stock having fixed preferential dividend and liquidation rights), a limited partner with a participation of five per centum or more in the net assets or net profits of the debtor, or a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the debtor; and

"(5) no advance shall be made by SIPC to the trustee to pay or otherwise satisfy any net equity claim of any customer who is a broker or dealer or bank, other than to the extent that it shall be established to the satisfaction of the trustee, from the books and records of the debtor or from the books and records of a broker or dealer or bank, or otherwise, that the net equity claim of such broker or dealer or bank against the debtor arose out of transactions for customers of such broker or dealer or bank (which customers are not themselves a broker or dealer or bank or a person described in paragraph (4)), in which event each such customer of such broker or dealer or bank shall be deemed a separate customer of the debtor.

To the extent moneys are advanced by SIPC to the trustee to pay or otherwise satisfy the claims of customers, in addition to all other rights it may have at law or in equity, SIPC shall be subrogated to the claims of such customers with the rights and priorities provided in this Act, except that SIPC as subrogee may assert no claim against customer property until after the allocation thereof to customers as provided in section 8(c).

"(b) OTHER ADVANCES.—SIPC shall advance to the trustee—

"(1) such moneys as may be required to carry out section 8(e); and

"(2) to the extent the general estate of the debtor is not sufficient to pay any and all costs and expenses of administration of the estate of the debtor and of the liquidation proceeding, the amount of such costs and expenses.

"(c) DISCRETIONARY ADVANCES.—SIPC may advance to the trustee such moneys as may be required to—

"(1) pay or guarantee indebtedness of the debtor to a bank, lender, or other person under section 7(b)(2);

"(2) guarantee or secure any indemnity under section 8(f); and

"(3) purchase securities under section 8(d).

15 USC 78fff-4.

"SEC. 10. DIRECT PAYMENT PROCEDURE.

"(a) DETERMINATION REGARDING DIRECT PAYMENTS.—If SIPC determines that—

"(1) any member of SIPC (including a person who was a member within one hundred eighty days prior to such determination) has failed or is in danger of failing to meet its obligations to customers;

15 USC 78eee.

"(2) one or more of the conditions specified in section 5(b)(1) exist with respect to such member;

"(3) the claim of each customer of the member is within the limits of protection provided in section 9(a);

"(4) the claims of all customers of the member aggregate less than $250,000;

"(5) the cost to SIPC of satisfying customer claims under this section will be less than the cost under a liquidation proceeding; and

"(6) such member's registration as a broker-dealer under section 15(b) of the 1934 Act has been terminated, or such member has consented to the use of the direct payment procedure set forth in this section, 15 USC 78o.

SIPC may, in its discretion, use the direct payment procedure set forth in this section in lieu of instituting a liquidation proceeding with respect to such member.

"(b) NOTICE.—Promptly after a determination under subsection (a) that the direct payment procedure is to be used with respect to a member, SIPC shall cause notice of such direct payment procedure to be published in one or more newspapers of general circulation in a form and manner determined by SIPC, and at the same time shall cause to be mailed a copy of such notice to each person who appears, from the books and records of such member, to have been a customer of the member with an open account within the past twelve months, to the address of such person as it appears from the books and records of such member. Such notice shall state that SIPC will satisfy customer claims directly, without a liquidation proceeding, and shall set forth the form and manner in which claims may be presented. A direct payment procedure shall be deemed to commence on the date of first publication under this subsection and no claim by a customer shall be paid or otherwise satisfied by SIPC unless received within the six-month period beginning on such date, except that SIPC shall, upon application within such period, and for cause shown, grant a reasonable, fixed extension of time for the filing of a claim by the United States, by a State or political subdivision thereof, or by an infant or incompetent person without a guardian. Publication.

"(c) PAYMENTS TO CUSTOMERS.—SIPC shall promptly satisfy all obligations of the member to each of it customers relating to, or net equity claims based upon, securities or cash by the delivery of securities or the effecting of payments to such customer (subject to the provisions of section 8(d) and section 9(a)) insofar as such obligations are ascertainable from the books and records of the member or are otherwise established to the satisfaction of SIPC. For purposes of distributing securities to customers, all securities shall be valued as of the close of business on the date of publication under subsection (b). Any payment or delivery of securities pursuant to this section may be conditioned upon the execution and delivery, in a form to be determined by SIPC, of appropriate receipts, supporting affidavits, releases, and assignments. To the extent moneys of SIPC are used to satisfy the claims of customers, in addition to all other rights it may have at law or in equity, SIPC shall be subrogated to the claims of such customers against the member.

"(d) EFFECT ON CLAIMS.—Except as otherwise provided in this section, nothing in this section shall limit the right of any person, including any subrogee, to establish by formal proof or otherwise such claims as such person may have against the member, including claims for the payment of money and the delivery of specific securities, without resort to moneys of SIPC.

"(e) JURISDICTION OF DISTRICT COURTS.—After SIPC has published notice of the institution of a direct payment procedure under this section, any person aggrieved by any determination of SIPC with respect to his claim under subsection (c) may, within six months following mailing by SIPC of its determination with respect to such claim, seek a final adjudication of such claim. The district courts of the United States shall have original and exclusive jurisdiction of any civil action for the adjudication of such claim, without regard to the citizenship of the parties or the amount in controversy. Any such action shall be brought in the judicial district where the head office of the debtor is located. Any determination of the rights of a customer under subsection (c) shall not prejudice any other right or remedy of the customer against the member.

"(f) DISCONTINUANCE OF DIRECT PAYMENT PROCEDURES.—If, at any time after the institution of a direct payment procedure with respect to a member, SIPC determines, in its discretion, that continuation of such direct payment procedure is not appropriate, SIPC may cease such direct payment procedure and, upon so doing, may seek a protective decree pursuant to section 5. To the extent payments of cash, distributions of securities, or determinations with respect to the validity of a customer's claim are made under this section, such payments, distributions, and determinations shall be recognized and given full effect in the event of any subsequent liquidation proceeding. Any action brought under subsection (e) and pending at the time of the appointment of a trustee under section 5(b)(3) shall be permanently stayed by the court at the time of such appointment, and the court shall enter an order directing the transfer or removal to it of such suit. Upon such removal or transfer the complaint in such action shall constitute the plaintiff's claim in the liquidation proceeding, if appropriate, and shall be deemed received by the trustee on the date of his appointment regardless of the date of actual transfer or removal of such action.

15 USC 78eee.

"(g) REFERENCES.—For purposes of this section, any reference to the trustee in sections 7(b)(1), 8(d), 8(f), 9(a), 16(5) and 16(12) shall be deemed a reference to SIPC, and any reference to the date of publication of notice under section 8(a) shall be deemed a reference to the publication of notice under this section.".

Post, p. 271.

COMMISSION FUNCTIONS

SEC. 10. Section 11(a) of such Act (15 U.S.C. 78ggg(a)), as redesignated by this Act, is amended by striking out "or regulations pursuant to section 3(e) and section 9(f)" and inserting "pursuant to section 3(e)(3) and section 13(f)".

EXAMINING AUTHORITY FUNCTIONS

SEC. 11. Section 12 of such Act (15 U.S.C. 78hhh), as redesignated by this Act, is amended—

(1) by inserting ", or collection agent if a collection agent has been designated pursuant to section 13(a)," immediately after "examining authority" the first place it appears; and

(2) by inserting "or collection agent" immediately after "examining authority" the second place it appears.

FUNCTIONS OF SELF-REGULATORY ORGANIZATIONS

SEC. 12. Section 13(a) of such Act (15 U.S.C. 78iii(a)), as redesignated by this Act, is amended to read as follows:

"(a) COLLECTION AGENT.—Each self-regulatory organization shall act as collection agent for SIPC to collect the assessments payable by all members of SIPC for whom such self-regulatory organization is the examining authority, unless SIPC designates a self-regulatory organization other than the examining authority to act as collection agent for any member of SIPC who is a member of or participant in more than one self-regulatory organization. If the only self-regulatory organization of which a member of SIPC is a member or in which it is a participant is a registered clearing agency that is not the examining authority for the member, SIPC may, nevertheless, designate such registered clearing agency as collection agent for the member or may require that payments be made directly to SIPC. The collection agent shall be obligated to remit to SIPC assessments made under section 4 only to the extent that payments of such assessment are received by such collection agent. Members of SIPC who are not members of or participants in a self-regulatory organization shall make payments directly to SIPC.". 15 USC 78ddd.

(b) Section 13(b) of such Act (15 U.S.C. 78iii(b)), as redesignated by this Act, is amended by inserting "and section 5(a)(2)" immediately after "section 5(a)(1)".

(c) Section 13(c) of such Act (15 U.S.C. 78iii(c)), as redesignated by this Act, is amended to read as follows:

"(c) INSPECTIONS.—The self-regulatory organization of which a member of SIPC is a member or in which it is a participant shall inspect or examine such member for compliance with applicable financial responsibility rules, except that—

"(1) if the self-regulatory organization is a registered clearing agency, the Commission may designate itself as responsible for the examination of such member for compliance with applicable financial responsibility rules; and

"(2) if a member of SIPC is a member of or participant in more than one self-regulatory organization, the Commission, pursuant to section 17(d) of the 1934 Act, shall designate one of such self-regulatory organizations or itself as responsible for the examination of such member for compliance with applicable financial responsibility rules.". 15 USC 78q.

(d) Section 13(f) of such Act (15 U.S.C. 78iii(f)), as redesignated by this Act, is amended to read as follows:

"(f) FINANCIAL CONDITION OF MEMBERS.—The Commission may, by such rules as it determines necessary or appropriate in the public interest and to carry out the purposes of this Act, require any self-regulatory organization to furnish SIPC with reports and records (or copies thereof) relating to the financial condition of members of or participants in such self-regulatory organization.". Rules. Reports.

PROHIBITED ACTS

SEC. 13. (a) Section 14(a) of such Act (15 U.S.C. 78jjj(a)), as redesignated by this Act, is amended—

(1) by inserting "and penalty" immediately after "interest"; and

(2) by striking out "he" each place it appears and inserting "it" in lieu thereof.

(b) Section 14(b) of such Act (15 U.S.C. 78jjj(b)), as redesignated by this Act, is amended—

(1) by inserting "or for whom a direct payment procedure has been initiated" immediately after "Act" each place it appears; and

(2) in the subsection heading, by inserting "OR INITIATION OF DIRECT PAYMENT PROCEDURE" immediately after "TRUSTEE".

(c) Section 14(c) of such Act (15 U.S.C. 78jjj(c)), as redesignated by this Act, is amended to read as follows:

"(c) CONCEALMENT OF ASSETS; FALSE STATEMENTS OR CLAIMS.—

"(1) SPECIFIC PROHIBITED ACTS.—Any person who, directly or indirectly, in connection with or in contemplation of any liquidation proceeding or direct payment procedure—

"(A) employs any device, scheme, or artifice to defraud;

"(B) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

"(C) fraudulently or with intent to defeat this Act—

"(i) conceals or transfers any property belonging to the estate of a debtor;

"(ii) makes a false statement or account;

"(iii) presents or uses any false claim for proof against the estate of a debtor;

"(iv) receives any material amount of property from a debtor;

"(v) gives, offers, receives, transfers, or obtains any money or property, remuneration, compensation, reward, advantage, other consideration, or promise thereof, for acting or forebearing to act;

"(vi) conceals, destroys, mutilates, falsifies, makes a false entry in, or otherwise falsifies any document affecting or relating to the property or affairs of a debtor; or

"(vii) withholds, from any person entitled to its possession, any document affecting or relating to the property or affairs of a debtor,

shall be fined not more than $50,000 or imprisoned for not more than five years, or both.

"(2) FRAUDULENT CONVERSION.—Any person who, directly or indirectly steals, embezzles, or fraudulently, or with intent to defeat this Act, abstracts or converts to his own use or to the use of another any of the moneys, securities, or other assets of SIPC, or otherwise defrauds or attempts to defraud SIPC or a trustee by any means, shall be fined not more than $50,000 or imprisoned not more than five years, or both.".

LIABILITY, ADVERTISING, AND OTHER MISCELLANEOUS PROVISIONS

SEC. 14. (a) Section 15(d) of such Act (15 U.S.C. 78kkk(d)), as redesignated by this Act, is amended—

(1) by inserting ", officers, or employees" immediately after "Directors"; and

(2) in the subsection heading, by inserting ", OFFICERS, OR EMPLOYEES" immediately after "DIRECTORS".

(b) Section 15(e) of such Act (15 U.S.C. 78kkk(e)), as redesignated by this Act, is amended to read as follows:

"(e) ADVERTISING.—SIPC shall by bylaw prescribe the manner in which a member of SIPC may display any sign or signs (or include in any advertisement a statement) relating to the protection to customers and their accounts, or any other protections, afforded under this Act. No member may display any such sign, or include in an advertisement any such statement, except in accordance with such bylaws. SIPC may also by bylaw prescribe such minimal requirements as it considers necessary and appropriate to require a member of SIPC to provide public notice of its membership in SIPC.".

(c) Section 15(b) of such Act of (15 U.S.C. 78kkk(b)), as redesignated by this Act, is repealed, and subsections (c) through (h) of section 15 are redesignated as subsections (b) through (g), respectively. Repeal.

DEFINITIONS

SEC. 15. Section 16 of such Act (15 U.S.C. 78lll), as redesignated by this Act, is amended to read as follows:

"SEC. 16. DEFINITIONS.

"For purposes of this Act, including the application of the Bankruptcy Act to a liquidation proceeding:

"(1) BANKRUPTCY ACT.—The term 'Bankruptcy Act' means, except where the context indicates otherwise, those provisions of the Bankruptcy Act relating to ordinary bankruptcy (chapters I through VII) as now in effect or as amended from time to time, and includes the rules of bankruptcy procedure promulgated with respect to such provisions, but does not include the provisions of section 60e of the Bankruptcy Act, relating to stockbroker bankruptcies. *Post*, p. 2549.

"(2) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

"(3) CUSTOMER.—The term 'customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral security, or for purposes of effecting transfer. The term 'customer' includes any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities, but does not include—

"(A) any person to the extent that the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or

"(B) any person to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.

"(4) CUSTOMER NAME SECURITIES.—The term 'customer name securities' means securities which were held for the account of a customer on the filing date by or on behalf of the debtor and which on the filing date were registered in the name of the customer, or were in the process of being so registered pursuant to instructions from the debtor, but does not include securities registered in the name of the customer which, by endorsement or otherwise, were in negotiable form.

"(5) CUSTOMER PROPERTY.—The term 'customer property' means cash and securities (except customer name securities delivered to the customer) at any time received, acquired, or held by or for the account of a debtor from or for the securities accounts of a customer, and the proceeds of any such property transferred by the debtor, including property unlawfully converted. The term 'customer property' includes—

"(A) securities held as property of the debtor to the extent that the inability of the debtor to meet its obligations to customers for their net equity claims based on securities of the same class and series of an issuer is attributable to the debtor's noncompliance with the requirements of section 15 (c)(3) of the 1934 Act and the rules prescribed under such section;

15 USC 78o.

"(B) resources provided through the use or realization of customers' debit cash balances and other customer-related debit items as defined by the Commission by rule;

"(C) any cash or securities apportioned to customer property pursuant to section 6(d); and

Ante, p. 259.

"(D) any other property of the debtor which, upon compliance with applicable laws, rules, and regulations, would have been set aside or held for the benefit of customers, unless the trustee determines that including such property within the meaning of such term would not significantly increase customer property.

"(6) DEBTOR.—The term 'debtor' means a member of SIPC with respect to whom an application for a protective decree has been filed under section 5(a)(3) or a direct payment procedure has been instituted under section 10(b).

Ante, p. 254.
Ante, p. 266.

"(7) EXAMINING AUTHORITY.—The term 'examining authority' means, with respect to any member of SIPC (A) the self-regulatory organization which inspects or examines such member of SIPC, or (B) the Commission if such member of SIPC is not a member of or participant in any self-regulatory organization or if the Commission has designated itself examining authority for such member pursuant to section 13(c).

"(8) FILING DATE.—The term 'filing date' means the date on which an application for a protective decree is filed under section 5(a)(3), except that—

"(A) if a petition was filed before such date by or against the debtor under the Bankruptcy Act, or under chapter X or XI of such Act, as now in effect or as amended from time to time, the term 'filing date' means the date on which such petition was filed;

Post, p. 2549.

"(B) if the debtor is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator for such debtor

has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced; or

"(C) if the debtor is the subject of a direct payment procedure or was the subject of a direct payment procedure discontinued by SIPC pursuant to section 10(f), the term 'filing date' means the date on which notice of such direct payment procedure was published under section 10(b).

Ante, p. 266.

"(9) FOREIGN SUBSIDIARY.—The term 'foreign subsidiary' means any subsidiary of a member of SIPC which has its principal place of business in a foreign country or which is organized under the laws of a foreign country.

"(10) GROSS REVENUES FROM THE SECURITIES BUSINESS.—The term 'gross revenues from the securities business' means the sum of (but without duplication)—

"(A) commissions earned in connection with transactions in securities effected for customers as agent (net of commissions paid to other brokers and dealers in connection with such transactions) and markups with respect to purchases or sales of securities as principal;

"(B) charges for executing or clearing transactions in securities for other brokers and dealers;

"(C) the net realized gain, if any, from principal transactions in securities in trading accounts;

"(D) the net profit, if any, from the management of or participation in the underwriting or distribution of securities;

"(E) interest earned on customers' securities accounts;

"(F) fees for investment advisory services (except when rendered to one or more registered investment companies or insurance company separate accounts) or account supervision with respect to securities;

"(G) fees for the solicitation of proxies with respect to, or tenders or exchanges of, securities;

"(H) income from service charges or other surcharges with respect to securities;

"(I) except as otherwise provided by rule of the Commission, dividends and interest received on securities in investment accounts of the broker or dealer;

"(J) fees in connection with put, call, and other option transactions in securities;

"(K) commissions earned from transactions in (i) certificates of deposit, and (ii) Treasury bills, bankers acceptances, or commercial paper which have a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited, except that SIPC shall by bylaw include in the aggregate of gross revenues only an appropriate percentage of such commissions based on SIPC's loss experience with respect to such instruments over at least the preceding five years; and

"(L) fees and other income from such other categories of the securities business as SIPC shall provide by bylaw.

Such term does not include revenues received by a broker or dealer in connection with the distribution of shares of a registered

open end investment company or unit investment trust or revenues derived by a broker or dealer from the sale of variable annuities or from the conduct of the business of insurance.

"(11) LIQUIDATION PROCEEDING.—The term 'liquidation proceeding' means any proceeding for the liquidation of a debtor under this Act in which a trustee has been appointed under section 5(b)(3).

Ante, p. 254.

"(12) NET EQUITY.—The term 'net equity' means the dollar amount of the account or accounts of a customer, to be determined by—

"(A) calculating the sum which would have been owed by the debtor to such customer if the debtor had liquidated, by sale or purchase on the filing date, all securities positions of such customer (other than customer name securities reclaimed by such customer); minus

"(B) any indebtedness of such customer to the debtor on the filing date; plus

"(C) any payment by such customer of such indebtedness to the debtor which is made with the approval of the trustee and within such period as the trustee may determine (but in no event more than sixty days after the publication of notice under section 8(a)).

Ante, p. 261.

In determining net equity under this paragraph, accounts held by a customer in separate capacities shall be deemed to be accounts of separate customers.

"(13) PERSONS REGISTERED AS BROKERS OR DEALERS.—The term 'persons registered as brokers or dealers' includes any person who is a member of a national securities exchange.

"(14) PROTECTIVE DECREE.—The term 'protective decree' means a decree, issued by a court upon application of SIPC under section 5(a)(3), that the customers of a member of SIPC are in need of the protection provided under this Act.

15 USC 78eee.

"(15) SECURITY.—The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, any collateral trust certificate, preorganization certificate or subscription, transferable share, voting trust certificate, certificate of deposit, certificate of deposit for a security, any investment contract or certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or mineral royalty or lease (if such investment contract or interest is the subject of a registration statement with the Commission pursuant to the provisions of the Securities Act of 1933), any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase or sell any of the foregoing, and any other instrument commonly known as a security. The term 'security' does not include any currency, or any commodity or related contract or futures contract, or any warrant or right to subscribe to or purchase or sell any of the foregoing.".

15 USC 77a.

AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 16 Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(40) The term 'financial responsibility rules' means the rules and regulations of the Commission or the rules and regulations prescribed by any self-regulatory organization relating to financial responsibility and related practices which are designated by the Commission, by rule or regulation, to be financial responsibility rules.". "Financial responsibility rules."

TABLE OF CONTENTS

SEC. 17. The table of contents of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) is amended to read as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Application of Securities Exchange Act of 1934.
"Sec. 3. Securities Investor Protection Corporation.
"Sec. 4. SIPC Fund.
"Sec. 5. Protection of customers.
"Sec. 6. General provisions of a liquidation proceeding.
"Sec. 7. Powers and duties of trustee.
"Sec. 8. Special provisions of a liquidation proceeding.
"Sec. 9. SIPC advances.
"Sec. 10. Direct payment procedure.
"Sec. 11. SEC functions.
"Sec. 12. Examining authority functions.
"Sec. 13. Functions of self-regulatory organizations.
"Sec. 14. Prohibited acts.
"Sec. 15. Miscellaneous provisions.
"Sec. 16. Definitions.".

SMALL ISSUE EXEMPTION

SEC. 18. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$500,000" and inserting in lieu thereof "$1,500,000".

AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 18. (a) Section 11(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(3)) is amended by striking out "May 1, 1975" and inserting in lieu thereof "February 1, 1978" and by striking out "May 1, 1978" each place it appears and inserting in lieu thereof "February 1, 1979".

(b) The amendment made by subsection (a) of this section shall be effective as of May 1, 1978. Effective date. 15 USC 78k note.

Approved May 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-746 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-763 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 1, considered and passed House.
Vol. 124 (1978): Apr. 26, considered and passed Senate, amended.
May 2, House agreed to certain Senate amendments; disagreed to Senate amendment No. 8; and disagreed to Senate amendment No. 9 with an amendment.
May 4, Senate insisted on its amendment No. 8; agreed to House amendment of No. 9 with an amendment.
May 9, House agreed to Senate amendment No. 9; concurred in Senate amendment of No. 8 with an amendment.
May 10, Senate concurred on House amendment of No. 8.

Public Law 95-284
95th Congress

Joint Resolution

May 21, 1978
[H.J. Res. 873]

Making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978, and for other purposes.

Supplemental appropriations for fiscal year 1978.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978:

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For an additional amount for the "Disaster loan fund", $758,000,000: *Provided*, That $750,000,000 of such amount shall remain available without fiscal year limitation and $8,000,000 shall be transferred to "Salaries and expenses".

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for "Employment and Training Assistance," $63,000,000, to remain available until September 30, 1979.

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Norma C. McClellan, widow of John L. McClellan, late a Senator from the State of Arkansas, $57,500.

For payment to Donna H. Metcalf, widow of Lee Metcalf, late a Senator from the State of Montana, $57,500.

For payment to Muriel Humphrey, widow of Hubert H. Humphrey, late the Deputy President Pro Tempore of the Senate and a Senator from the State of Minnesota, $65,000.

Approved May 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1105 (Comm. on Appropriations).
SENATE REPORT No. 95-801 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed House.
May 11, considered and passed Senate, amended.
May 12, House concurred in Senate amendments.

Public Law 95-285
95th Congress

An Act

To name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West".

May 25, 1978
[S. 1568]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake located behind the Lower Monumental Lock and Dam, Washington, a part of the project authorized by the Act of March 2, 1945 (Public Law 14, Seventy-ninth Congress, first session), in accordance with the plan submitted in House Document Numbered 704, Seventy-fifth Congress, third session, shall hereafter be known as Lake Herbert G. West, and any law, regulation, document, or record of the United States in which such lake is designated or referred to as "Lower Monumental Lake" or is referred to by any other name, shall be held to refer to such lake under and by the name of "Lake Herbert G. West".

Lake Herbert G. West, memorial designation.
59 Stat. 10.

Approved May 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1095 accompanying H.R. 10838 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-721 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 5, considered and passed Senate.
May 15, H.R. 10838 considered and passed House; proceedings vacated and S.1568 passed in lieu.

Public Law 95-286
95th Congress

An Act

May 26, 1978
[H.R. 10392]

To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

Woodrow Wilson Memorial Act of 1968, amendment. 20 USC 80h–80j.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80e–80j) is amended—

(1) by redesignating sections 5 through 7 as sections 6 through 8, respectively, and

(2) by inserting after section 4 the following new section:

"HUBERT H. HUMPHREY FELLOWSHIP IN SOCIAL AND POLITICAL THOUGHT

Establishment. 20 USC 80g–1.

"SEC. 5. (a) There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

"(b) Each year the Board shall select a distinguished scholar, statesman, or cultural figure, from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the 'Humphrey Fellow'). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d).

"(c) Each Humphrey Fellow shall—

"(1) deliver a Hubert H. Humphrey Memorial Lecture; and

"(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert H. Humphrey Memorial Lectures.

Hubert H. Humphrey Fellowship Trust Fund. Establishment.

"(d) (1) There is hereby established in the Treasury of the United States a trust fund to be known as the Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the 'fund'). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

"(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

"(3) Notwithstanding section 4(a)(2) any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

"(e) The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

"(f) There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.". Appropriation authorization.

SEC. 2. Section 4(a)(2) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80g(a)(2)) is amended by striking out "devices" and inserting in lieu thereof "devises".

Approved May 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1062 (Comm. on House Administration).
SENATE REPORT No. 95-794, accompanying S. 2730 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 1, considered and failed of passage in House.
May 15, considered and passed House.
May 16, S. 2730 considered and passed Senate; proceedings vitiated and H.R. 10392 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 22:
May 30, Presidential statement.

Public Law 95-287
95th Congress

Joint Resolution

May 30, 1978
[S.J. Res. 137]

Reaffirming the unity of the North Atlantic Alliance commitment.

Whereas thirty years ago the Congress passed the Vandenberg Resolution, which has come to represent the highest qualities of bipartisan statesmanship; and

Whereas the North Atlantic Alliance has preserved the peace in Europe for an entire generation, allowing its members to attain unprecedented levels of prosperity and well-being for their people; and

Whereas the leaders of the Alliance will gather in Washington, D.C., on May 30 and 31, 1978, to renew their adherence to its principles and rededicate themselves to its objectives; and

Whereas this meeting will be the capstone of efforts to ensure that the needs of collective security will be met over the next decade: Now, therefore, be it

North Atlantic Alliance.

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

SEC. 2. The Congress recognizes the extraordinary success of the North Atlantic Alliance in fulfilling its goals of safeguarding the freedom, common heritage and civilization of its peoples, founded on the principles of democracy, individual liberty and the rule of law.

SEC. 3. On the occasion of the NATO summit meeting in Washington, the Congress declares its support for efforts to reaffirm the unity of the North Atlantic Alliance, to strengthen its defensive capabilities to meet threats to the peace, and on this basis to persevere in attempts to lessen tensions with the Warsaw Pact States.

Approved May 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
May 24, considered and passed Senate.
May 25, considered and passed House.

Public Law 95-288
95th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

June 5, 1978
[H.R. 9005]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1978, and for other purposes, namely:

District of Columbia Appropriation Act, 1978.

TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Act creating the Temporary Commission on Financial Oversight of the District of Columbia (Public Law 94-399), $3,000,000, which shall be available until expended: *Provided*, That the Temporary Commission on Financial Oversight of the District of Columbia shall have the power to appoint, fix the compensation of, and remove an Executive Director and additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to the appointment in the competitive service. The Executive Director may be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule.

D.C. Code 47-101 note.

5 USC 5101 *et seq.*
5 USC 5331.
5 USC 5361.
5 USC 7501 *et seq.*
5 USC 5315.

TITLE II—DISTRICT OF COLUMBIA

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1978, $276,000,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and $28,116,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43-1541 and 1611): *Provided*, That notwithstanding any other provision of law, the Mayor is authorized to request, within the limit of appropriations made therefore in this title, payment in lieu of reimbursements for water and water services and sanitary sewer services furnished to facilities of the United States Government prior to October 1, 1977, and to be furnished in the fiscal year beginning October 1, 1977, and the Secretary of the Treasury is authorized to pay to the District of Columbia on October 1, 1977, such sums as the Mayor may certify are required to furnish such services.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198; the District of Columbia Appropriation Act, 1976, Public Law 94-333; and the District of Columbia Appropriation Act, 1977, Public Law 94-446; $92,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor.

D.C. Code 1-121 note.
90 Stat. 785.
90 Stat. 1490.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

GENERAL OPERATING EXPENSES

General operating expenses, $90,862,600, of which $799,300 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed $2,500 for the Mayor and $2,500 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That, for the purpose of assessing and reassessing real property in the District of Columbia, $5,000 of this appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of $100 per diem: *Provided further*, That not to exceed $7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That $5,838,600 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That not to exceed $325,000 of this appropriation shall be available for settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each: *Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That $3,000,000 of this appropriation (to remain available until expended) shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94-399, September 4, 1976: *Provided further*, That funds appropriated in fiscal year 1977 as the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia shall remain available until expended.

D.C. Code 47-101 note.

For an additional amount for "General operating expenses", fiscal year 1977, $625,100: *Provided*, That obligational authority of $1,279,070 is authorized for expenditures incurred in the fiscal year ending June 30, 1976, and the period July 1, 1976 through September 30, 1976, for disability compensation payments as required by 5 U.S.C. 8139: *Provided further*, That obligational authority of

$449,500 is authorized for expenditures incurred in the fiscal year ending June 30, 1976, and $737,600 for the period July 1, 1976 through September 30, 1976, for unemployment compensation as required by the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946), as amended (title 46, ch. 3, D.C. Code, 1973 Edition).

PUBLIC SAFETY

Public safety, including purchase of two hundred and sixty-five passenger motor vehicles for replacement only (including two hundred and sixty for police-type use and five for fire-type use without regard to the general purchase price limitation for the current fiscal year); $263,771,000, of which $5,530,400 shall be payable from the revenue sharing trust fund, and $4,000,000 shall be payable from funds to be received under Title II, Public Works Employment Act (Public Law 94-369), as amended: *Provided*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further*, That $700,000 of the funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93-412) for fiscal year 1978 shall be available for obligations incurred under that Act in fiscal year 1975, fiscal year 1976, and fiscal year 1977: *Provided further*, That not to exceed $200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That $100,000 shall be available for the third party custody program.

42 USC 6721.

D.C. Code 11-2601 note.

For an additional amount for "Public safety", fiscal year 1977, $2,151,000.

EDUCATION

Education, including the development of national defense education programs, $264,679,200, of which $7,722,800 shall be payable from the revenue sharing trust fund, and $4,000,000 shall be payable from funds to be received under Title II, Public Works Employment Act (Public Law 94-369), as amended: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $1,000 for the Superintendent of Schools and $2,000 for the President of the University of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That not less than $21,814,000 of this appropriation shall be transferred to the Teachers' Retirement Fund, in accordance with the provisions of section 7 of the Act of August 7, 1946 (60 Stat. 879, as amended; D.C. Code, sec. 31-727): *Provided further*, That not less than $5,392,000 of this appropriation shall be used exclusively for maintenance of the public schools.

42 USC 6721.

For an additional amount for "Education", fiscal year 1977, $2,800,000: *Provided*, That not less than $14,605,000 of the amount appropriated for fiscal year 1977 shall be transferred to the Teachers' Retirement Fund in accordance with the provisions of section 7 of the Act of August 7, 1946 (60 Stat. 879, as amended; D.C. Code, sec. 31-727).

RECREATION

Recreation, $17,551,000, of which $208,200 shall be payable from the revenue sharing trust fund.

HUMAN RESOURCES

Human resources, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, $283,462,300, of which $6,520,000 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate under such contracts shall not exceed $76 per diem and the outpatient rate shall not exceed $12 per visit, and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be $25.18 per diem: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed the amount for the fiscal year 1970: *Provided further*, That the hospital rates specified herein shall not apply, beginning July 1, 1969, to services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act: *Provided further*, That this appropriation shall be available for the furnishing of medical assistance to individuals sixty-five years of age or older who are residing in the District of Columbia: *Provided further*, That $15,134,700 of this appropriation shall be available for care and treatment of the mentally retarded at Forest Haven: *Provided further*, That authorization is hereby provided to the Government of the District of Columbia to fund the Special Education tuition grants and increased bed capacity at D.C. Village out of funds heretofore appropriated to such Government for fiscal year 1977, but not to exceed $391,000 for tuition grants and $1,095,500 for D.C. Village.

42 USC 1396.

TRANSPORTATION

Transportation, including rental of one passenger-carrying vehicle for use by the Mayor and purchase of twenty passenger-carrying vehicles, of which eleven shall be for replacement only, $59,713,900, of which $6,262,300 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles: *Provided further*, That $704,300 of the amount for interest payments on Metrorail revenue bonds appropriated for fiscal year 1977 shall be available for the District of Columbia's share of the Metrorail operating subsidy for fiscal year 1978.

For an additional amount for "Transportation", fiscal year 1977, $1,309,100: *Provided*, That $968,900 of the amount appropriated for fiscal year 1976 and $3,034,200 of the amount appropriated for the period July 1, 1976 through September 30, 1976, for the Metrobus operating subsidy shall be available for the District of Columbia's share of the Metrobus operating subsidy for fiscal year 1977: *Provided further*, That $428,100 of the funds available for interest payments on Metrorail revenue bonds shall be available for the District of Columbia's share of the Metrorail operating subsidy.

ENVIRONMENTAL SERVICES

Environmental services, $68,191,900, of which $1,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

PERSONAL SERVICES

For pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1978 from which employees are properly payable, $65,549,400.

For an additional amount for "Personal services", fiscal year 1977, $435,300.

SETTLEMENT OF CLAIMS AND SUITS

For an additional amount for "Settlement of claims and suits", fiscal year 1977, $58,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with sections 108, 217, and 402 of the Act of May 18, 1954 (68 Stat. 103, 109, and 110), as amended; section 9 of the Act of September 7, 1957 (71 Stat. 619), as amended; section 1 of the Act of June 6, 1958 (72 Stat. 183), as amended; section 4 of the Act of June 12, 1960 (74 Stat. 211), as amended; and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198), as amended; the District of Columbia Appropriation Act, 1976, Public Law 94-333; and the District of Columbia Appropriation Act, 1977, Public Law 94-446, including interest as required thereby, $125,668,500: *Provided*, That there is hereby appropriated from the funds of the District of Columbia $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended.

D.C. Code 43-1540 note, 43-1616 note, 7-133.
D.C. Code 2-1727.
D.C. Code 9-220.
D.C. Code 43-1623.
D.C. Code 9-220 note and 47-241 note.
90 Stat. 785.
90 Stat. 1490.
D.C. Code 2-1724.

CAPITAL OUTLAY

For reimbursement to the United States of funds loaned in compliance with the Act of August 7, 1946 (60 Stat. 896), as amended, construction projects as authorized by the Acts of April 22, 1904 (33 Stat. 244), May 18, 1954 (68 Stat. 105, 110), July 2, 1954 (68 Stat. 443), June 6, 1958 (72 Stat. 183), August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 321); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, $129,173,400: *Provided*, That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic

D.C. Code 43-1510.
D.C. Code 43-1604, 7-132, 7-133 note.
D.C. Code 9-220.
D.C. Code 40-804.
D.C. Code 1-1443.

Center, of which $531,000 shall be available for fiscal year 1974, $586,000 shall be available for fiscal year 1975, $572,000 shall be available for fiscal year 1976, $158,000 shall be available for the period July 1, 1976 through September 30, 1976, and $653,000 shall be available for fiscal year 1977, for obligations incurred pursuant to the Act of July 2, 1954 (68 Stat. 443): *Provided*, That $13,031,400 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction Services, Department of General Services": *Provided further*, That the amount appropriated to the Construction Services Fund, Department of General Services, be limited, during the current fiscal year, to ten per centum of appropriations for all construction projects, except for Project Numbered 24–99, Permanent Improvements, for which construction services shall be limited to twenty per centum of the appropriation: *Provided further*, Notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 (Public Law 90–495, approved August 23, 1968), for which funds are provided by this paragraph, shall expire on September 30, 1979, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse: *Provided further*, That none of the funds appropriated for the construction of the University of the District of Columbia shall be obligated until the Mayor, the City Council and House and Senate Committees on Appropriations have approved the consolidated master plan for the construction of the University of the District of Columbia.

D.C. Code 7–135 note.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

SEC. 201. Except as otherwise provided in this title herein, all vouchers covering expenditures of appropriations contained in this title shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Funds, maximum specified amounts.

SEC. 202. Whenever in this title an amount is specified within an appropriation for particular purposes or object of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 203. Appropriations in this title shall be available, when authorized or approved by the Mayor, for allowances for privately-owned conveyances used for the performance of official duties at 13 cents per mile but not to exceed $45 a month for each automobile and at 8 cents per mile but not to exceed $30 a month for each motorcycle, unless otherwise therein specifically provided, except that one hundred and thirteen (eighteen for venereal disease investigators in the Department of Human Resources) such automobile allowances at not more than $715 each per annum may be authorized or approved by the Mayor.

SEC. 204. Appropriations in this title shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor.

SEC. 205. Appropriations in this title shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

SEC. 206. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed. D.C. Code 7-701 note.

SEC. 207. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, as amended. Refunds and judgments. D.C. Code 47-1586j.

SEC. 208. Appropriations in this title shall be available for the payment of public assistance without reference to the requirement of subsection (b) of section 5 of the District of Columbia Public Assistance Act of 1962 and for the non-Federal share of funds necessary to qualify for Federal assistance under the Act of July 31, 1968 (Public Law 90-445). Public assistance. D.C. Code 3-204 note. D.C. Code 3-204. 42 USC 3801 note.

SEC. 209. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

SEC. 210. No part of any funds appropriated by this title shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Mayor of the District of Columbia, Chief of Police, and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of any such officer or employee (other than the Mayor of the District of Columbia, Chief of Police, and Fire Chief). No part of any funds appropriated by this title, in excess of $1,000 per month in the aggregate ($12,000 per annum) shall be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Mayor of the District of Columbia, or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Mayor of the District of Columbia. D.C. Code 40-501a note.

SEC. 211. Not to exceed 4½ per centum of the total of all funds appropriated by this title for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 212. The total expenditure of funds appropriated by this title for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed $225,000.

Number of employees. D.C. Code 1-216 note.

SEC. 213. Appropriations in this title shall not be available, during the fiscal year ending September 30, 1978, for the compensation of any person appointed—

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 36,000; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

SEC. 214. No funds appropriated in this title, for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community group during nonschool hours.

Experts and consultants.

SEC. 215. Appropriations in this title shall be available for services as authorized by 5 U.S.C. 3109, at rates to be fixed by the Mayor.

Budget, transmittal to Congress.

SEC. 216. The annual budget for the District of Columbia government for fiscal year 1979 shall be transmitted to the Congress by not later than February 1, 1978.

Short title.

This Act may be cited as the "District of Columbia Appropriation Act, 1978".

Approved June 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-596 (Comm. on Appropriations).
SENATE REPORT No. 95-439 (Comm. on Appropriations).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 16, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Vol. 124 (1978): May 16, House agreed to conference report and concurred in Senate amendments with amendments.
May 23, Senate agreed to conference report and concurred in House amendments.

Public Law 95-289
95th Congress

An Act

To remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972.

June 5, 1978
[S. 2370]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558d) is amended by striking out ", but not more than $100,000 shall be appropriated in any one year".

Volunteers in the National Forests Act of 1972, amendment.

SEC. 2. The amendment made by this Act to the Volunteers in the National Forests Act of 1972 shall become effective October 1, 1978.

Effective date. 16 USC 558d note.

Approved June 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1180 (Comm. on Agriculture).
SENATE REPORT No. 95-671 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 8, considered and passed Senate.
May 22, considered and passed House.

Public Law 95-290
95th Congress

An Act

June 5, 1978
[H.R. 11662]

To provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

Lowell National Historical Park, Mass.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

16 USC 410cc.

SECTION 1. (a) The Congress finds that—

(1) certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

(2) the cultural heritage of many of the ethnic groups that immigrated to the United States during the late nineteenth and early twentieth centuries is still preserved in Lowell's neighborhoods;

(3) a very large proportion of the buildings, other structures, and districts in Lowell date to the period of the Industrial Revolution and are nationally significant historical resources, including the five-and-six-tenths-mile power canal system, seven original mill complexes, and significant examples of early housing, commercial structures, transportation facilities, and buildings associated with labor and social institutions; and

(4) despite the expenditure of substantial amounts of money by the city of Lowell and the Commonwealth of Massachusetts for historical and cultural preservation and interpretation in Lowell, the early buildings and other structures in Lowell may be lost without the assistance of the Federal Government.

(b) It is the purpose of this Act to preserve and interpret the nationally significant historical and cultural sites, structures, and districts in Lowell, Massachusetts, for the benefit and inspiration of present and future generations by implementing to the extent practicable the recommendations in the report of the Lowell Historic Canal District Commission.

DEFINITIONS

16 USC 410cc-1.

SEC. 2. For purposes of this Act—

(1) the term "park" means the Lowell National Historical Park, established by section 101(a)(1) of this Act;

(2) the term "preservation district" means the Lowell Historic Preservation District, established by section 101(a)(1) of this Act;

(3) the term "Commission" means the Lowell Historic Preservation Commission established by section 301(a) of this Act;

(4) the term "Secretary" means the Secretary of the Interior; and

(5) the term "report of the Lowell Historic Canal District Commission" means the report submitted to the Congress by the Lowell Historic Canal District Commission pursuant to an Act entitled "An Act to provide for a plan for the preservation, inter-

pretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes", approved January 4, 1975 (88 Stat. 2330). 16 USC 461 note.

TITLE I—ESTABLISHMENT OF PARK AND PRESERVATION DISTRICT

ESTABLISHMENTS; BOUNDARIES

SEC. 101. (a)(1) To carry out the purpose of this Act, there is established as a unit of the National Park System in the city of Lowell, Massachusetts, the Lowell National Historical Park. There is further established in an area adjacent to the park the Lowell Historic Preservation District, which will be administered by the Secretary and by the Commission in accordance with this Act. The boundaries of the park and preservation district shall be the boundaries depicted on the map entitled "Lowell National Historical Park, Massachusetts", dated March 1978, and numbered "Lowe-80,008A". Such map shall be on file and available for inspection in the office of the National Park Service, Department of the Interior, and in the office of the city clerk, city of Lowell. 16 USC 410cc-11.

(2) The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, a detailed description and map of the boundaries established under paragraph (1) of this subsection. Publication in Federal Register.

(b) The Secretary may make minor revisions of the park and preservation district boundaries established under subsection (a)(1) of this section, after consulting with the Commission and the city manager of Lowell, by publication of a revised drawing or other boundary description in the Federal Register; but no waters, lands, or other property outside of the park or preservation district boundaries established under such subsection may be added to the park or preservation district without the consent of the city manager of Lowell and the city council of Lowell. A boundary revision made under this subsection shall be effective only after timely notice in writing is given to the Congress. Notice to Congress.

COOPERATION OF FEDERAL AGENCIES

SEC. 102. (a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall— 16 USC 410cc-12.

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 302(e) of this Act, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act and will not have an adverse effect on the resources of the park or preservation district.

AUTHORIZATION OF APPROPRIATIONS

16 USC 410cc-13.

SEC. 103. (a) There are authorized to be appropriated such sums as may be necessary to carry out this Act, except that—

(1) the total of the amounts authorized to be appropriated for the purpose of acquisition and development under the park management plan established pursuant to section 201(b) of this Act and emergency assistance under section 205(a)(1) of this Act shall not exceed $18,500,000; and

(2) the total of the amounts authorized to be appropriated for the purpose of carrying out section 302(b)(2) of this Act, for the payment of grants and loans under section 303 of this Act, for the acquisition of property under section 304 of this Act, and for carrying out any transportation program and any educational and cultural program described in section 302(c) of this Act shall not exceed $21,500,000.

(b) No funds shall be authorized pursuant to this section prior to October 1, 1978.

(c) Funds appropriated under subsection (a) of this section shall remain available until expended.

Report to Congress.

(d)(1) Within 60 days after the date of the enactment of this Act, and on each subsequent October 1 and March 1, the Secretary shall submit to the Congress a statement certifying the aggregate amount of money expended by the Commonwealth of Massachusetts, the city of Lowell, and by any nonprofit entity for activities in the city of Lowell consistent with the purpose of this Act during the period beginning on January 1, 1974, and ending on the date such statement is submitted.

(2) The aggregate amount of funds made available by the Secretary to the Commission from funds appropriated under subsection (a)(2) of this section may not exceed the amount certified by the Secretary in the most recent statement submitted to the Congress under paragraph (1) of this subsection.

SPENDING LIMITATIONS

16 USC 410cc-14.

SEC. 104. Notwithstanding any other provision of this Act, no authority to enter into agreements or to make payments under this Act shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriation Acts.

TITLE II—ROLE OF THE SECRETARY

PARK MANAGEMENT PLAN

Report to Congress. 16 USC 410cc-21.

SEC. 201. (a) The Secretary shall submit a statement to the Congress, within two years after the date on which funds are made available to carry out this Act, which—

(1) reports on the progress that the Secretary has made in acquiring the properties identified under section 202 of this Act, and describes the way the Secretary intends to use these properties;

(2) identifies the properties within the park and preservation district respecting which the Secretary has entered into or intends to enter into agreements relating to interpretive exhibits or programs under section 203(a) of this Act;

(3)(A) reports on the progress of the Secretary in leasing a portion of the Lowell Manufacturing Company, located on

Market Street, for the purpose of establishing a visitors' center in close proximity to parking and other transportation facilities, and (B) identifies any other property within the park which the Secretary has leased or intends to lease for purposes of the park;

(4) reports any other activities which the Secretary has taken or intends to take to carry out the purpose of this Act; and

(5) contains a tentative budget for the park and preservation district for the subsequent five fiscal years.

Plan, submittal to Congress.

(b) (1) Not later than three years after the date on which funds are made available to carry out this Act, the Secretary shall establish and submit to the Congress a park management plan containing the information described in subsection (a) of this section. Such plan shall, upon request, be available to the public.

Availability to public.

Publication in Federal Register.

(2) After consulting with the Commission, the city manager of Lowell, and the Commonwealth of Massachusetts, the Secretary may make revisions in the park management plan established pursuant to paragraph (1) of this subsection by publication of such revisions in the Federal Register. A revision made under this paragraph shall be effective 90 days after written notice of the revision is submitted to the Congress.

Notice to Congress.

ACQUISITION OF PROPERTY

16 USC 410cc-22.

SEC. 202. (a) (1) The Secretary is authorized to acquire the properties designated in paragraph (2) of this subsection, or any interest therein, by donation, purchase with donated or appropriated funds, condemnation, or otherwise. Any property or interest therein owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only by donation. The Secretary may initiate condemnation proceedings under this paragraph only after making every reasonable effort to acquire property through negotiations and purchase, and consulting with the Commission (if established) and the city council of Lowell.

(2) The properties referred to in paragraph (1) of this subsection are the following:

(A) The Linus Childs House, 63 Kirk Street.

(B) The H and H Paper Company (commonly referred to as Boott Mill Boarding House), 42 French Street.

(C) Old City Hall, 226 Merrimack Street.

(D) Merrimack Gatehouse, 269 Merrimack Street.

(E) The Wannalancit Textile Company, 562 Suffolk Street.

(F) The structures containing the Jade Pagoda and Solomon's Yard Goods, 210 and 200 Merrimack Street.

(b) Until the date on which the Commission conducts its first meeting, the Secretary may acquire any property within the park or preservation district not designated in subsection (a) (2) of this section, or any interest therein, if such property—

(1) is identified in the report of the Lowell Historical Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(2) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and

antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(3) is determined by the Secretary to be of national significance; and would be subject to demolition or major alteration in a manner inconsistent with the purposes of this Act unless acquired by the Secretary. Such property may be acquired only as provided in subsection (a) (1) of this section.

(c) The Secretary may acquire easements within the park for the purpose of carrying out this Act. Such easements may be acquired only as provided in subsection (a) (1) of this section.

AGREEMENTS AND TECHNICAL ASSISTANCE

16 USC 410cc-23.

SEC. 203. (a) The Secretary may enter into agreements with any owner of property with national historic or cultural significance within the park to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or the exhibits or attending the programs established by the Secretary under this subsection; and

(2) the Secretary may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(b) (1) The Secretary shall provide, upon request, technical assistance to—

Regulations.

(A) the city of Lowell to assist the city in establishing regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act; and

(B) the Commission to assist the Commission in establishing the index and the standards and criteria required by section 302 of this Act.

(2) The Secretary may provide to any owner of property within the park or preservation district, the Commission, the Commonwealth of Massachusetts, the city of Lowell, and any other Federal entity or any institution such technical assistance as the Secretary considers appropriate to carry out the purpose of this Act.

WITHHOLDING OF FUNDS

16 USC 410cc-24.

SEC. 204. The Secretary may refuse to obligate or expend any money appropriated for the purposes described in section 103(a)(1) of this Act or section 103(a)(2) of this Act if the Secretary determines that—

(a) the city of Lowell has failed to establish regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act within one year after the date such standards and criteria have been established, except that the Secretary may extend such one-year period for not more than six months if the Secretary determines that the city has made a good faith effort to establish such regulations or laws;

(b) the city of Lowell has failed to notify the Commission of (1) applications for building permits or zoning variances respecting any property which is included in the index established pursuant to section 302(d) of this Act, or (2) any proposals of the city of Lowell to change the regulations or laws described in paragraph (c)(1) of this subsection;

(c) (1) during the period before the city of Lowell has established regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary or the Commission consider to be inconsistent with such standards and criteria;

(2) after the city of Lowell has established the regulations or laws described in subparagraph (1) of this paragraph, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary or the Commission consider to be inconsistent with such regulations or laws; or

(d) the Commission has not made good faith efforts to (1) provide for the preservation, restoration, management, development, or maintenance of property within the park and preservation district or (2) carry out the park preservation plan approved under section 302 of this Act.

GENERAL ADMINISTRATIVE FUNCTIONS

SEC. 205. (a) (1) The Secretary, acting through the National Park Service, shall take appropriate actions to implement to the extent practicable the park management plan established pursuant to section 201(b) of this Act. In carrying out such plan, the Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system. Before the date on which the Commission conducts its first meeting, the Secretary may take any other action the Secretary deems necessary to provide owners of property with national historic or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act. 16 USC 410cc-25. Rules and regulations.

(2) Subject to sections 204 and 302(b) of this Act, the Secretary shall make available to the Commission any funds appropriated under section 103(a)(2) of this Act for the purpose of carrying out title III of this Act. Funds, availability.

(b) Notwithstanding any other provisions of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of implementing the park management plan.

(c) The Secretary may sponsor or coordinate within the park and preservation district such educational or cultural programs as the Secretary considers appropriate to encourage appreciation of the resources of the park and preservation district.

(d) The Secretary may acquire such leases respecting property within the park as may be necessary to carry out the purpose of this Act.

TITLE III—ROLE OF THE COMMISSION

ESTABLISHMENT OF LOWELL HISTORIC PRESERVATION COMMISSION

SEC. 301. (a) There is established within the Department of the Interior a commission to be known as the Lowell Historic Preservation Commission which shall administer the preservation district and provide certain services within the park in accordance with this title. The 16 USC 410cc-31. Members.

Commission shall consist of fifteen members appointed by the Secretary as follows:

(1) Three members who are members of the city council of Lowell, appointed from recommendations made by the mayor of Lowell.

(2) Three members appointed from recommendations made by the city manager of Lowell of persons who are representative of organized labor, the business community, local neighborhoods, and cultural institutions, and who are not elected officials.

(3) One member appointed from recommendations made by the president of the University of Lowell.

(4) Three members appointed from recommendations made by the Governor of the Commonwealth of Massachusetts.

(5) One member appointed from recommendations made by the Secretary of Commerce and who shall be an employee of the Department of Commerce.

(6) One member appointed from recommendations made by the Secretary of Transportation and who shall be an employee of the Department of Transportation.

(7) One member appointed from recommendations made by the Secretary of Housing and Urban Development and who shall be an employee of the Department of Housing and Urban Development.

(8) Two members who are qualified to serve on the Commission because of their familiarity with programs of the Department of the Interior involving national parks and historic preservation and who shall be an employee of the Department of the Interior.

(b) If any member of the Commission who was appointed to the Commission under paragraph (1) or (4) of subsection (a) of this section as a member of the city council of Lowell or any other government leaves that office, or if any member of the Commission who was appointed from persons who are not elected officials of any government becomes an elected official of a government, such person may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such person leaves that office or becomes such an elected official, as the case may be.

Terms of office.

(c)(1) Except as provided in paragraph (2) of this subsection, members shall be appointed for terms of two years. A member may be reappointed only three times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed four times.

(2) Of the members first appointed pursuant to subsection (a) of this section, the following shall be appointed for terms of three years:

(A) The members appointed pursuant to paragraphs (2), (3), and (8) of such subsection.

(B) One of the members appointed pursuant to paragraph (4) of such subsection, as designated by the Secretary at the time of appointment upon recommendation of the Governor.

(d) The chairman of the Commission shall be elected by the members of the Commission. The term of the chairman shall be two years.

(e)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term for a period not longer than thirty days.

(f) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) The Commission shall meet at least once each month, at the call of the chairman or a majority of its members.

(h)(1) Except as provided in paragraph (2) of this subsection, members of the Commission shall each be entitled to receive $100 for each day (including travel time) during which they are engaged in the performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States, the city of Lowell, or the Commonwealth of Massachusetts shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(i) The Commission established pursuant to this Act, shall cease to exist ten years from the date of enactment of this Act. **Termination.**

PARK PRESERVATION PLAN AND INDEX

SEC. 302. (a)(1) Within one year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan meeting the requirements of subsection (c) of this section. The Secretary shall review the draft park preservation plan and, within ninety days after the date on which such plan is submitted to the Secretary, suggest appropriate changes in such plan to the Commission. **16 USC 410cc–32.**

(2) Within eighteen months after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a park preservation plan which meets the requirements of subsection (c) of this section. The Secretary shall, within ninety days after the date on which such plan is submitted to the Secretary, approve or disapprove such plan. The Secretary may not approve such plan unless the Secretary determines that such plan would adequately carry out the purpose of this Act.

(3) If the Secretary disapproves a park preservation plan, the Secretary shall advise the Commission of the reasons for such disapproval together with the recommendations of the Secretary for revision of such plan. Within such period as the Secretary may designate, the Commission shall submit a revised park preservation plan to the Secretary. The Secretary shall approve or disapprove any revised park preservation plan in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(4) If the Secretary approves a park preservation plan, the Secretary shall publish notice of such approval in the Federal Register and shall forward copies of the approved plan to the Congress. **Publication in Federal Register.**

(5) Any park preservation plan or draft plan submitted to the Secretary under this subsection shall, upon request, be available to the public. **Availability to public.**

(6) No changes other than minor revisions may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except minor revisions in the

same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not make any funds available to the Commission to carry out section 303 or 304 of this Act until a park preservation plan has been approved under subsection (a) of this section.

Funds, availability.

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to carry out any activity specified in paragraph (3) of this section. However, no funds shall be made available under this paragraph unless a proposal describing such activity is reviewed and approved by the Secretary.

(3) The Commission may request funds from the Secretary to—

(A) carry out activities to preserve, restore, manage, develop, or maintain any property identified in subsection (c)(1) of this section;

(B) take any action the Commission considers necessary to provide owners of property with national historical or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act; or

(C) acquire in accordance with section 304 of this Act, any property within the park which—

(i) is identified in the report of the Lowell Historic Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(ii) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(iii) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purpose of this Act unless acquired by the Commission.

(c) Any plan submitted to the Secretary under subsection (a) of this section shall—

(1) describe the manner in which the Commission, to the extent practicable in accordance with the recommendations in the report of the Lowell Historic Canal District Commission, proposes to provide for the preservation, restoration, management, development, or maintenance of—

(A) the Welles Block, 169 Merrimack Street;

(B) the Jordan Marsh Company Building, 153 Merrimack Street and 15 Kirk Street;

(C) the Yorick Club, 91 Dutton Street;

(D) the Lowell Gas Light Company, 22 Shattuck Street;

(E) St. Anne's Church and Rectory, 237 Merrimack Street;

(F) Lowell Institution for Savings, 18 Shattuck Street;

(G) the Ahepa Building, 31 Kirk Street;
(H) Boott Mill, Foot of John Street;
(I) Lowell Manufacturing Company on Market Street; and
(J) the structure commonly referred to as the Early Residence, 45, 47, and 49 Kirk Street;

(2) identify the properties included in the index established pursuant to subsection (d) of this section;

(3) identify the properties which the Commission intends to acquire under section 304 of this Act and specify how such properties shall be used;

(4) include the standards and criteria established pursuant to subsection (e) of this section;

(5) provide a detailed description of the manner in which the Commission intends to implement the grant and loan programs under section 303 of this Act, including information relating to the estimated amount of such grants and the manner in which such grants shall be awarded by the Commission;

(6) provide for a transportation program by which the Commission shall provide, directly or by agreement with any person or any public or private entity, transportation services and facilities for park and preservation district visitors, including barge equipment, docking facilities, and local rail facilities;

(7) provide for educational and cultural programs to encourage appreciation of the resources of the park and preservation district; and

(8) include a tentative budget for the subsequent five fiscal years.

(d) The Commission shall establish, within one year after the date on which the Commission conducts its first meeting, an index which includes— Index.

(1) any property in the park or preservation district (except for any property identified in section 201(a)(2) of this Act) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its national historic or cultural significance; and

(2) any property which should be preserved, restored, managed, developed, or maintained in a manner compatible with the purpose of this Act because of its proximity to (A) any property referred to in paragraph (1) of this subsection, or (B) any property designated in section 201(a)(2) of this Act.

The index may be modified only by a majority vote of the members of the Commission, taken when a quorum is present.

(e)(1) The Commission shall establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the preservation district with the advice of the Commonwealth of Massachusetts and of the Secretary, and the consent of the city manager of Lowell. Standards and criteria.

(2) The Commission shall establish the standards and criteria described in paragraph (1) of this subsection for any property within the park with the advice of the Commonwealth of Massachusetts and the city manager of Lowell and subject to the review and approval of the Secretary.

(3) The Commission shall establish standards and criteria under paragraphs (1) and (2) of this subsection within one year after the date on which the Commission conducts its first meeting. Such stand-

ards and criteria may be revised in the same manner in which they were originally established.

Publication in Federal Register.

(4) The Secretary shall publish the standards and criteria established under paragraphs (1) and (2) of this subsection, and any revisions thereof, in the Federal Register.

LOANS, GRANTS, AND TECHNICAL ASSISTANCE

16 USC 410cc-33.

SEC. 303. (a) The Commission may make loans to the Lowell Development and Financial Corporation (established under chapter 844 of the Massachusetts General Laws and hereinafter referred to as the "corporation") to enable the corporation to provide low interest loans for the preservation, restoration, or development of any property described in section 302(d)(1) of this Act. The Commission may make any such loan to the corporation only after entering into a loan agreement with the corporation which includes the following terms:

(1) The loan to the corporation shall have a maturity of thirty-five years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan and any additional amounts accruing to the corporation pursuant to this subsection excepting those amounts expended by the corporation for reasonable administrative expenses.

(2) The money received from the Commission, and any interest earned on such money, may be obligated by the corporation only for low interest loans made under paragraphs (6) and (7) of this subsection, except that the corporation may use such money to the extent the Commission considers reasonable to satisfy the costs of the corporation in administering the loan or procuring loan guarantees or insurance.

(3) Within five years after receiving the loan from the Commission, the corporation shall make loans under paragraphs (6) and (7) of this subsection which, in the aggregate, obligate the full amount of money received from the Commission (minus any amount required to satisfy the costs described in paragraph (2) of this subsection).

(4) As loans made under paragraphs (6) and (7) of this subsection are repaid, the corporation shall make additional loans under such paragraphs with the money made available for obligation by such repayments.

(5) The corporation shall make available to the Commission and to the Secretary, upon request, all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection.

(6) Before the corporation approves any application for a low interest loan for which money has been made available to the corporation by the Commission, the corporation shall require the prospective borrower to furnish the corporation with a statement from the Commission stating that the Commission has reviewed the application and has determined that any loan received by the prospective borrower will be spent in a manner consistent with—

(A) the standards and criteria established pursuant to section 302(e) of this Act, and

(B) the goals of the park preservation plan approved under section 302(a) of this Act.

(7) The corporation may approve any application for a low interest loan which meets the terms and conditions prescribed by the corporation with the approval of the Commission and for which money has been made available to the corporation by the Commission if—

(A) the prospective borrower furnishes the corporation with the statement described in paragraph (6) of this subsection;

(B) the corporation determines that such borrower has sufficient financial resources to repay the loan; and

(C) such borrower satisfies any other applicable credit criteria established by the corporation.

In order to determine whether the corporation has complied with this subsection, the Commission, or such other appropriate person or entity as the Commission may designate, shall conduct an audit at least once every two years of all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection. If the Commission determines, after conducting a hearing on the record, that the corporation has substantially failed to comply with this subsection, the outstanding balance of any loan made to the corporation under this subsection shall become payable in full upon the demand of the Commission. Audit. Hearing.

(b)(1) The Commission may make grants to owners of property described in section 302(d)(1) of this Act for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act.

(2) The Commission, with the approval of the Secretary, may make grants to any person or any public or private entity to provide for (i) educational and cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers necessary to carry out the purposes of this Act.

(3) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purpose for which the grant may be used, and any other condition the Commission considers appropriate. The Commission shall be entitled, under the terms of any grant agreement, to recover from the recipient any funds used in a manner inconsistent with such grant agreement.

(c) The Commission with the advice of the Secretary may provide technical assistance to—

(1) owners of property within the park or preservation district to assist such owners in (A) making repairs to or improvements in any property included in the index established pursuant to section 302(d) of this Act, or (B) applying for loans under subsection (a) of this section; and

(2) any other person or public or private entity to assist such person or entity in taking actions consistent with the purpose of this Act.

(d) The Commission shall make available to the Secretary, upon request, all accounts, financial records, and other information of the Commission relating to grants and loans made under this section.

(e) The Secretary shall make an annual report to the Congress describing the loans, grants, and technical assistance provided under this section and under section 203 of this Act. Such report shall specify the amount, recipient, and purpose of any loan, grant or technical Report to Congress.

assistance so provided and contain such additional information as the Secretary considers appropriate.

ACQUISITION AND DISPOSITION OF PROPERTY

16 USC 410cc-34.

SEC. 304. (a) (1) The Commission may acquire any property designated in paragraph (3) of this subsection, any property described in section 302(d)(1) of this Act, or any interest therein, by donation, by purchase with donated or appropriated funds, or by condemnation in accordance with paragraph (2) of this subsection.

(2) Only properties within the park or property designated in paragraph (3) of this subsection may be acquired by the Commission by condemnation. The Commission may initiate condemnation proceedings only after making every reasonable effort to acquire any such property through negotiations and purchase and consulting with the city council of Lowell. No lands or interests therein may be acquired by the Commission by condemnation without the approval of the Secretary.

(3) The Commission may acquire in accordance with paragraph (1) of this subsection the following properties, or any interest therein:

(A) World Furniture Building, 125 Central Street; and

(B) The Martin Building, 102–122 Central Street.

(b) The Commission, with the approval of the Secretary, may sell or lease any property which it acquires under subsection (a) of this section subject to such deed restrictions or other conditions as the Commission deems appropriate to carry out the purpose of this Act.

(c) Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts, the Commission, with the approval of the Secretary, may sell, donate, lease, or in any other manner the Commission and the Secretary deem appropriate make available to the Commonwealth any property which the Commission has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by the Commonwealth in a manner consistent with the purpose of this Act.

POWERS OF COMMISSION

Hearings.
16 USC 410cc-35.

SEC. 305. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties. Any acquisition of property by the Commission shall be in accordance with section 304 of this Act: *Provided, however,* That the Commission may not acquire lands or interests therein pursuant to this subsection by condemnation. Upon the termination of the Commission, all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

STAFF OF COMMISSION

SEC. 306. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-15 of the General Schedule. 16 USC 410cc-36.

(b) The Commission may appoint and fix the pay of such additional personnel as the Commission deems desirable. 3 CFR, 1977 Comp., p. 142. 5 USC 5332 note.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-15 of the General Schedule. 5 USC 5101 *et seq.* 5 USC 5331.

(d) Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(e)(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

Approved June 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1023 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-813 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 3, considered and failed of passage in House.
Apr. 11, considered and passed House.
May 18, considered and passed Senate, amended.
May 23, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 23:
June 5, Presidential statement.

Public Law 95-291
95th Congress

An Act

June 12, 1978
[H.R. 11370]

To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV-A, VI, X, XIV, and XVI of the Social Security Act.

Social Security Act, expenditure reimbursement. Appropriation authorization. 42 USC 1397a note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is authorized to be appropriated for the fiscal year which ends on September 30, 1979, not to exceed $543,000,000, to remain available until expended, to enable the Secretary of the Treasury to pay to any State the amount determined by the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary"), in accordance with the succeeding provisions of this Act, to be payable to the State in settlement of the unpaid claim of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) which the State asserts were provided (or incurred) under an approved State plan pursuant to title I, IV-A, VI, X, XIV, or XVI of the Social Security Act.

42 USC 301, 601, 801 note, 1201 note, 1351 note, 1381. "Unpaid claim."

(b) For purposes of this Act, the term "unpaid claim" of any State means (subject to the succeeding sentence) the total amount of Federal reimbursement for expenditures of the type specified in subsection (a) which has not been paid to such State prior to the date of enactment of this Act. In determining such total amount in the case of any State, any portion thereof attributable to expenditures made in any fiscal year with respect to which the provisions of section 1130 of the Social Security Act (as then in effect) were applicable shall be reduced (but not below zero) by the excess (if any) of (1) the aggregate of the portion of such total amount attributable to expenditures made in such year and the total amount of the Federal reimbursement paid prior to the date of enactment of this Act to such State with respect to expenditures made in such year, over (2) the State's allotment determined under such section 1130 for such year.

42 USC 1320b note.

42 USC 1397a note.

SEC. 2. (a) In the case of that portion of the unpaid claim of a State that the Secretary determines was asserted against the United States, in the form and manner prescribed by the Secretary with respect to the filing of claims under titles I, IV-A, VI, X, XIV, and XVI of the Social Security Act, prior to April 1, 1977, the Secretary shall certify to the Secretary of the Treasury for payments to the State the sum of—

42 USC 301, 601, 801 note, 1201 note, 1351 note, 1381.

(1) an amount equal to 38 percent of so much of such portion as does not exceed $50,000,000;

(2) an amount equal to 35 percent of so much of such portion as exceeds $50,000,000 but does not exceed $150,000,000; and

(3) an amount equal to 21 percent of so much of such portion as exceeds $150,000,000;

except that the percentage specified in paragraph (1) shall be 58 percent and the percentage specified in paragraph (2) shall be 50 percent in the case of a State if the portion of the unpaid claim of such State referred to in the preceding provisions of this subsection equals or exceeds 85 percent of the sum of (A) such portion and (B) the

total amount of Federal reimbursement for expenditures of the type specified in the first section of this Act which has been paid to such State prior to the date of enactment of this Act but with respect to which formal steps have been initiated by the Secretary to recover such reimbursement.

(b)(1) In the case of the portion of the unpaid claims of a State that the Secretary determines meets the requirements of subsection (a), except that the claim was asserted, in the form and manner prescribed by the Secretary, on or after April 1, 1977, but prior to the ninety-first day following the date upon which this Act is enacted, the Secretary shall certify to the Secretary of the Treasury for payment to the State, subject to paragraph (2), an amount equal to 15 percent of so much of such portion as he finds to be for the provision of services that he finds the State provided and for which he has not provided reimbursement, but the expenditures for which were reimbursable under title I, IV–A, VI, X, XIV, or XVI of the Social Security Act prior to April 1, 1977, or, if not services the expenditures for which were reimbursable, are services of a similar kind and are not otherwise reimbursable under this Act. 42 USC 301, 601, 801 note, 1201 note, 1351 note, 1381.

(2) The Secretary may not certify for payment to any State under the authority of this subsection an aggregate amount that exceeds 5 percent of that State's allotment for the fiscal year 1973 of social service funds under titles I, IV–A, X, XIV, and XVI of the Social Security Act, as determined in accordance with section 1130(b) of such Act, less the amount certified for payment to the State under subsection (a) of this section. 42 USC 1320b note.

(3) The Secretary shall have no authority, by regulations or otherwise, to extend the time period specified in paragraph (1) or to waive the time limit for assertion of a claim.

SEC. 3. (a) Except with respect to amounts paid by the Secretary to a State prior to April 1, 1977, no State is entitled to reimbursement of expenditures described by the first section of this Act, except as provided by this Act. 42 USC 1397a note.

(b) Neither the Secretary nor any other official of the Federal Government may seek to recover any amount paid to a State prior to April 1, 1977, or pursuant to this Act, as reimbursement of expenditures made by the State of the type described by the first section of this Act.

SEC. 4. (a) The Secretary is authorized to enter into agreements with any State in accordance with the provisions of this Act, and agreements entered into prior to the enactment of this Act, to the extent not inconsistent with the terms hereof, shall have the same force and effect as agreements entered into subsequent to enactment of this Act. Agreements. 42 USC 1397a note.

(b) In the absence of an agreement, a State dissatisfied with a determination by the Secretary under this Act may, by application to the Secretary within 60 days after the date of notice to the State of that determination, obtain the Secretary's review of that determination. If the application requests a hearing, the Secretary shall conduct a hearing after reasonable notice to the State, and shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his determination. If the Secretary does not preside at the reception of the evidence at the hearing, the decision of the presiding official or body shall be the decision of the Secretary. Notice and hearing.

Jurisdiction.

(c) No court of the United States has jurisdiction to entertain any action seeking the review of any determination or finding of the Secretary under this Act, or otherwise seeking to compel a determination by the Secretary to certify for payment any claim described by the first section of this Act; except that the appropriate district court shall have jurisdiction over any action seeking enforcement of an agreement of the kind referred to in subsection (a).

42 USC 1397a note.

SEC. 5. (a) Amounts appropriated under the first section of this Act shall be first applied in settlement of the portions of unpaid claims described in section 2(a). If, after that payment, the amounts remaining are insufficient to pay the amounts established by section 2(b) with respect to the portions of unpaid claims asserted under section 2(b), the Secretary shall certify for payment with respect to each such portion an amount that bears the same relationship to that portion as the total of such remaining available amounts bears to the total of all portions of unpaid claims asserted under section 2(b).

(b) A reduction effected by subsection (a) of this section in the amount payable to a State under section 2(b) does not give rise to an entitlement of the State to the difference between the amount payable under section 2(b) (without regard to subsection (a) of this section) and the amount payable under section 2(b) after application of subsection (a) of this section.

(c) In the event that the amount appropriated pursuant to the first section of this Act exceeds the payable portions of unpaid claims under subsections (a) and (b) of section 2, the amount paid to any State receiving a payment computed with respect to paragraph (3) of section 2(a) shall be increased (to the extent of such excess) by an amount equal to the difference between the amount it received under section 2(a) and the amount it would have so received if the percentage in such paragraph had been 25 percent.

42 USC 1397a note.

SEC. 6. The Secretary of the Treasury shall pay to each State, out of amounts appropriated pursuant to the first section of this Act, all amounts certified by the Secretary as payable to that State under the terms of this Act.

Approved June 12, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1114, Pt. I (Comm. on the Judiciary) and 95-1114, Pt. II (Comm. on Ways and Means).
SENATE REPORT No. 95-632 accompanying S. 2360 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 23, considered and passed House.
May 25, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 24:
June 12, Presidential statement.

Public Law 95-292
95th Congress

An Act

To amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that Act, and for other purposes.

June 13, 1978
[H.R. 8423]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title II of the Social Security Act is amended by inserting immediately after section 226 the following new section:

Social Security Act, amendment. End stage renal disease program. 42 USC 401 *et seq.* 42 USC 426.

"SPECIAL PROVISIONS RELATING TO COVERAGE UNDER MEDICARE PROGRAM FOR END STAGE RENAL DISEASE

"SEC. 226A. (a) Notwithstanding any provision to the contrary in section 226 or title XVIII, every individual who— 42 USC 426-1. 42 USC 1395 *et seq.*

"(1) (A) is fully or currently insured (as such terms are defined in section 214 of this Act) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (B) is entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974; 42 USC 414. 42 USC 231 *et seq.*

"(2) is medically determined to have end stage renal disease; and

"(3) has filed an application for benefits under this section;

shall, in accordance with the succeeding provisions of this section, be entitled to benefits under part A and eligible to enroll under part B of title XVIII, subject to the deductible, premium, and coinsurance provisions of that title. 42 USC 1395c, 1395j.

"(b) Subject to subsection (c), entitlement of an individual to benefits under part A and eligibility to enroll under part B of title XVIII by reasons of this section on the basis of end stage renal disease—

"(1) shall begin with—

"(A) the third month after the month in which a regular course of renal dialysis is initiated, or

"(B) the month in which such individual receives a kidney transplant, or (if earlier) the first month in which such individual is admitted as an inpatient to an institution which is a hospital meeting the requirements of section 1861(e) (and such additional requirements as the Secretary may prescribe under section 1881(b) for such institutions) in preparation for or anticipation of kidney transplantation, but only if such transplantation occurs in that month or in either of the next two months, 42 USC 1395x. *Post*, p. 308.

whichever first occurs (but no earlier than one year preceding the month of the filing of an application for benefits under this section); and

"(2) shall end, in the case of an individual who receives a kidney transplant, with the thirty-sixth month after the month in which such individual receives such transplant or, in the case of an individual who has not received a kidney transplant and no longer requires a regular course of dialysis, with the twelfth month after the month in which such course of dialysis is terminated.

"(c) Notwithstanding the provisions of subsection (b)—

"(1) in the case of any individual who participates in a self-care dialysis training program prior to the third month after the month in which such individual initiates a regular course of renal dialysis in a renal dialysis facility or provider of services meeting the requirements of section 1881(b), entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such regular course of renal dialysis is initiated;

Infra.
42 USC 1395c, 1395j.

"(2) in any case in which a kidney transplant fails (whether during or after the thirty-six-month period specified in subsection (b)(2)) and as a result the individual who received such transplant initiates or resumes a regular course of renal dialysis, entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such course is initiated or resumed; and

"(3) in any case in which a regular course of renal dialysis is resumed subsequent to the termination of an earlier course, entitlement to benefits under part A and eligibility to enroll under part B of title XVIII shall begin with the month in which such regular course of renal dialysis is resumed.".

42 USC 426.

(b) Section 226 of such Act is amended—

(1) by striking out subsections (e), (f), and (g), and

(2) by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

42 USC 1395x.

SEC. 2. Part C of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"MEDICARE COVERAGE FOR END STAGE RENAL DISEASE PATIENTS

42 USC 1395rr. 42 USC 1395. 42 USC 1395j. *Ante*, p. 307.

"SEC. 1881. (a) The benefits provided by parts A and B of this title shall include benefits for individuals who have been determined to have end-stage renal disease as provided in section 226A, and benefits for kidney donors as provided in subsection (d) of this section. Notwithstanding any other provision of this title, the type, duration, and scope of the benefit provided by parts A and B with respect to individuals who have been determined to have end-stage renal disease and who are entitled to such benefits without regard to section 226A shall in no case be less than the type, duration, and scope of the benefits so provided for individuals entitled to such benefits solely by reason of that section.

"(b)(1) Payments under this title with respect to services, in addition to services for which payment would otherwise be made under this title, furnished to individuals who have been determined to have end-stage renal disease shall include (A) payments on behalf of such individuals to providers of services and renal dialysis facilities which meet such requirements as the Secretary shall by regulation prescribe for institutional dialysis services and supplies (including self-dialysis services in a self-care dialysis unit maintained by the provider or facil-

ity), transplantation services, self-care home dialysis support services which are furnished by the provider or facility, and routine professional services performed by a physician during a maintenance dialysis episode if payments for his other professional services furnished to an individual who has end-stage renal disease are made on the basis specified in paragraph (3)(A) of this subsection, and (B) payments to or on behalf of such individuals for home dialysis supplies and equipment. The requirements prescribed by the Secretary under subparagraph (A) shall include requirements for a minimum utilization rate for covered procedures and for self-dialysis training programs.

"(2)(A) With respect to payments for dialysis services furnished by providers of services and renal dialysis facilities to individuals determined to have end-stage renal disease for which payments may be made under part B of this title, such payments (unless otherwise provided in this section) shall be equal to 80 percent of the amounts determined in accordance with subparagraph (B); and with respect to payments for services for which payments may be made under part A of this title, the amounts of such payments (which amounts shall not exceed, in respect to costs in procuring organs attributable to payments made to an organ procurement agency or histocompatibility laboratory, the costs incurred by that agency or laboratory) shall be determined in accordance with section 1861(v). Payments shall be made to a renal dialysis facility only if it agrees to accept such payments as payment in full for covered services, except for payment by the individual of 20 percent of the estimated amounts for such services calculated on the basis established by the Secretary under subparagraph (B) and the deductible amount imposed by section 1833(b). 42 USC 1395j. 42 USC 1395c. 42 USC 1395x. 42 USC 1395l.

"(B) The Secretary shall prescribe in regulations any methods and procedures to (i) determine the costs incurred by providers of services and renal dialysis facilities in furnishing covered services to individuals determined to have end-stage renal disease, and (ii) determine, on a cost-related basis or other economical and equitable basis (including any basis authorized under section 1861(v)), the amounts of payments to be made for part B services furnished by such providers and facilities to such individuals. Such regulations shall provide for the implementation of appropriate incentives for encouraging more efficient and effective delivery of services (consistent with quality care), and shall include, to the extent determined feasible by the Secretary, a system for classifying comparable providers and facilities, and prospectively set rates or target rates with arrangements for sharing such reductions in costs as may be attributable to more efficient and effective delivery of services. Regulations.

"(C) Such regulations, in the case of services furnished by proprietary providers and facilities may include, if the Secretary finds it feasible and appropriate, provision for recognition of a reasonable rate of return on equity capital, providing such rate of return does not exceed the rate of return stipulated in section 1861(v)(1)(B).

"(D) For purposes of section 1878, a renal dialysis facility shall be treated as a provider of services. 42 USC 1395oo.

"(3) With respect to payments for physicians' services furnished to individuals determined to have end-stage renal disease, the Secretary shall pay 80 percent of the amounts calculated for such services—

"(A) on a reasonable charge basis (but may, in such case, make payment on the basis of the prevailing charges of other physicians for comparable services) except that payment may not be made under this subparagraph for routine services furnished during a maintenance dialysis episode, or

"(B) on a comprehensive monthly fee or other basis for an aggregate of services provided over a period of time (as defined in regulations).

Agreements.

"(4) Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payments to such providers and facilities for the cost of home dialysis supplies and equipment and self-care home dialysis support services furnished to patients whose self-care home dialysis is under the direct supervision of such provider or facility, on the basis of a target reimbursement rate (as defined in paragraph (6)).

"(5) An agreement under paragraph (4) shall require, in accordance with regulations prescribed by the Secretary, that the provider or facility will—

"(A) assume full responsibility for directly obtaining or arranging for the provision of—

"(i) such medically necessary dialysis equipment as is prescribed by the attending physician;

"(ii) dialysis equipment maintenance and repair services;

"(iii) the purchase and delivery of all necessary medical supplies; and

"(iv) where necessary, the services of trained home dialysis aides;

Records.

"(B) perform all such administrative functions and maintain such information and records as the Secretary may require to verify the transactions and arrangements described in subparagraph (A);

"(C) submit such cost reports, data, and information as the Secretary may require with respect to the costs incurred for equipment, supplies, and services furnished to the facility's home dialysis patient population; and

"(D) provide for full access for the Secretary to all such records, data, and information as he may require to perform his functions under this section.

Target reimbursement rate.

"(6) The Secretary shall establish, for each calendar year, commencing with January 1, 1979, a target reimbursement rate for home dialysis which shall be adjusted for regional variations in the cost of providing home dialysis. In establishing such a rate, the Secretary shall include—

"(A) the Secretary's estimate of the cost of providing medically necessary home dialysis supplies and equipment;

"(B) an allowance, in an amount determined by the Secretary, to cover the cost of providing personnel to aid in home dialysis; and

"(C) an allowance, in an amount determined by the Secretary, to cover administrative costs and to provide an incentive for the efficient delivery of home dialysis;

but in no event shall such target rate exceed 70 percent of the national average payment, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year. Any such target rate so established shall be utilized, without renegotiation of the rate, throughout the calendar year for which it is established. During the last quarter of each calendar year, the Secretary shall establish a home dialysis target reimbursement rate for the next calendar year based on the most recent data available to the Secretary at the time. In establishing any rate under this paragraph, the Secretary may utilize a competitive-bid procedure, a prenegotiated rate procedure, or any other procedure

which the Secretary determines is appropriate and feasible in order to carry out this paragraph in an effective and efficient manner.

"(7) For purposes of this title, the term 'home dialysis supplies and equipment' means medically necessary supplies and equipment (including supportive equipment) required by an individual suffering from end-stage renal disease in connection with renal dialysis carried out in his home (as defined in regulations), including obtaining, installing, and maintaining such equipment. Definitions.

"(8) For purposes of this title, the term 'self-care home dialysis support services', to the extent permitted in regulation, means—

"(A) periodic monitoring of the patient's home adaptation, including visits by qualified provider or facility personnel (as defined in regulations), so long as this is done in accordance with a plan prepared and periodically reviewed by a professional team (as defined in regulations) including the individual's physician;

"(B) installation and maintenance of dialysis equipment;

"(C) testing and appropriate treatment of the water; and

"(D) such additional supportive services as the Secretary finds appropriate and desirable.

"(9) For purposes of this title, the term 'self-care dialysis unit' means a renal dialysis facility or a distinct part of such facility or of a provider of services, which has been approved by the Secretary to make self-dialysis services, as defined by the Secretary in regulations, available to individuals who have been trained for self-dialysis. A self-care dialysis unit must, at a minimum, furnish the services, equipment and supplies needed for self-care dialysis, have patient-staff ratios which are appropriate to self-dialysis (allowing for such appropriate lesser degree of ongoing medical supervision and assistance of ancillary personnel than is required for full care maintenance dialysis), and meet such other requirements as the Secretary may prescribe with respect to the quality and cost-effectiveness of services.

"(c)(1)(A) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish, in accordance with such criteria as he finds appropriate, renal disease network areas, such network organizations (including a coordinating council, an executive committee of such council, and a medical review board, for each network area) as he finds necessary to accomplish such purpose, and a national end stage renal disease medical information system. The Secretary may by regulations provide for such coordination of network planning and quality assurance activities and such exchange of data and information among agencies with responsibilities for health planning and quality assurance activities under Federal law as is consistent with the economical and efficient administration of this section and with the responsibilities established for network organizations under this section. Network organizations. Regulations.

"(B) At least one patient representative shall serve as a member of each coordinating council and executive committee.

"(C) The Secretary shall, in regulations, prescribe requirements with respect to membership in network organizations by individuals (and the relatives of such individuals) (i) who have an ownership or control interest in a facility or provider which furnishes services referred to in section 1861(s)(2)(F), or (ii) who have received remuneration from any such facility or provider in excess of such amounts as constitute reasonable compensation for services (including time and effort relative to the provision of professional medical services) or goods supplied to such facility or provider; and such requirements shall provide for the definition, disclosure, and, to the maximum Regulations. 42 USC 1395x. Conflicts of interest.

extent consistent with effective administration, prevention of potential or actual financial or professional conflicts of interest with respect to decisions concerning the appropriateness, nature, or site of patient care.

"(2) The network organizations of each network shall be responsible, in addition to such other duties and functions as may be prescribed by the Secretary, for—

"(A) encouraging, consistent with sound medical practice, the use of those treatment settings most compatible with the successful rehabilitation of the patient;

Criteria and standards.

"(B) developing criteria and standards relating to the quality and appropriateness of patient care; and network goals with respect to the placement of patients in self-care settings and undergoing or preparing for transplantation;

"(C) evaluating the procedure by which facilities and providers in the network assess the appropriateness of patients for proposed treatment modalities;

"(D) identifying facilities and providers that are not cooperating toward meeting network goals and assisting such facilities and providers in developing appropriate plans for correction; and

Annual report to Secretary of Health, Education, and Welfare.

"(E) submitting an annual report to the Secretary on July 1 of each year which shall include a full statement of the network's goals, data on the network's performance in meeting its goals (including data on the comparative performance of facilities and providers with respect to the identification and placement of suitable candidates in self-care settings and transplantation), identification of those facilities that have consistently failed to cooperate with network goals, and recommendations with respect to the need for additional or alternative services or facilities in the network in order to meet the network goals, including self-dialysis training, transplantation, and organ procurement facilities.

"(3) Where the Secretary determines, on the basis of the data contained in the network's annual report and such other relevant data as may be available to him, that a facility or provider has consistently failed to cooperate with network plans and goals, he may terminate or withhold certification of such facility or provider (for purposes of payment for services furnished to individuals with end stage renal disease) until he determines that such provider or facility is making reasonable and appropriate efforts to cooperate with the network's plans and goals.

"(4) The Secretary shall, in determining whether to certify additional facilities or expansion of existing facilities within a network, take into account the network's goals and performance as reflected in the network's annual report.

Guidelines.

"(5) The Secretary, after consultation with appropriate professional and planning organizations, shall provide such guidelines with respect to the planning and delivery of renal disease services as are necessary to assist network organizations in their development of their respective networks' goals to promote the optimum use of self-dialysis and transplantation by suitable candidates for such modalities.

"(6) It is the intent of the Congress that the maximum practical number of patients who are medically, socially, and psychologically suitable candidates for home dialysis or transplantation should be so treated. The Secretary shall consult with appropriate professional and network organizations and consider available evidence relating to developments in research, treatment methods, and technology for home dialysis and transplantation. The Secretary shall periodically submit to the Congress such legislative recommendations as the Secretary finds

Report to Congress.

warranted on the basis of such consultation and evidence to further the national objective of maximizing the use of home dialysis and transplantation consistent with good medical practice.

"(d) Notwithstanding any provision to the contrary in section 226 any individual who donates a kidney for transplant surgery shall be entitled to benefits under parts A and B of this title with respect to such donation. Reimbursement for the reasonable expenses incurred by such an individual with respect to a kidney donation shall be made (without regard to the deductible, premium, and coinsurance provisions of this title), in such manner as may be prescribed by the Secretary in regulations, for all reasonable preparatory, operation, and postoperation recovery expenses associated with such donation, including but not limited to the expenses for which payment could be made if he were an eligible individual for purposes of parts A and B of this title without regard to this subsection. Payments for postoperation recovery expenses shall be limited to the actual period of recovery.

42 USC 426.

42 USC 1395c, 1395j.

Regulations.

"(e)(1) Notwithstanding any other provision of this title, the Secretary may, pursuant to agreements with approved providers of services and renal dialysis facilities, reimburse such providers and facilities (without regard to the deductible and coinsurance provisions of this title) for the reasonable cost of the purchase, installation, maintenance and reconditioning for subsequent use of artificial kidney and automated dialysis peritoneal machines (including supportive equipment) which are to be used exclusively by entitled individuals dialyzing at home.

Agreements.

"(2) An agreement under this subsection shall require that the provider or facility will—

"(A) make the equipment available for use only by entitled individuals dialyzing at home;

"(B) recondition the equipment, as needed, for reuse by such individuals throughout the useful life of the equipment, including modification of the equipment consistent with advances in research and technology;

"(C) provide for full access for the Secretary to all records and information relating to the purchase, maintenance, and use of the equipment; and

"(D) submit such reports, data, and information as the Secretary may require with respect to the cost, management, and use of the equipment.

Reports.

"(3) For purposes of this section, the term 'supportive equipment' includes blood pumps, heparin pumps, bubble detectors, other alarm systems, and such other items as the Secretary may determine are medically necessary.

"Supportive equipment."

"(f)(1) The Secretary shall initiate and carry out, at selected locations in the United States, pilot projects under which financial assistance in the purchase of new or used durable medical equipment for renal dialysis is provided to individuals suffering from end stage renal disease at the time home dialysis is begun, with provision for a trial period to assure successful adaptation to home dialysis before the actual purchase of such equipment.

Experiments and pilot projects.

"(2) The Secretary shall conduct experiments to evaluate methods for reducing the costs of the end stage renal disease program. Such experiments shall include (without being limited to) reimbursement for nurses and dialysis technicians to assist with home dialysis, and reimbursement to family members assisting with home dialysis.

"(3) The Secretary shall conduct experiments to evaluate methods of dietary control for reducing the costs of the end stage renal disease program, including (without being limited to) the use of protein-

controlled products to delay the necessity for, or reduce the frequency of, dialysis in the treatment of end stage renal disease.

Studies.

"(4) The Secretary shall conduct a comprehensive study of methods for increasing public participation in kidney donation and other organ donation programs.

"(5) The Secretary shall conduct a full and complete study of the reimbursement of physicians for services furnished to patients with end stage renal disease under this title, giving particular attention to the range of payments to physicians for such services, the average amounts of such payments, and the number of hours devoted to furnishing such services to patients at home, in renal disease facilities, in hospitals, and elsewhere.

"(6) The Secretary shall conduct a study of the number of patients with end stage renal disease who are not eligible for benefits with respect to such disease under this title (by reason of this section or otherwise), and of the economic impact of such noneligibility of such individuals. Such study shall include consideration of mechanisms whereby governmental and other health plans might be instituted or modified to permit the purchase of actuarially sound coverage for the costs of end stage renal disease.

"(7) The Secretary shall conduct a study of the medical appropriateness and safety of cleaning and reusing dialysis filters by home dialysis patients. In such cases in which the Secretary determines that such home cleaning and reuse of filters is a medically sound procedure, the Secretary shall conduct experiments to evaluate such home cleaning and reuse as a method of reducing the costs of the end stage renal disease program.

Reports to Congress.

"(8) The Secretary shall submit to the Congress no later than October 1, 1979, a full report on the experiments conducted under paragraphs (1), (2), (3), and (7). and the studies under paragraphs (4), (5), (6), and (7). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of such experiments and studies.

"(g) The Secretary shall submit to the Congress on April 1, 1979, and April 1 of each year thereafter a report on the end stage renal disease program, including but not limited to—

"(1) the number of patients, nationally and by renal disease network, on dialysis (self-dialysis or otherwise) at home and in facilities;

"(2) the number of new patients entering dialysis at home and in facilities during the year;

"(3) the number of facilities providing dialysis and the utilization rates of those facilities;

"(4) the number of kidney transplants, by source of donor organ;

"(5) the number of patients awaiting organs for transplant;

"(6) the number of transplant failures;

"(7) the range of costs of kidney acquisitions, by type of facility and by region;

"(8) the number of facilities providing transplants and the number of transplants performed per facility;

"(9) patient mortality and morbidity rates;

"(10) the average annual cost of hospitalization for ancillary problems in dialysis and transplant patients, and drug costs for transplant patients;

"(11) medicare payment rates for dialysis, transplant procedures, and physician services, along with any changes in such rates during the year and the reasons for those changes;

"(12) the results of cost-saving experiments;

"(13) the results of basic kidney disease research conducted by the Federal Government, private institutions, and foreign governments;

"(14) information on the activities of medical review boards and other networks organizations; and

"(15) estimated program costs over the next five years.".

SEC. 3. (a) Section 226(a) of the Social Security Act is amended— Hospital insurance benefits. 42 USC 426.

(1) by striking out "specified in subparagraph (B)" and inserting in lieu thereof "specified in paragraph (1)"; and

(2) by striking out "specified in subparagraphs (A) and (B)" and inserting in lieu thereof "specified in paragraphs (1) and (2)".

(b) Paragraphs (2) and (3) of section 226(e) of such Act (as redesignated by subsection (b)(2) of the first section of this Act) are each amended by striking out "subsection b" and inserting in lieu thereof "subsection (b)".

SEC. 4. (a) Section 1811 of the Social Security Act is amended— Insurance program. 42 USC 1395c.

(1) by striking out "section 226" and inserting in lieu thereof "sections 226 and 226A";

(2) by striking out "and" at the end of clause (1), and inserting in lieu thereof a comma; and

(3) by inserting immediately before the period the following: ", and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease".

(b) Section 1833(a)(1) of such Act is amended— Payment of benefits. 42 USC 1395l.

(1) by striking out "and" at the end of clause (C), and

(2) by adding the following after "section)," in clause (D): "and (E) with respect to services furnished to individuals who have been determined to have end stage renal disease, the amounts paid shall be determined subject to the provisions of section 1881, and". *Ante*, p. 308.

(c) Section 1833(a)(2) of such Act is amended by inserting "(unless otherwise specified in section 1881)" after "other services". 42 USC 1395l.

(d) Section 1861(s)(2) of such Act is amended— 42 USC 1395x.

(1) by striking out "and" at the end of clause (D);

(2) by inserting "and" at the end of clause (E); and

(3) by adding the following new clause after clause (E):

"(F) home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies;".

(e) The first sentence of section 1866(a)(2)(A) of such Act is amended by inserting the following before the period: "(but in the case of items and services furnished to individuals with end-stage renal disease, an amount equal to 20 percent of the estimated amounts for such items and services calculated on the basis established by the Secretary)". Agreements, service providers. 42 USC 1395cc.

(f) Section 1814(b)(1) of such Act is amended by inserting "and as further limited by section 1881(b)(2)(B)" after "1861(v)". 42 USC 1395f.

SEC. 5. The third sentence of section 1817(b) of the Social Security Act, and the third sentence of section 1841(b) of such Act, and section 1876(b)(2)(B) of such Act, are each amended by striking out "Commissioner of Social Security" and inserting in lieu thereof "Administrator of the Health Care Financing Administration". 42 USC 1395i. 42 USC 1395t. 42 USC 1395mm.

SEC. 6. The amendments made by the preceding sections of this Act shall become effective with respect to services, supplies, and equipment furnished after the third calendar month which begins after the date Effective date. 42 USC 426 note.

of the enactment of this Act, except that those amendments providing for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers shall become effective with respect to a facility's or provider's first accounting period which begins after the last day of the twelfth month following the month of the enactment of this Act, and those amendments providing for reimbursement rates for home dialysis shall become effective on April 1, 1979.

42 USC 1395x note.

SEC. 7. Section 15(d) of Public Law 93-233 (as amended by section 7(c) of Public Law 93-368 and the first section of Public Law 94-368) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

42 USC 1396d.

SEC. 8. (a) The first sentence of section 1905(c) of the Social Security Act is amended—

(1) by striking "and (3)" and inserting in lieu thereof "(3)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following ", and (4) meets the requirements of section 1861(j)(14) with respect to protection of patients' personal funds.".

42 USC 1395x.

(b) The fourth sentence of section 1905(c) of such Act is amended by striking out "clauses (2) and (3)" and inserting in lieu thereof "clauses (2), (3), and (4)".

Regulations. 42 USC 1396d note.

(c) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in intermediate care facilities who are individuals receiving medical assistance under a State plan approved under the provisions of title XIX of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for intermediate care facility services as determined under the provisions of such title.

42 USC 1396.

Effective date. 42 USC 1396d note.

(d)(1) The amendments made by subsections (a) and (b) shall become effective on July 1, 1978.

Regulations. 42 USC 1396d note.

(2) The Secretary of Health, Education, and Welfare shall issue the regulations required under subsection (c) within 90 days after the date of enactment of this Act but not later than July 1, 1978.

42 USC 1396b note.

(e) Section 20(c)(2) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142) is amended by striking out "section 1905(g)" and inserting in lieu thereof "section 1903(g)".

Approved June 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-549 (Comm. on Ways and Means).
SENATE REPORT No. 95-714 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 12, considered and passed House.
Vol. 124 (1978): Apr. 10, considered and passed Senate, amended.
May 1, House concurred in Senate amendment with an amendment.
May 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 24 (1978): June 13, Presidential statement.

Public Law 95-293
95th Congress

An Act

To amend the Administrative Conference Act.

June 13, 1978
[S. 1792]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 576 of title 5, United States Code, is amended to read as follows:

Administrative Conference Act, amendment.

"§ 576. Appropriations

"To carry out the purposes of this subchapter, there are authorized to be appropriated sums not to exceed $1,700,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, $2,300,000 for the fiscal year ending September 30, 1981, and $2,300,000 for the fiscal year ending September 30, 1982.".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

Effective date. 5 USC 576 note.

Approved June 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-743 accompanying H.R. 7662 (Comm. on the Judiciary).
SENATE REPORT No. 95-583 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 4, considered and passed Senate.
Vol. 124 (1978): Jan. 24, considered and passed House, amended, in lieu of H.R. 7662.
May 22, Senate agreed to House amendment with amendments.
May 25, House concurred in Senate amendments.

Public Law 95-294
95th Congress

Joint Resolution

June 14, 1978
[S.J. Res. 140]

To authorize and request the President to proclaim June 11, 1978, as "American University Press Day" to commemorate the centennial of university press publishing in America.

Whereas since the establishment of the first university press at Johns Hopkins University in 1878, American university presses have advanced and diffused the spectrum of human knowledge, issuing one-sixth of all American books in print today;

Whereas American university presses maintain a long tradition of notable achievement as demonstrated by the large share of prizes for literary merit and graphic excellence awarded university presses; and

Whereas American university presses continue to have a profound impact on culture, scholarship, and higher education, both regionally and internationally: Now, therefore, be it

American University Press Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating June 11, 1978, as "American University Press Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Approved June 14, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
June 8, considered and passed Senate.
June 9, considered and passed House.

Public Law 95-295
95th Congress

An Act

To amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the United States fisheries development effort, and to cooperate in the formation and research of the South Pacific regional fishery agency, and for other purposes.

June 16, 1978
[H.R. 11657]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e—758e–5) is amended as follows:

Central, Western, and South Pacific Fisheries Development Act, amendment.

(1) Section 2 of such Act (16 U.S.C. 758e) is amended by inserting "with the Pacific Tuna Development Foundation or other agency or organization," immediately after "contract,".

(2) Section 3 of such Act (16 U.S.C. 758–1) is amended by (A) inserting "the Secretary of State," immediately after "Interior,"; (B) inserting "the Commonwealth of the Northern Mariana Islands," immediately after the "Trust Territories of the Pacific Islands,"; (C) striking out "and" immediately after "institutions,"; and (D) inserting ", and all appropriate member nations of a South Pacific regional fishery agency (hereinafter referred to in this Act as the 'agency'), if such an agency is formed" immediately after "industry".

16 USC 758e–1.

(3) Such Act is further amended by inserting immediately after section 3 thereof the following:

"SEC. 4. In addition to the authority granted in section 2, the Secretary, in consultation with representatives of all interested member nations of the agency, and those parties set forth in section 3, may establish in accordance with section 2, a cooperative program for the development of tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean to be submitted to the President and the Congress within one year following official formation of the agency. The Secretary shall make available to all interested member nations of the agency the results and findings of research or development projects carried out under this Act.".

Latent fisheries resources, development program. Submittal to President and Congress. 16 USC 758e–1a.

(4) Sections 4, 5, 6, and 7 of such Act are redesignated sections 5, 6, 7, and 8, respectively.

16 USC 758e–2—758e–5.

SEC. 2. Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 768e–5), as redesignated, is amended by— *Ante*, p. 319.

(1) placing the amendment made to such section by the Act of July 6, 1976 (relating to authorizations of appropriations for such Fisheries Development Act) immediately after "June 30, 1976, the sum of $3,000,000"; and 90 Stat. 809.

(2) striking out "$3,000,000," the second place it then appears in such section, and inserting in lieu thereof "$4,000,000, and for each of the fiscal years 1980, 1981, and 1982, the sum of $5,000,000,".

Approved June 16, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95–1079 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95–818 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 1, considered and passed House.
May 18, considered and passed Senate, amended.
May 31, House concurred in Senate amendments.

Public Law 95-296
95th Congress

An Act

To designate the Mike Monroney Aeronautical Center.

June 19, 1978
[S. 1640]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Federal Aviation Administration Aeronautical Center, Oklahoma City, Oklahoma, shall hereafter be known and designated as the "Mike Monroney Aeronautical Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the Mike Monroney Aeronautical Center.

Mike Monroney Aeronautical Center, Oklahoma City, Okla.

Approved June 19, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1209 accompanying H.R. 7674 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 8, considered and passed Senate.
Vol. 124 (1978): June 5, considered and passed House, in lieu of H.R. 7674.

Public Law 95-297
95th Congress

An Act

June 19, 1978
[H.R. 130]

To provide for the protection of franchised distributors and retailers of motor fuel and to encourage conservation of automotive gasoline and competition in the marketing of such gasoline by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Petroleum Marketing Practices Act".

Petroleum Marketing Practices Act.
15 USC 2801 note.

TABLE OF CONTENTS

TITLE I—FRANCHISE PROTECTION

Sec. 101. Definitions.
Sec. 102. Franchise relationship; termination and nonrenewal.
Sec. 103. Trial franchises and interim franchises; nonrenewal.
Sec. 104. Notification of termination or nonrenewal.
Sec. 105. Enforcement.
Sec. 106. Relationship of this title to State law.

TITLE II—OCTANE DISCLOSURE

Sec. 201. Definitions.
Sec. 202. Octane testing and disclosure requirements.
Sec. 203. Administration and enforcement.
Sec. 204. Relationship of this title to State law.
Sec. 205. Effective dates.

TITLE III—STUDY OF SUBSIDIZATION OF MOTOR FUEL MARKETING

Sec. 301. Study of subsidization of motor fuel marketing.

TITLE I—FRANCHISE PROTECTION

DEFINITIONS

15 USC 2801.

SEC. 101. As used in this title:

(1) (A) The term "franchise" means any contract—

(i) between a refiner and a distributor,

(ii) between a refiner and a retailer,

(iii) between a distributor and another distributor, or

(iv) between a distributor and a retailer,

under which a refiner or distributor (as the case may be) authorizes or permits a retailer or distributor to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such use.

(B) The term "franchise" includes—

(i) any contract under which a retailer or distributor (as the case may be) is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such occupancy;

(ii) any contract pertaining to the supply of motor fuel which is to be sold, consigned or distributed—

(I) under a trademark owned or controlled by a refiner; or

(II) under a contract which has existed continuously since May 15, 1973, and pursuant to which, on May 15, 1973, motor fuel was sold, consigned or distributed under a trademark owned or controlled on such date by a refiner; and

(iii) the unexpired portion of any franchise, as defined by the preceding provisions of this paragraph, which is transferred or assigned as authorized by the provisions of such franchise or by any applicable provision of State law which permits such transfer or assignment without regard to any provision of the franchise.

(2) The term "franchise relationship" means the respective motor fuel marketing or distribution obligations and responsibilities of a franchisor and a franchisee which result from the marketing of motor fuel under a franchise.

(3) The term "franchisor" means a refiner or distributor (as the case may be) who authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(4) The term "franchisee" means a retailer or distributor (as the case may be) who is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(5) The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

(6) The term "distributor" means any person, including any affiliate of such person, who—

(A) purchases motor fuel for sale, consignment, or distribution to another; or

(B) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not include a person who is an employee of, or merely serves as a common carrier providing transportation service for, such supplier.

(7) The term "retailer" means any person who purchases motor fuel for sale to the general public for ultimate consumption.

(8) The term "marketing premises" means, in the case of any franchise, premises which, under such franchise, are to be employed by the franchisee in connection with the sale, consignment, or distribution of motor fuel.

(9) The term "leased marketing premises" means marketing premises owned, leased, or in any way controlled by a franchisor and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale, consignment, or distribution of motor fuel.

(10) The term "contract" means any oral or written agreement. For supply purposes, delivery levels during the same month of the previous year shall be prima facie evidence of an agreement to deliver such levels.

(11) The term "trademark" means any trademark, trade name, service mark, or other identifying symbol or name.

(12) The term "motor fuel" means gasoline and diesel fuel of a type distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

(13) The term "failure" does not include—

(A) any failure which is only technical or unimportant to the franchise relationship; or

(B) any failure for a cause beyond the reasonable control of the franchisee.

(14) The terms "fail to renew" and "nonrenewal" mean, with respect to any franchise relationship, a failure to reinstate, continue, or extend the franchise relationship—

(A) at the conclusion of the term, or on the expiration date, stated in the relevant franchise;

(B) at any time, in the case of the relevant franchise which does not state a term of duration or an expiration date; or

(C) following a termination (on or after the date of enactment of this Act) of the relevant franchise which was entered into prior to such date of enactment and has not been renewed after such date.

(15) The term "affiliate" means any person who (other than by means of a franchise) controls, is controlled by, or is under common control with, any other person.

(16) The term "relevant geographic market area" includes a State or a standard metropolitan statistical area as periodically established by the Office of Management and Budget.

(17) The term "termination" includes cancellation.

(18) The term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).

(19) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

FRANCHISE RELATIONSHIP; TERMINATION AND NONRENEWAL

15 USC 2802.

SEC. 102. (a) Except as provided in subsection (b) and section 103, no franchisor engaged in the sale, consignment, or distribution of motor fuel in commerce may—

(1) terminate any franchise (entered into or renewed on or after the date of enactment of this Act) prior to the conclusion of the term, or the expiration date, stated in the franchise; or

(2) fail to renew any franchise relationship (without regard to the date on which the relevant franchise was entered into or renewed).

(b)(1) Any franchisor may terminate any franchise (entered into or renewed on or after the date of enactment of this Act) or may fail to renew any franchise relationship, if—

(A) the notification requirements of section 104 are met; and

(B) such termination is based upon a ground described in paragraph (2) or such nonrenewal is based upon a ground described in paragraph (2) or (3).

(2) For purposes of this subsection, the following are grounds for termination of a franchise or nonrenewal of a franchise relationship:

(A) A failure by the franchisee to comply with any provision of the franchise, which provision is both reasonable and of

material significance to the franchise relationship, if the franchisor first acquired actual or constructive knowledge of such failure—

(i) not more than 120 days prior to the date on which notification of termination or nonrenewal is given, if notification is given pursuant to section 104(a); or

(ii) not more than 60 days prior to the date on which notification of termination or nonrenewal is given, if less than 90 days notification is given pursuant to section 104(b)(1).

(B) A failure by the franchisee to exert good faith efforts to carry out the provisions of the franchise, if—

(i) the franchisee was apprised by the franchisor in writing of such failure and was afforded a reasonable opportunity to exert good faith efforts to carry out such provisions; and

(ii) such failure thereafter continued within the period which began not more than 180 days before the date notification of termination or nonrenewal was given pursuant to section 104.

(C) The occurrence of an event which is relevant to the franchise relationship and as a result of which termination of the franchise or nonrenewal of the franchise relationship is reasonable, if such event occurs during the period the franchise is in effect and the franchisor first acquired actual or constructive knowledge of such occurrence—

(i) not more than 120 days prior to the date on which notification of termination or nonrenewal is given, if notification is given pursuant to section 104(a); or

(ii) not more than 60 days prior to the date on which notification of termination or nonrenewal is given, if less than 90 days notification is given pursuant to section 104(b)(1).

(D) An agreement, in writing, between the franchisor and the franchisee to terminate the franchise or not to renew the franchise relationship, if—

(i) such agreement is entered into not more than 180 days prior to the date of such termination or, in the case of nonrenewal, not more than 180 days prior to the conclusion of the term, or the expiration date, stated in the franchise;

(ii) the franchisee is promptly provided with a copy of such agreement, together with the summary statement described in section 104(d); and

(iii) within 7 days after the date on which the franchisee is provided a copy of such agreement, the franchisee has not posted by certified mail a written notice to the franchisor repudiating such agreement.

(E) In the case of any franchise entered into prior to the date of the enactment of this Act and in the case of any franchise entered into or renewed on or after such date (the term of which is 3 years or longer, or with respect to which the franchisee was offered a term of 3 years or longer), a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of motor fuel through retail outlets in the relevant geographic market area in which the marketing premises are located, if—

(i) such determination—

(I) was made after the date such franchise was entered into or renewed, and

(II) was based upon the occurrence of changes in relevant facts and circumstances after such date;

(ii) the termination or nonrenewal is not for the purpose of converting the premises, which are the subject of the franchise, to operation by employees or agents of the franchisor for such franchisor's own account; and

(iii) in the case of leased marketing premises—

(I) the franchisor, during the 180-day period after notification was given pursuant to section 104, either made a bona fide offer to sell, transfer, or assign to the franchisee such franchisor's interests in such premises, or, if applicable, offered the franchisee a right of first refusal of at least 45 days duration of an offer, made by another, to purchase such franchisor's interest in such premises; or

(II) in the case of the sale, transfer, or assignment to another person of the franchisor's interest in such premises in connection with the sale, transfer, or assignment to such other person of the franchisor's interest in one or more other marketing premises, if such other person offers, in good faith, a franchise to the franchisee on terms and conditions which are not discriminatory to the franchisee as compared to franchises then currently being offered by such other person or franchises then in effect and with respect to which such other person is the franchisor.

Grounds for nonrenewal.

(3) For purposes of this subsection, the following are grounds for nonrenewal of a franchise relationship:

(A) The failure of the franchisor and the franchisee to agree to changes or additions to the provisions of the franchise, if—

(i) such changes or additions are the result of determinations made by the franchisor in good faith and in the normal course of business; and

(ii) such failure is not the result of the franchisor's insistence upon such changes or additions for the purpose of preventing the renewal of the franchise relationship.

(B) The receipt of numerous bona fide customer complaints by the franchisor concerning the franchisee's operation of the marketing premises, if—

(i) the franchisee was promptly apprised of the existence and nature of such complaints following receipt of such complaints by the franchisor; and

(ii) if such complaints related to the condition of such premises or to the conduct of any employee of such franchisee, the franchisee did not promptly take action to cure or correct the basis of such complaints.

(C) A failure by the franchisee to operate the marketing premises in a clean, safe, and healthful manner, if the franchisee failed to do so on two or more previous occasions and the franchisor notified the franchisee of such failures.

(D) In the case of any franchise entered into prior to the date of the enactment of this Act (the unexpired term of which, on such date of enactment, is 3 years or longer) and, in the case of any franchise entered into or renewed on or after such date (the term of which was 3 years or longer, or with respect to which the franchisee was offered a term of 3 years or longer), a determina-

tion made by the franchisor in good faith and in the normal course of business, if—

(i) such determination is—

(I) to convert the leased marketing premises to a use other than the sale or distribution of motor fuel,

(II) to materially alter, add to, or replace such premises,

(III) to sell such premises, or

(IV) that renewal of the franchise relationship is likely to be uneconomical to the franchisor despite any reasonable changes or reasonable additions to the provisions of the franchise which may be acceptable to the franchisee;

(ii) with respect to a determination referred to in subclause (II) or (IV), such determination is not made for the purpose of converting the leased marketing premises to operation by employees or agents of the franchisor for such franchisor's own account; and

(iii) in the case of leased marketing premises such franchisor, during the 90-day period after notification was given pursuant to section 104, either—

(I) made a bona fide offer to sell, transfer, or assign to the franchisee such franchisor's interests in such premises; or

(II) if applicable, offered the franchisee a right of first refusal of at least 45-days duration of an offer, made by another, to purchase such franchisor's interest in such premises.

(c) As used in subsection (b)(2)(C), the term "an event which is relevant to the franchise relationship and as a result of which termination of the franchise or nonrenewal of the franchise relationship is reasonable" includes events such as— Definition.

(1) fraud or criminal misconduct by the franchisee relevant to the operation of the marketing premises;

(2) declaration of bankruptcy or judicial determination of insolvency of the franchisee;

(3) continuing severe physical or mental disability of the franchisee of at least 3 months duration which renders the franchisee unable to provide for the continued proper operation of the marketing premises;

(4) loss of the franchisor's right to grant possession of the leased marketing premises through expiration of an underlying lease, if the franchisee was notified in writing, prior to the commencement of the term of the then existing franchise—

(A) of the duration of the underlying lease, and

(B) of the fact that such underlying lease might expire and not be renewed during the term of such franchise (in the case of termination) or at the end of such term (in the case of nonrenewal);

(5) condemnation or other taking, in whole or in part, of the marketing premises pursuant to the power of eminent domain;

(6) loss of the franchisor's right to grant the right to use the trademark which is the subject of the franchise, unless such loss was due to trademark abuse, violation of Federal or State law, or other fault or negligence of the franchisor, which such abuse, vio-

lation, or other fault or negligence is related to action taken in bad faith by the franchisor;

(7) destruction (other than by the franchisor) of all or a substantial part of the marketing premises;

(8) failure by the franchisee to pay to the franchisor in a timely manner when due all sums to which the franchisor is legally entitled;

(9) failure by the franchisee to operate the marketing premises for—

(A) 7 consecutive days, or

(B) such lesser period which under the facts and circumstances constitutes an unreasonable period of time;

(10) willful adulteration, mislabeling or misbranding of motor fuels or other trademark violations by the franchisee;

(11) knowing failure of the franchisee to comply with Federal, State, or local laws or regulations relevant to the operation of the marketing premises; and

(12) conviction of the franchisee of any felony involving moral turpitude.

(d) In the case of any termination of a franchise (entered into or renewed on or after the date of enactment of this Act), or in the case of any nonrenewal of a franchise relationship (without regard to the date on which such franchise relationship was entered into or renewed)—

(1) if such termination or nonrenewal is based upon an event described in subsection (c)(5), the franchisor shall fairly apportion between the franchisor and the franchisee compensation, if any, received by the franchisor based upon any loss of business opportunity or good will; and

(2) if such termination or nonrenewal is based upon an event described in subsection (c)(7) and the leased marketing premises are subsequently rebuilt or replaced by the franchisor and operated under a franchise, the franchisor shall, within a reasonable period of time, grant to the franchisee a right of first refusal of the franchise under which such premises are to be operated.

TRIAL FRANCHISES AND INTERIM FRANCHISES; NONRENEWAL

15 USC 2803.

SEC. 103. (a) The provisions of section 102 shall not apply to the nonrenewal of any franchise relationship—

(1) under a trial franchise; or

(2) under an interim franchise.

Definitions.

(b) For purposes of this section—

(1) The term "trial franchise" means any franchise—

(A) which is entered into on or after the date of enactment of this Act;

(B) the franchisee of which has not previously been a party to a franchise with the franchisor;

(C) the initial term of which is for a period of not more than 1 year; and

(D) which is in writing and states clearly and conspicuously—

(i) that the franchise is a trial franchise;

(ii) the duration of the initial term of the franchise;

(iii) that the franchisor may fail to renew the franchise relationship at the conclusion of the initial term stated in the franchise by notifying the franchisee, in

accordance with the provisions of section 104, of the franchisor's intention not to renew the franchise relationship; and

(iv) that the provisions of section 102, limiting the right of a franchisor to fail to renew a franchise relationship, are not applicable to such trial franchise.

(2) The term "trial franchise" does not include any unexpired period of any term of any franchise (other than a trial franchise, as defined by paragraph (1)) which was transferred or assigned by a franchisee to the extent authorized by the provisions of the franchise or any applicable provision of State law which permits such transfer or assignment, without regard to any provision of the franchise.

(3) The term "interim franchise" means any franchise—

(A) which is entered into on or after the date of the enactment of this Act;

(B) the term of which, when combined with the terms of all prior interim franchises between the franchisor and the franchisee, does not exceed 3 years;

(C) the effective date of which occurs immediately after the expiration of a prior franchise, applicable to the marketing premises, which was not renewed if such nonrenewal—

(i) was based upon a determination described in section 102(b)(2)(E), and

(ii) the requirements of section 102(b)(2)(E) were satisfied; and

(D) which is in writing and states clearly and conspicuously—

(i) that the franchise is an interim franchise;

(ii) the duration of the franchise; and

(iii) that the franchisor may fail to renew the franchise at the conclusion of the term stated in the franchise based upon a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of motor fuel through retail outlets in the relevant geographic market area in which the marketing premises are located if the requirements of section 102(b)(2)(E) (ii) and (iii) are satisfied.

(c) If the notification requirements of section 104 are met, any franchisor may fail to renew any franchise relationship—

(1) under any trial franchise, at the conclusion of the initial term of such trial franchise; and

(2) under any interim franchise, at the conclusion of the term of such interim franchise, if—

(A) such nonrenewal is based upon a determination described in section 102(b)(2)(E); and

(B) the requirements of section 102(b)(2)(E) (ii) and (iii) are satisfied.

NOTIFICATION OF TERMINATION OR NONRENEWAL

SEC. 104. (a) Prior to termination of any franchise or nonrenewal of any franchise relationship, the franchisor shall furnish notification of such termination or such nonrenewal to the franchisee who is a party to such franchise or such franchise relationship— 15 USC 2804.

(1) in the manner described in subsection (c); and

(2) except as provided in subsection (b), not less than 90 days prior to the date on which such termination or nonrenewal takes effect.

(b) (1) In circumstances in which it would not be reasonable for the franchisor to furnish notification, not less than 90 days prior to the date on which termination or nonrenewal takes effect, as required by subsection (a) (2)—

(A) such franchisor shall furnish notification to the franchisee affected thereby on the earliest date on which furnishing of such notification is reasonably practicable; and

(B) in the case of leased marketing premises, such franchisor—

(i) may not establish a new franchise relationship with respect to such premises before the expiration of the 30-day period which begins—

(I) on the date notification was posted or personally delivered, or

(II) if later, on the date on which such termination or nonrenewal takes effect; and

(ii) may, if permitted to do so by the franchise agreement, repossess such premises and, in circumstances under which it would be reasonable to do so, operate such premises through employees or agents.

(2) In the case of any termination of any franchise or any nonrenewal of any franchise relationship pursuant to the provisions of section 102(b)(2)(E) or section 103(c)(2), the franchisor shall—

(A) furnish notification to the franchisee not less than 180 days prior to the date on which such termination or nonrenewal takes effect; and

(B) promptly provide a copy of such notification, together with a plan describing the schedule and conditions under which the franchisor will withdraw from the marketing of motor fuel through retail outlets in the relevant geographic area, to the Governor of each State which contains a portion of such area.

(c) Notification under this section—

(1) shall be in writing;

(2) shall be posted by certified mail or personally delivered to the franchisee; and

(3) shall contain—

(A) a statement of intention to terminate the franchise or not to renew the franchise relationship, together with the reasons therefor;

(B) the date on which such termination or nonrenewal takes effect; and

(C) the summary statement prepared under subsection (d).

Publication in Federal Register.

(d) (1) Not later than 30 days after the date of enactment of this Act, the Secretary of Energy shall prepare and publish in the Federal Register a simple and concise summary of the provisions of this title, including a statement of the respective responsibilities of, and the remedies and relief available to, any franchisor and franchisee under this title.

(2) In the case of summaries required to be furnished under the provisions of section 102(b)(2)(D) or subsection (c)(3)(C) of this section before the date of publication of such summary in the Federal Register, such summary may be furnished not later than 5 days after it is so published rather than at the time required under such provisions.

ENFORCEMENT

SEC. 105. (a) If a franchisor fails to comply with the requirements of section 102 or 103, the franchisee may maintain a civil action against such franchisor. Such action may be brought, without regard to the amount in controversy, in the district court of the United States in any judicial district in which the principal place of business of such franchisor is located or in which such franchisee is doing business, except that no such action may be maintained unless commenced within 1 year after the later of— 15 USC 2805. Jurisdiction.

(1) the date of termination of the franchise or nonrenewal of the franchise relationship; or

(2) the date the franchisor fails to comply with the requirements of section 102 or 103.

(b)(1) In any action under subsection (a), the court shall grant such equitable relief as the court determines is necessary to remedy the effects of any failure to comply with the requirements of section 102 or 103, including declaratory judgment, mandatory or prohibitive injunctive relief, and interim equitable relief.

(2) Except as provided in paragraph (3), in any action under subsection (a), the court shall grant a preliminary injunction if— Preliminary injunction.

(A) the franchisee shows—

(i) the franchise of which he is a party has been terminated or the franchise relationship of which he is a party has not been renewed, and

(ii) there exist sufficiently serious questions going to the merits to make such questions a fair ground for litigation; and

(B) the court determines that, on balance, the hardships imposed upon the franchisor by the issuance of such preliminary injunctive relief will be less than the hardship which would be imposed upon such franchisee if such preliminary injunctive relief were not granted.

(3) Nothing in this subsection prevents any court from requiring the franchisee in any action under subsection (a) to post a bond, in an amount established by the court, prior to the issuance or continuation of any equitable relief.

(4) In any action under subsection (a), the court need not exercise its equity powers to compel continuation or renewal of the franchise relationship if such action was commenced—

(A) more than 90 days after the date on which notification pursuant to section 104(a) was posted or personally delivered to the franchisee;

(B) more than 180 days after the date on which notification pursuant to section 104(b)(2) was posted or personally delivered to the franchisee; or

(C) more than 30 days after the date on which the termination of such franchise or the nonrenewal of such franchise relationship takes effect if less than 90 days notification was provided pursuant to section 104(b)(1).

(c) In any action under subsection (a), the franchisee shall have the burden of proving the termination of the franchise or the nonrenewal of the franchise relationship. The franchisor shall bear the burden of going forward with evidence to establish as an affirmative defense that such termination or nonrenewal was permitted under section 102(b) or 103, and, if applicable, that such franchisor complied with the requirements of section 102(d).

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Damages.

(d)(1) If the franchisee prevails in any action under subsection (a), such franchisee shall be entitled—

(A) consistent with the Federal Rules of Civil Procedure, to actual damages;

(B) in the case of any such action which is based upon conduct of the franchisor which was in willful disregard of the requirements of section 102 or 103, or the rights of the franchisee thereunder, to exemplary damages, where appropriate; and

(C) to reasonable attorney and expert witness fees to be paid by the franchisor, unless the court determines that only nominal damages are to be awarded to such franchisee, in which case the court, in its discretion, need not direct that such fees be paid by the franchisor.

(2) The question of whether to award exemplary damages and the amount of any such award shall be determined by the court and not by a jury.

(3) In any action under subsection (a), the court may, in its discretion, direct that reasonable attorney and expert witness fees be paid by the franchisee if the court finds that such action is frivolous.

(e)(1) In any action under subsection (a) with respect to a failure of a franchisor to renew a franchise relationship in compliance with the requirements of section 102, the court may not compel a continuation or renewal of the franchise relationship if the franchisor demonstrates to the satisfaction of the court that—

(A) the basis for such nonrenewal is a determination made by the franchisor in good faith and in the normal course of business—

(i) to convert the leased marketing premises to a use other than the sale or distribution of motor fuel,

(ii) to materially alter, add to, or replace such premises,

(iii) to sell such premises,

(iv) to withdraw from the marketing of motor fuel through retail outlets in the relevant geographic market area in which the marketing premises are located, or

(v) that renewal of the franchise relationship is likely to be uneconomical to the franchisor despite any reasonable changes or reasonable additions to the provisions of the franchise which may be acceptable to the franchisee; and

(B) the requirements of section 104 have been complied with.

(2) The provisions of paragraph (1) shall not affect any right of any franchisee to recover actual damages and reasonable attorney and expert witness fees under subsection (d) if such nonrenewal is prohibited by section 102.

RELATIONSHIP OF THIS TITLE TO STATE LAW

15 USC 2806.

SEC. 106. (a) To the extent that any provision of this title applies to the termination (or the furnishing of notification with respect thereto) of any franchise, or to the nonrenewal (or the furnishing of notification with respect thereto) of any franchise relationship, no State or any political subdivision thereof may adopt, enforce, or continue in effect any provision of any law or regulation (including any remedy or penalty applicable to any violation thereof) with respect to termination (or the furnishing of notification with respect thereto) of any such franchise or to the nonrenewal (or the furnishing of notification with respect thereto) of any such franchise relationship unless such provision of such law or regulation is the same as the applicable provision of this title.

(b) Nothing in this title authorizes any transfer or assignment of any franchise or prohibits any transfer or assignment of any franchise as authorized by the provisions of such franchise or by any applicable provision of State law which permits such transfer or assignment without regard to any provision of the franchise.

TITLE II—OCTANE DISCLOSURE

DEFINITIONS

SEC. 201. As used in this title: 15 USC 2821.

(1) The term "octane rating" means the rating of the antiknock characteristics of a grade or type of automotive gasoline as determined by dividing by 2 the sum of the research octane number plus the motor octane number, unless another procedure is prescribed under section 203(c)(3), in which case such term means the rating of such characteristics as determined under the procedure so prescribed.

(2) The terms "research octane number" and "motor octane number" have the meanings given such terms in the specifications of the American Society for Testing and Materials (ASTM) entitled "Standard Specifications for Automotive Gasoline" designated D 439 (as in effect on the date of the enactment of this Act) and, with respect to any grade or type of automotive gasoline, are determined in accordance with test methods set forth in ASTM standard test methods designated D 2699 and D 2700 (as in effect on such date).

(3) The term "knock" means the combustion of a fuel spontaneously in localized areas of a cylinder of a spark-ignition engine, instead of the combustion of such fuel progressing from the spark.

(4) The term "gasoline retailer" means any person who markets automotive gasoline to the general public for ultimate consumption.

(5) The term "refiner" means any person engaged in—

(A) the refining of crude oil to produce automotive gasoline; or

(B) the importation of automotive gasoline.

(6) The term "automotive gasoline" means gasoline of a type distributed for use as a fuel in any motor vehicle.

(7) The term "motor vehicle" means any self-propelled four-wheeled vehicle, of less than 6,000 pounds gross vehicle weight, which is designed primarily for use on public streets, roads, and highways.

(8) The term "new motor vehicle" means any motor vehicle the equitable or legal title to which has not previously been transferred to an ultimate purchaser.

(9) The term "ultimate purchaser" means, with respect to any item, the first person who purchases such item for purposes other than resale.

(10) The term "manufacturer" means any person who imports, manufactures, or assembles motor vehicles for sale.

(11) The term "octane requirement" means, with respect to automotive gasoline for use in a motor vehicle or a class thereof, imported, manufactured, or assembled by a manufacturer, the minimum octane rating of such automotive gasoline which such manufacturer recommends for the efficient operation of such

motor vehicle, or a substantial portion of such class, without knocking.

(12) The term "model year" means a manufacturer's annual production period (as determined by the Federal Trade Commission) for motor vehicles or a class of motor vehicles. If a manufacturer has no annual production period, the term "model year" means the calendar year.

(13) The term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).

(14) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(15) the term "person", for purposes of applying any provision of the Federal Trade Commission Act with respect to any provision of this title, includes a partnership and a corporation.

(16) The term "distributor" means any person who receives gasoline and distributes such gasoline to another person other than the ultimate purchaser.

OCTANE TESTING AND DISCLOSURE REQUIREMENTS

15 USC 2822.

SEC. 202. (a) Each refiner who distributes automotive gasoline in commerce shall—

(1) determine the octane rating of any such gasoline; and

(2) if such refiner distributes such gasoline to any person other than the ultimate purchaser, certify, consistent with the determination made under paragraph (1), the octane rating of such gasoline.

(b) Each distributor who receives automotive gasoline, the octane rating of which is certified to him under this section, and distributes such gasoline in commerce to another person other than the ultimate purchaser shall certify to such other person the octane rating of such gasoline consistent with—

(1) the octane rating of such gasoline certified to such distributor; or

(2) if such distributor elects (at such time and in such manner as the Federal Trade Commission may, by rule, prescribe), the octane rating of such gasoline determined by such distributor.

(c) Each gasoline retailer shall display in a clear and conspicuous manner, at the point of sale to ultimate purchasers of automotive gasoline, the octane rating of such gasoline, which octane rating shall be consistent with—

(1) the octane rating of such gasoline certified to such retailer under subsection (a)(2) or (b);

(2) if such gasoline retailer elects (at such time and in such manner as the Federal Trade Commission may, by rule, prescribe), the octane rating of such gasoline determined by such retailer for such gasoline; or

(3) if such gasoline retailer is a refiner, the octane rating of such gasoline determined under subsection (a)(1).

Rules.

(d) The Federal Trade Commission shall, by rule, prescribe requirements, applicable to any manufacturer of new motor vehicles, with

respect to the display on each such motor vehicle (or representation in connection with the sale of each such motor vehicle) of the octane requirement of such motor vehicle.

(e) No person who distributes automotive gasoline in commerce may make any representation respecting the antiknock characteristics of such gasoline unless such representation fairly discloses the octane rating of such gasoline consistent with such gasoline's octane rating as certified to or determined by such person under the foregoing provisions of this section.

(f) For purposes of this section, the octane rating of any automotive gasoline shall be considered to be certified, displayed, or represented by any person consistent with the rating certified to, or determined by, such person—

(1) in the case of automotive gasoline which consists of a blend of two or more quantities of automotive gasoline of differing octane ratings, only if the rating certified, displayed, or represented by such person is the average of the octane ratings of such quantities, weighted by volume; or

(2) in the case of gasoline which does not consist of such a blend, only if the octane rating such person certifies, displays, or represents is the same as the octane rating of such gasoline certified to, or determined by, such person.

(g) The foregoing provisions of this section shall not apply—

(1) to any representation (by display at the point of sale or by other means) of any characteristics of any automotive gasoline other than its octane rating; or

(2) to the identification of automotive gasoline at the point of sale (or elsewhere) by the trademark, trade name, or other identifying symbol or mark used in connection with the sale of such gasoline.

(h) Any display or representation, with respect to the octane requirement of any motor vehicle, required to be made under any rule prescribed under subsection (d) shall not create an express or implied warranty under State or Federal law that any automotive gasoline the octane rating of which equals or exceeds such octane requirement—

(1) may be used as a fuel in all motor vehicles of the same class as that motor vehicle without knocking; or

(2) may be used as a fuel in such motor vehicle under all operating conditions without knocking.

ADMINISTRATION AND ENFORCEMENT

SEC. 203. (a) The Federal Trade Commission shall have procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements of this title and rules prescribed pursuant to the requirements of this title, to further define terms used in this title, and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Rules. Reports. 15 USC 2823. 15 USC 58.

(b)(1) The Environmental Protection Agency shall— Tests.

(A) conduct field testing of the octane rating of automotive gasoline, comparing the tested octane rating of gasoline at retail outlets with the octane rating posted at those outlets;

(B) certify the results of such tests and comparisons to the Federal Trade Commission; and

(C) notify the Federal Trade Commission of any failure to post the octane rating discovered in the course of such field testing.

Interagency agreements.

(2) The Federal Trade Commission may enter into interagency agreements with the Environmental Protection Agency and such other agencies of the United States as the Commission determines appropriate for the purpose of assuring enforcement of the provisions of this title in a manner which is consistent with—

(A) minimizing the cost of field inspection and related compliance activities; and

(B) reducing duplication of similar or related field compliance activities performed by agencies of the United States.

Rules.

(c)(1) Not later than 6 months after the date of the enactment of this Act, the Federal Trade Commission shall, by rule, prescribe and make effective—

(A) a uniform method by which a person may certify to another the octane rating of automotive gasoline; and

(B) a uniform method of displaying the octane rating of automotive gasoline at the point of sale to ultimate purchasers.

(2) Effective on and after the effective date of the rule prescribed under paragraph (1), any person—

(A) shall be considered to satisfy the requirements of subsection (a) or (b) of section 202, as the case may be, only if such person complies with the requirements established pursuant to paragraph (1)(A); and

(B) shall be considered to satisfy the requirements of section 202(c) only if such person complies with the requirements established pursuant to paragraph (1)(B).

(3) The Federal Trade Commission may, by rule, prescribe procedures for determination of the octane rating of automotive gasoline which varies from that prescribed in section 201(1). In prescribing such rule, the Commission—

(A) shall consider—

(i) ease of administration and enforcement, and

(ii) industry practices in the distribution and marketing of automotive gasoline; and

(B) may permit adjustments in such octane rating to take into account the effects of altitude, temperature, and humidity.

(4) The Federal Trade Commission may, by rule, prescribe and make effective a method of determining the octane rating of automotive gasoline which consists of a blend of two or more quantities of automotive gasoline of different octane ratings if the Federal Trade Commission finds that the method prescribed more accurately reflects the octane rating of such blend than the weighted-average method set forth in section 202(f)(1). Effective on and after the effective date of such rule, any person shall be considered to satisfy the requirements of section 202(f)(1) only if such person utilizes the method prescribed in such rule (in lieu of the method set forth in section 202(f)(1)).

(d)(1) Except as provided in paragraph (2), rules under this title shall be prescribed in accordance with section 553 of title 5, United States Code, except that interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

(2) Rules prescribed under subsection (c)(3) and section 202(d) shall be prescribed on the record after opportunity for an agency hearing.

(3) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) shall not apply with respect to any rule prescribed under this title.

(e) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate subsection (a), (b), (c), or (e) of section 202, or a rule prescribed under subsection (d) of such section. For purposes of the Federal Trade Commission Act (including any remedy or penalty applicable to any violation thereof) such a violation shall be treated as a violation of a rule under such Act respecting unfair or deceptive acts or practices; except that for purposes of section 5(m)(1)(A) of such Act, the term "or knowledge fairly implied on the basis of objective circumstances" shall not apply to any violation by any gasoline retailer of the requirements of section 202 (c) or (e).

15 USC 45.
15 USC 58.
15 USC 45.

RELATIONSHIP OF THIS TITLE TO STATE LAW

SEC. 204. To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt, enforce, or continue in effect any provision of any law or regulation (including any remedy or penalty applicable to any violation thereof) with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

15 USC 2824.

EFFECTIVE DATES

SEC. 205. (a) Sections 202(a)(1) and 203(b) shall take effect on the first day of the first calendar month beginning more than 6 months after the date of the enactment of this Act.

(b) Subsections (a)(2), (b), (c), and (e) of section 202 shall take effect on the first day of the first calendar month beginning more than 9 months after such date of enactment.

(c) Rules under section 202(d) may not take effect earlier than the beginning of the first motor vehicle model year which begins more than 9 months after such date of enactment.

15 USC 2822 note.

TITLE III—STUDY OF SUBSIDIZATION OF MOTOR FUEL MARKETING

SEC. 301. (a) The Secretary of Energy, in consultation with the Chairman of the Federal Trade Commission and the Attorney General and other agencies as the Secretary deems appropriate, shall conduct a study of the extent to which producers, refiners, and other suppliers of motor fuel subsidize the sale of such motor fuel at retail or wholesale with profits obtained from other operations.

15 USC 2841.

(b) Such study shall examine—

(1) the role of vertically integrated operations in facilitating subsidization of sales of motor fuel at wholesale or retail;

(2) the extent to which such subsidization is predatory and presents a threat to competition;

(3) the profitability of various segments of the petroleum industry;

(4) the impact of prohibiting such subsidization on the competitive viability of various segments of the petroleum industry, on prices of motor fuel to consumers and on the health and structure of the petroleum industry as a whole; and

(5) such other matters as the Secretary considers appropriate.

Notice.

(c) In conducting the study required by this section, the Secretary shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views and arguments concerning such study.

Report to Congress.

(d) (1) The Secretary shall report the results of the study required by this section, together with such recommendations for legislative action and such statistical evidence as he deems appropriate to the Congress on or before the expiration of the eighteenth month after the date of enactment of this section.

Rules.

(2) If the President determines that interim measures are necessary and appropriate to maintain the competitive viability of the marketing sector of the petroleum industry during Congressional consideration of the recommendations contained in the report submitted under paragraph (1), he shall prescribe, by rule, in accordance with the procedures set forth in section 523(a) of the Energy Policy and Conservation Act (42 U.S.C. 6393) such interim measures.

(3) No interim measure proposed by the President under this section may be submitted after January 1, 1980, and the effect of such measure if approved by the Congress under paragraph (4) may not extend beyond 18 months after such Congressional approval.

(4) Such interim measure shall not take effect unless approved by both Houses of Congress as if it were a contingency plan under section 552 of the Energy Policy and Conservation Act (42 U.S.C. 6422): *Provided*, That the 60-day period referred to in such section shall be extended to 90 days for purposes of this section.

Appropriation authorization.

(e) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Approved June 19, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-161 (Comm. on Interstate and Foreign Commerce).
SENATE REPORTS: No. 95-731, and No. 95-732 accompanying S. 743 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Apr. 5, considered and passed House.
Vol. 124 (1978): May 5, 9, considered and passed Senate, amended, in lieu of S. 743.
June 6, House agreed to Senate amendments.

Public Law 95-298
95th Congress

An Act

To authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes.

June 26, 1978
[S. 2553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1979".

Maritime Appropriation Authorization Act for Fiscal Year 1979.

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1979, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $157,000,000: *Provided*, That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense: *Provided further*, That in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $262,800,000: *Provided*, That no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense;

(3) For expenses necessary for research and development activities, not to exceed $17,500,000;

(4) For maritime education and training expenses, not to exceed, $24,647,000, including not to exceed $15,523,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, of which $450,000 shall be for the replacement of barracks windows at the Academy, $7,220,000 for financial assistance to State marine schools, and $1,904,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

46 USC 1126.

(5) For operating expenses, not to exceed $34,845,000, including not to exceed $5,516,000 for reserve fleet expenses, and $29,329,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1979, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 3 of the Maritime Academy Act of 1958 (46 U.S.C. 1382) is amended by the addition of a subsection to read as follows:

"(d) The Secretary may pay additional amounts to assist in paying for the cost of fuel oil consumed during training cruises of the vessels referred to in subsection (a).".

SEC. 5. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273(f)) is amended by striking "$7,000,000,000.", and inserting in lieu thereof "$10,000,000,000.".

Approved June 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1155 accompanying H.R. 10729 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 95-741 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 24, considered and passed Senate.

May 22, 23, H.R. 10729 considered and passed House; proceedings vacated and S. 2553, amended, passed in lieu.

June 12, Senate concurred in House amendment.

Public Law 95-299
95th Congress

An Act

To extend until October 1, 1980, the appropriation authorizations for the Great Dismal Swamp and San Francisco Bay National Wildlife Refuges.

June 26, 1978
[H.R. 5493]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (16 U.S.C. 668jj), is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1980".

Great Dismal Swamp and San Francisco Bay National Wildlife Refuges.
Appropriation authorization, extension.
86 Stat. 399.

SEC. 2. Section 4 of the Act entitled "An Act to establish the Great Dismal Swamp National Wildlife Refuge" (Public Law 93-402, 88 Stat. 801) is amended to read as follows:

"SEC. 4. For purposes of carrying out this Act, there are authorized to be appropriated not to exceed—

"(1) $1,000,000 for the fiscal year ending June 30, 1975;

"(2) $3,000,000 for the fiscal year ending June 30, 1976, and the transition quarter beginning July 1, 1976, and ending September 30, 1976;

"(3) $3,000,000 for the fiscal year ending September 3, 1977; and

"(4) $21,100,000 for the period beginning October 1, 1977, and ending September 30, 1980, of which not to exceed $15,750,000 shall be available for land acquisition and not to exceed $5,350,000 shall be available for purposes other than land acquisition.".

Approved June 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-317 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-185 accompanying S. 1237 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 16, considered and passed House.
May 24, considered and passed Senate, amended, in lieu of S. 1237.
Vol. 124 (1978): May 31, House concurred in Senate amendment with an amendment.
June 8, Senate concurred to House amendment.

Public Law 95-300
95th Congress

An Act

June 26, 1978
[H.R. 10884]

To authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981.

Council on Environmental Quality.
Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended to read as follows:

"SEC. 205. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91-190:

83 Stat. 852.

"(a) $2,126,000 for the fiscal year ending September 30, 1979; and

"(b) $3,000,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981.".

Approved June 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1027 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-876 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 10, considered and passed House.
May 25, considered and passed Senate, amended.
June 12, House concurred in Senate amendment.

Public Law 95-301
95th Congress

Joint Resolution

Making urgent grain inspection supplemental appropriations for the Department of Agriculture, Federal Grain Inspection Service, for the fiscal year ending September 30, 1978.

June 26, 1978
[H.J. Res. 944]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978, namely:

Supplemental appropriations for fiscal year 1978.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

For necessary expenses to provide Federal administration and supervision related to official inspection or weighing under the United States Grain Standards Act, as amended, $6,488,000.

7 USC 71.

Approved June 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1223 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 16, considered and passed House.
June 19, considered and passed Senate.

Public Law 95-302
95th Congress

An Act

June 26, 1978
[S. 2380]

To amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil, 1973.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Intervention on the High Seas Act (88 Stat. 8, Public Law 93-248) is amended as follows:

Intervention on the High Seas Act, amendment.
33 USC 1471 note.

(1) Section 2 is amended to read as follows:

33 USC 1471. Definitions.

"SEC. 2. As used in this Act—

"(1) 'a substance other than convention oil' means those oils, noxious substances, liquefied gases, and radioactive substances—

"(A) enumerated in the protocol, or

"(B) otherwise determined to be hazardous under section 4(a);

"(2) 'convention' means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto;

"(3) 'convention oil' means crude oil, fuel oil, diesel oil, and lubricating oil;

"(4) 'Secretary' means the Secretary of the department in which the Coast Guard is operating;

"(5) 'ship' means—

"(A) a seagoing vessel of any type whatsoever, and

"(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

"(6) 'protocol' means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973, including annexes thereto; and

"(7) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.".

33 USC 1472.

(2) Section 3 is amended by—

(A) striking the word "oil" and inserting in lieu thereof the phrase "convention oil or of the sea or atmosphere by a substance other than convention oil"; and

(B) striking the word "Convention" and inserting in lieu thereof the phrase "convention, the protocol".

33 USC 1473.

(3) Section 4 is amended by—

(A) inserting the words "human health," between the words "limited to," and "fish" and designating the existing section as subsection (b);

(B) adding a new subsection (a) as follows:

"(a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall determine when a substance other than those enumerated

in the protocol is liable to create a hazard to human health, to harm living resources, to damage amenities, or to interfere with other legitimate uses of the sea.".

(4) Section 10 is amended by adding a new subsection (c) as follows: 33 USC 1479.

"(c) With respect to intervention for a substance identified pursuant to section 4(a), the United States has the burden of establishing that, under the circumstances present at the time of the intervention, the substance could reasonably pose a grave and imminent danger analogous to that posed by a substance enumerated in the protocol.".

(5) Section 13 is amended— 33 USC 1482.

(A) in subsection (a) by striking the period at the end of the subsection and inserting in lieu thereof the phrase "and article II of the protocol and may propose amendments to the list of substances other than convention oil in accordance with article III of the protocol."; and

(B) in subsection (b) by striking the words "annexes thereto" and inserting in lieu thereof the word "protocol".

(C) by adding a new subsection (c) as follows:

"(c) The President may accept amendments to the list of substances other than convention oil in accordance with article III of the protocol.".

(6) Section 15 is amended by inserting the words ", the protocol," between the words "convention" and "and". 33 USC 1484.

SEC. 2. This Act shall be effective upon the date of enactment, or upon the date the protocol becomes effective as to the United States, whichever is later. Effective date. 33 USC 1487 note.

Approved June 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1238 accompanying H.R. 188 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 95-785 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 11, considered and passed Senate.

June 5, considered and passed House, amended, in lieu of H.R. 188.

June 13, Senate concurred in House amendment.

Public Law 95-303
95th Congress

An Act

June 29, 1978
[H.R. 5176]

To lower the duty on levulose until the close of June 30, 1980.

Levulose, lower duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 907.80 the following new item:

"	907.90	Levulose (provided for in item 493.66, part 13B, schedule 4)	10 percent ad val.	No change	On or before 6/30/80 |".

19 USC 1202 note.

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Approved June 29, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-434 (Comm. on Ways and Means).
SENATE REPORT No. 95-796 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Vol. 124 (1978): June 9, considered and passed Senate, amended.
June 14, House concurred in Senate amendment.

Public Law 95-304
95th Congress

An Act

To amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes.

June 29, 1978
[H.R. 10823]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13—857-18) is amended—

National Advisory Committee on Oceans and Atmosphere Act of 1977, amendment.
33 USC 857-14.

(1) by striking out "except that" and all that follows thereafter in section 3(b)(1) and inserting in lieu thereof "except that of the original appointees, 6 shall be appointed for a term to expire on July 1, 1979, 6 shall be appointed for a term to expire on July 1, 1980, and 6 shall be appointed for a term to expire on July 1, 1981."; and

33 USC 857-18.

(2) by striking out "1978." in section 8 and inserting in lieu thereof "1978, and $572,000 for the fiscal year ending September 30, 1979.".

Approved June 29, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1013 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-862 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 17, considered and passed House.
June 5, considered and passed Senate, amended.
June 14, House concurred in Senate amendment.

39-194 O—80—pt 1——26 . QL3

Public Law 95-305
95th Congress

An Act

June 29, 1978
[S. 2973]

Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

John F. Kennedy Center.
Appropriation authorization.
20 USC 76*l*.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended by adding at the end thereof the following: "There is authorized to be appropriated to carry out this subsection not to exceed $4,200,000 for the fiscal year ending September 30, 1979.".

Approved June 29, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1113 accompaning H.R. 12098 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-831 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 23, considered and passed Senate.
June 21, considered and passed House, in lieu of H.R. 12098.

Public Law 95-306
95th Congress

An Act

To provide for an expanded and comprehensive extension program for forest and rangeland renewable resources.

June 30, 1978
[H.R. 11779]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renewable Resources Extension Act of 1978".

Renewable Resources Extension Act of 1978.
16 USC 1600 note.

FINDINGS

SEC. 2. Congress finds that— 16 USC 1671.

(1) the extension program of the Department of Agriculture and the extension activities of each State provide useful and productive educational programs for private forest and range landowners and processors and consumptive and nonconsumptive users of forest and rangeland renewable resources, and these educational programs complement research and assistance programs conducted by the Department of Agriculture;

(2) to meet national goals, it is essential that all forest and rangeland renewable resources (hereinafter in this Act referred to as "renewable resources"), including fish and wildlife, forage, outdoor recreation opportunities, timber, and water, be fully considered in designing educational programs for landowners, processors, and users;

(3) more efficient utilization and marketing of renewable resources extend available supplies of such resources, provide products to consumers at prices less than they would otherwise be, and promote reasonable returns on the investments of landowners, processors, and users;

(4) trees and forests in urban areas improve the esthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife; and

(5) trees and shrubs used as shelterbelts protect farm lands from wind and water erosion, promote moisture accumulation in the soil, and provide habitat for wildlife.

TYPES OF PROGRAMS; ELIGIBLE COLLEGES AND UNIVERSITIES

SEC. 3. (a) The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary"), under conditions the Secretary may prescribe and in cooperation with the State directors of cooperative extension service programs and eligible colleges and universities, shall— 16 USC 1672.

(1) provide educational programs that enable individuals to recognize, analyze, and resolve problems dealing with renewable resources, including forest- and range-based outdoor recreation opportunities, trees and forests in urban areas, and trees and shrubs in shelterbelts;

(2) use educational programs to disseminate the results of research on renewable resources;

(3) conduct educational programs that transfer the best available technology to those involved in the management and protec-

tion of forests and rangelands and the processing and use of their associated renewable resources;

(4) develop and implement educational programs that give special attention to the educational needs of small, private nonindustrial forest landowners;

(5) develop and implement educational programs in range and fish and wildlife management;

(6) assist in providing continuing education programs for professionally trained individuals in fish and wildlife, forest, range, and watershed management and related fields;

(7) help forest and range landowners in securing technical and financial assistance to bring appropriate expertise to bear on their problems; and

(8) help identify areas of needed research regarding renewable resources.

"Eligible colleges and universities."

(b) As used in this Act, the term "eligible colleges and universities" means colleges and universities eligible to be supported and maintained, in whole or in part, with funds made available under the provisions of the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, 308), and the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), including Tuskegee Institute, and colleges and universities eligible for assistance under the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7).

(c) In implementing this section, all appropriate educational methods may be used, including, but not limited to, meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs.

STATE RENEWABLE RESOURCES EXTENSION PROGRAMS

16 USC 1673.

SEC. 4. (a) The State director of cooperative extension programs (hereinafter in this Act referred to as the "State director") and the administrative heads of extension for eligible colleges and universities in each State shall jointly develop, by mutual agreement, a single comprehensive and coordinated renewable resources extension program in which the role of each eligible college and university is well-defined. In meeting this responsibility, the State director and the administrative heads of extension for eligible colleges and universities shall consult and seek agreement with the administrative technical representatives and the forestry representatives provided for by the Secretary in implementation of the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7), in the State. Each State's renewable resources extension program shall be submitted to the Secretary annually. The National Agricultural Research and Extension Users Advisory Board established under section 1408 of the Food and Agriculture Act of 1977 shall review and make recommendations to the Secretary pertaining to programs conducted under this Act.

7 USC 3123.

(b) The State director and the administrative heads of extension for eligible colleges and universities in each State shall encourage close cooperation between extension staffs at the county and State levels, and State and Federal research organizations dealing with renewable resources, State and Federal agencies that manage forests and rangelands and their associated renewable resources, State and Federal agencies that have responsibilities associated with the processing or use

of renewable resources, and other agencies or organizations the State director and administrative heads of extension deem appropriate.

(c) Each State renewable resources extension program shall be administered and coordinated by the State director, except that, in States having colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), including Tuskegee Institute, the State renewable resources extension program shall be administered by the State director and the administrative head or heads of extension for the college or colleges eligible to receive such funds.

(d) In meeting the provisions of this section, each State director and administrative heads of extension for eligible colleges and universities shall appoint and use one or more advisory committees comprised of forest and range landowners, professionally trained individuals in fish and wildlife, forest, range, and watershed management, and related fields, as appropriate, and other suitable persons.

(e) For the purposes of this Act, the term "State" means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States. "State."

NATIONAL RENEWABLE RESOURCES EXTENSION PROGRAM

SEC. 5. (a) The Secretary shall prepare a five-year plan for implementing this Act, which is to be called the "Renewable Resources Extension Program" and shall submit such plan to Congress no later than the last day of the first half of the fiscal year ending September 30, 1980, and the last day of the first half of each fifth fiscal year thereafter. The Renewable Resources Extension Program shall provide national emphasis and direction as well as guidance to State directors and administrative heads of extension for eligible colleges and universities in the development of their respective State renewable resources extension programs, which are to be appropriate in terms of the conditions, needs, and opportunities in each State. The Renewable Resources Extension Program shall contain, but not be limited to, brief outlines of general extension programs for fish and wildlife management (for both game and nongame species), range management, timber management (including brief outlines of general extension programs for timber utilization, timber harvesting, timber marketing, wood utilization, and wood products marketing), and watershed management (giving special attention to water quality protection), as well as brief outlines of general extension programs for recognition and enhancement of forest- and range-based outdoor recreation opportunities, for planting and management of trees and forests in urban areas, and for planting and management of trees and shrubs in shelterbelts. Plan, submittal to Congress. 16 USC 1674.

(b) In preparing the Renewable Resources Extension Program, the Secretary shall take into account the respective capabilities of private forests and rangelands for yielding renewable resources and the relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and the periodic appraisal of land and water resources provided for in section 5 of the Soil and Water Resources Conservation Act of 1977. 16 USC 1601. 16 USC 2004.

(c) To provide information that will aid Congress in its oversight responsibilities and to provide accountability in implementing this Act, the Secretary shall prepare an annual report, which shall be Report to Congress.

furnished to Congress at the time of submission of each annual fiscal budget, beginning with the annual fiscal budget for the fiscal year ending September 30, 1981. The annual report shall set forth accomplishments of the Renewable Resources Extension Program, its strengths and weaknesses, recommendations for improvement, and costs of program administration, each with respect to the preceding fiscal year.

APPROPRIATIONS AUTHORIZATION

16 USC 1675.

SEC. 6. There are hereby authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1979, and $15,000,000 for each of the next nine fiscal years. Generally, States shall be eligible for funds appropriated under this Act according to the respective capabilities of their private forests and rangelands for yielding renewable resources and relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and the periodic appraisal of land and water resources provided for in section 5 of the Soil and Water Resources Conservation Act of 1977.

16 USC 1601.

16 USC 2004.

REGULATIONS AND COORDINATION

16 USC 1676.

SEC. 7. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this Act and to coordinate this Act with title XIV of the Food and Agriculture Act of 1977.

7 USC 3101 note.

EFFECTIVE DATES

16 USC 1671 note.

SEC. 8. The provisions of this Act shall be effective for the period beginning October 1, 1978, and ending September 30, 1988.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1184 (Comm. on Agriculture).
SENATE REPORT No. 95-881 accompanying S. 3035 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 22, considered and passed House.
June 7, considered and passed Senate, amended, in lieu of S. 3035.
June 16, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 27:
July 1, Presidential statement.

Public Law 95-307
95th Congress

An Act

To direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, and for other purposes.

June 30, 1978
[H.R. 11778]

Be it enacted by the Senate and House of Repesentatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest and Rangeland Renewable Resources Research Act of 1978".

Forest and Rangeland Renewable Resources Research Act of 1978.
16 USC 1600 note.

PURPOSE

SEC. 2. (a) Congress finds that scientific discoveries and technological advances must be made and applied to support the protection, management, and utilization of the Nation's renewable resources. It is the purpose of this Act to authorize the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") to implement a comprehensive program of forest and rangeland renewable resources research and dissemination of the findings of such research.

16 USC 1641.

(b) This Act shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974.

16 USC 1600 note.

RESEARCH AUTHORIZATION

SEC. 3. (a) The Secretary is authorized to conduct, support, and cooperate in investigations, experiments, tests, and other activities the Secretary deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewabie resources in rural, suburban, and urban areas. The activities conducted, supported, or cooperated in by the Secretary under this Act shall include, but not be limited to, the five major areas of renewable resource research identified in paragraphs (1) through (5) of this subsection.

16 USC 1642.

(1) Renewable resource management research shall include, as appropriate, research activities related to managing, reproducing, planting, and growing vegetation on forests and rangelands for timber, forage, water, fish and wildlife, esthetics, recreation, wilderness, and other purposes; determining the role of forest and rangeland management in the productive use of forests and rangelands, in diversified agriculture, and in mining, transportation, and other industries; and developing alternatives for the management of forests and rangelands that will make possible the most effective use of their multiple products and services.

(2) Renewable resource environmental research shall include, as appropriate, research activities related to understanding and managing surface and subsurface water flow, preventing and controlling erosion, and restoring damaged or disturbed soils on forest and rangeland watersheds; maintaining and improving wildlife and fish habitats; managing vegetation to reduce air and water pollution, provide amenities, and for other purposes; and understanding, predicting, and modifying weather, climatic, and other environmental conditions that affect the protection and management of forests and rangelands.

(3) Renewable resource protection research shall include, as appropriate, research activities related to protecting vegetation and other forest and rangeland resources, including threatened and endangered flora and fauna, as well as wood and wood products in storage or use, from fires, insects, diseases, noxious plants, animals, air pollutants, and other agents through biological, chemical, and mechanical control methods and systems; and protecting people, natural resources, and property from fires in rural areas.

(4) Renewable resource utilization research shall include, as appropriate, research activities related to harvesting, transporting, processing, marketing, distributing, and utilizing wood and other materials derived from forest and rangeland renewable resources; recycling and fully utilizing wood fiber; and testing forest products, including necessary fieldwork associated therewith.

(5) Renewable resource assessment research shall include, as appropriate, research activities related to developing and applying scientific knowledge and technology in support of the survey and analysis of forest and rangeland renewable resources described in subsection (b) of this section.

(b) To ensure the availability of adequate data and scientific information for development of the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Secretary of Agriculture shall make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources of the forests and rangelands of the United States and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits, and uses in meeting the needs of the people of the United States. The Secretary shall conduct the survey and analysis under such plans as the Secretary may determine to be fair and equitable, and cooperate with appropriate officials of each State and, either through them or directly, with private or other entities.

16 USC 1601.

RESEARCH FACILITIES AND COOPERATION

16 USC 1643.

SEC. 4. (a) In implementing this Act, the Secretary is authorized to establish and maintain a system of experiment stations, research laboratories, experimental areas, and other forest and rangeland research facilities. The Secretary is authorized, with donated or appropriated funds, to acquire by lease, donation, purchase, exchange, or otherwise, land or interests in land within the United States needed to implement this Act, to make necessary expenditures to examine, appraise, and survey such property, and to do all things incident to perfecting title thereto in the United States.

Land acquisition.

Funds, availability.

(b) In implementing this Act, the Secretary is authorized to accept, hold, and administer gifts, donations, and bequests of money, real property, or personal property from any source not otherwise prohibited by law and to use such gifts, donations, and bequests to (1) establish or operate any forest and rangeland research facility within the United States, or (2) perform any forest and rangeland renewable resource research activity authorized by this Act. Such gifts, donations, and bequests, or the proceeds thereof, and money appro-

priated for these purposes shall be deposited in the Treasury in a special fund. At the request of the Secretary, the Secretary of the Treasury may invest or reinvest any money in the fund that in the opinion of the Secretary is not needed for current operations. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. There are hereby authorized to be expended from such fund such amounts as may be specified in annual appropriation Acts, which shall remain available until expended.

(c) In implementing this Act, the Secretary may cooperate with Federal, State, and other governmental agencies, with public or private agencies, institutions, universities, and organizations, and with businesses and individuals in the United States and in other countries. The Secretary may receive money and other contributions from cooperators under such conditions as the Secretary may prescribe. Any money contributions received under this subsection shall be credited to the applicable appropriation or fund to be used for the same purposes and shall remain available until expended as the Secretary may direct for use in conducting research activities authorized by this Act and in making refunds to contributors.

(d) The paragraph headed "Forest research:" under the center heading "FOREST SERVICE" and the center subheading "SALARIES AND EXPENSES" of title I of the Department of Agriculture Appropriation Act, 1952 (65 Stat. 233; 16 U.S.C. 581a–1), is amended by inserting a period immediately after the figure "$5,108,603" and by striking all that follows in that paragraph.

COMPETITIVE RESEARCH GRANTS

SEC. 5. In addition to any grants made under other laws, the Secretary is authorized to make competitive grants that will further research activities authorized by this Act to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. In making these grants, the Secretary shall emphasize basic and applied research activities that are important to achieving the purposes of this Act, and shall obtain, through review by qualified scientists and other methods, participation in research activities by scientists throughout the United States who have expertise in matters related to forest and rangeland renewable resources. Grants under this section shall be made at the discretion of the Secretary under whatever conditions the Secretary may prescribe, after publicly soliciting research proposals, allowing sufficient time for submission of the proposals, and considering qualitative, quantitative, financial, administrative, and other factors that the Secretary deems important in judging, comparing, and accepting the proposals. The Secretary may reject any or all proposals received under this section if the Secretary determines that it is in the public interest to do so. 16 USC 1644.

GENERAL RESEARCH PROVISIONS

SEC. 6. (a) The Secretary may make funds available to cooperators and grantees under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), which prohibits advances of public money. 16 USC 1645.

(b) To avoid duplication, the Secretary shall coordinate cooperative aid and grants under this Act with cooperative aid and grants the Secretary makes under any other authority.

(c) The Secretary shall use the authorities and means available to the Secretary to disseminate the knowledge and technology developed from research activities conducted under or supported by this Act. In meeting this responsibility, the Secretary shall cooperate, as the Secretary deems appropriate, with the entities identified in subsection (d)(3) of this section and with others.

(d) In implementing this Act, the Secretary, as the Secretary deems appropriate and practical, shall—

(1) use, and encourage cooperators and grantees to use, the best available scientific skills from a variety of disciplines within and outside the fields of agriculture and forestry;

(2) seek, and encourage cooperators and grantees to seek, a proper mixture of short-term and long-term research and a proper mixture of basic and applied research;

(3) avoid unnecessary duplication and coordinate activities under this section among agencies of the Department of Agriculture and with other affected Federal departments and agencies, State agricultural experiment stations, State extension services, State foresters or equivalent State officials, forestry schools, and private research organizations; and

(4) encourage the development, employment, retention, and exchange of qualified scientists and other specialists through postgraduate, postdoctoral, and other training, national and international exchange of scientists, and other incentives and programs to improve the quality of forest and rangeland renewable resources research.

(e) This Act shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary except as specifically cited in this Act.

Definitions.

(f) For the purposes of this Act, the terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

RESEARCH APPROPRIATIONS AUTHORIZATION

16 USC 1646.

SEC. 7. There are hereby authorized to be appropriated annually such sums as may be needed to implement this Act. Funds appropriated under this Act shall remain available until expended.

REPEAL OF MC SWEENEY-MC NARY ACT; REGULATIONS AND COORDINATION; APPROPRIATIONS

16 USC 1647.

SEC. 8. (a) The Act of May 22, 1928, known as the McSweeney-McNary Act (45 Stat. 699–702, as amended; 16 U.S.C. 581, 581a, 581b-581i), is hereby repealed.

(b) Contracts and cooperative and other agreements under the McSweeney-McNary Act shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this Act and to coordinate this Act with title XIV of the Food and Agriculture Act of 1977. Rules and regulations. 7 USC 3101 note.

(d) Funds appropriated under the authority of the McSweeney-McNary Act shall be available for expenditure for the programs authorized under this Act. 16 USC 581, 581a, 581b–581i.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall become effective October 1, 1978. 16 USC 1641 note.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1179 (Comm. on Agriculture).
SENATE REPORT No. 95-880 accompanying S. 3034 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 22, considered and passed House.
June 7, considered and passed Senate, amended, in lieu of S. 3034.
June 16, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 27:
July 1, Presidential statement.

Public Law 95-308
95th Congress

An Act

June 30, 1978
[H.R. 11465]

To authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes.

U.S. Coast Guard. Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for necessary expenses of the United States Coast Guard for fiscal year 1979, as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction: $969,906,000;

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto: $379,954,000 to remain available until expended;

(3) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation: $34,603,000, to remain available until expended; and

(4) For research, development, test, and evaluation: $25,000,000, to remain available until expended.

SEC. 2. For fiscal year 1979, the Coast Guard is authorized an end of year strength for active duty personnel of 39,331: *Provided*, That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

SEC. 3. For fiscal year 1979, average military training students loads for the Coast Guard are authorized as follows:

(1) recruit and special training: 3,962 students;

(2) flight training: 95 students;

(3) professional training in military and civilian institutions: 436 students; and

(4) officer acquisitions: 952 students.

SEC. 4. Section 30 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1479) is amended by striking out "and 1978," and inserting in lieu thereof ", 1978, 1979, and 1980,".

SEC. 5. The Coast Guard is authorized to enter into a long-term lease in excess of one fiscal year for the purpose of acquiring a site on the Quillayute Indian Reservation in the State of Washington so that the Quillayute River Coast Guard Station may be relocated: *Provided*, That any such agreement entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. The Coast Guard is also authorized to expend, commencing with fiscal year 1979, appropriated funds for the construction of fixed facilities and improvements on such land leased from the Quillayute Indians.

SEC. 6. Subsection (b) of the first section of the Act of August 27, 1935 (relating to load lines for certain vessels) (46 U.S.C. 88(b)), is amended by (1) striking out "All" and inserting in lieu thereof "The requirements of this Act shall not apply to (1) all"; (2) striking out "except those constructed after the effective date of this subsection or those converted to either of such services after 5 years from the effective date of this subsection and" and inserting in lieu thereof

"which were constructed, or with respect to which construction was begun or contracted for, before January 1, 1980, or which were converted to such use, or with respect to which conversion to such use was begun or contracted for, before January 1, 1980, so long as such conversion was completed before January 1, 1983 (in the case of conversions); or (2)"; and (3) striking out ", are exempt from the requirements of this Act".

SEC. 7. Section 10 of the Act of May 28, 1908 (relating to seagoing barges) (46 U.S.C. 395), is amended by (1) redesignating subsection (c) as subsection (d); and (2) inserting immediately after subsection (b) the following:

"(c) During the period beginning January 1, 1977, and ending January 1, 1982, the provisions of subsection (b) shall not apply to vessels of not more than 5,000 gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska.".

SEC. 8. (a) The Congress finds and declares the following: Oil spills. Columbia River Basin system. 33 USC 1254 note.

(1) The transportation, production and handling of oil in, on, or near the navigable and ocean waters of the Columbia River Basin system creates substantial environmental risks, and may cause serious damage to the general health, welfare, and economy of this region.

(2) The vitality of the Columbia River estuary and marine environment is crucial to the maintenance and enhancement of major fishery resources for the enjoyment and livelihood of present and future generations.

(3) The protection and betterment of this marine, estuarine and fresh water river system requires a thorough, detailed assessment of the current plans and capabilities to best prevent, contain, clean-up and mitigate the damages resulting from possible oil spills and discharges in the system.

(b) Within 180 days after the date of enactment of this section, the Commandant of the Coast Guard, in consultation with the appropriate Federal, State, and local agencies, shall conduct a systematic, detailed evaluation on the— Study.

(1) current procedures, safeguards, and capabilities to best prevent, contain, clean-up, and mitigate damages resulting from oil spills and discharges in, on, or near the navigable and ocean waters of the Columbia River Basin system;

(2) available and required oceanographic meteorological, and other relevant data necessary to best provide for the management referred to in paragraph (1);

(3) potential risk of existing and projected oil tanker traffic in, on, or near the navigable and ocean waters of the Columbia River Basin system causing harm to the environment of such system due to oil spills, fuel dumping, residual discharges, and other releases of crude oil or petroleum products; and

(4) need for legislation or other strategies to insure protection of such system and its environment, including the prompt development of an orderly, step-by-step contingency plan to contain, cleanup, and mitigate the damages resulting from the conditions referred to in paragraph (3).

The Commandant shall submit the results of such evaluation, immediately upon completion, including such recommendations as he deems Report to congressional committees.

necessary, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

91 Stat. 259.

SEC. 9. Paragraph (1) of the first section of the Act of July 1, 1977 (authorizing appropriations for the Coast Guard for fiscal year 1978) is amended by striking out "$887,521,000;" and inserting in lieu thereof "$892,900,000;".

Approved June 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1030 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-817 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 17, considered and passed House.
May 19, considered and passed Senate, amended.
June 14, House concurred in Senate amendments.

Public Law 95-309
95th Congress

Joint Resolution

To designate Sunday, June 25, 1978, as "National Brotherhood Day".

June 30, 1978
[H.J. Res. 995]

Whereas this Nation was founded on the principle of freedom of religious thought;

Whereas the practice of this freedom continues today in the expression of many philosophies and beliefs;

Whereas the American people have—or their ancestors have—come to this country for many reasons, among them the freedom from persecution for these beliefs; and

Whereas a deep kinship and true brotherhood exists among the various national, religious, and racial groups making up this great Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Sunday, June 25, 1978, is hereby designated as "National Brotherhood Day".

National Brotherhood Day.

SEC. 2. The President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate National Brotherhood Day with appropriate celebrations and observances.

Proclamation authorization.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
June 23, considered and passed House and Senate.

Public Law 95-310
95th Congress

An Act

June 30, 1978
[S. 2033]

To provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture.

Wenatchee National Forest, Wash. Land conveyance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any requirement or limitation therein with respect to the location of lands that may be conveyed, the Secretary of Agriculture is authorized to convey as a townsite lands in the Wenatchee National Forest, Washington, known as the Liberty Townsite, pursuant to and in accordance with the provisions of the Act of July 31, 1958 (72 Stat. 438; 7 U.S.C. 1012a) as amended by section 213 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 3760).

90 Stat. 2760.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1291 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-519 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 28, considered and passed Senate.
Vol. 124 (1978): June 21, considered and passed House.

Public Law 95-311
95th Congress

An Act

To designate the proposed new Veterans' Administration hospital in Little Rock, Arkansas, as the "John L. McClellan Memorial Veterans' Hospital", and for other purposes.

June 30, 1978
[S. 2351]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proposed new Veterans' Administration hospital in Little Rock, Arkansas, shall hereafter be known and designated as the "John L. McClellan Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the John L. McClellan Memorial Hospital.

John L. McClellan Memorial Veterans' Hospital.

SEC. 2. The Administrator of Veterans' Affairs is authorized to provide such memorial at the above-named hospital as he may deem suitable to preserve the remembrance of the late John L. McClellan.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1284 accompanying H.R. 10287 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Dec. 15, considered and passed Senate.
Vol. 124 (1978): June 19, considered and passed House, amended, in lieu of H.R. 10287.
June 23, Senate concurred in House amendments.

39-194 O—80—pt. 1——27 : QL3

Public Law 95-312
95th Congress

Joint Resolution

June 30, 1978
[S.J. Res. 128]

Designating July 1, 1978, as "Free Enterprise Day".

Whereas the rapid development of America's economy is a result of the interaction of the free enterprise of our people and the abundant natural resources of our land; and

Whereas the present great prosperity of the United States is based upon free enterprise; and

Whereas the principles of free enterprise are inexorably bound with our principles of individual political freedom; and

Whereas the belief of Americans in the essential justice of free enterprise is being increasingly challenged throughout the world.

Free Enterprise Day. Proclamation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 1, 1978, as "Free Enterprise Day" and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Approved June 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 20, considered and passed Senate.
June 26, considered and passed House.

Public Law 95-313
95th Congress

An Act

To authorize the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes.

July 1, 1978
[H.R. 11777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cooperative Forestry Assistance Act of 1978".

Cooperative Forestry Assistance Act of 1978.
16 USC 2101 note.

POLICY AND PURPOSE

16 USC 2101.

SEC. 2. (a) Congress finds and declares that—

(1) most of the Nation's productive forest land is in private, State, and local governmental ownership, and the Nation's capacity to produce renewable forest resources is significantly dependent on these non-Federal forest lands;

(2) adequate supplies of timber and other forest resources are essential to the Nation, and adequate supplies are dependent upon efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

(3) managed forest lands provide habitats for fish and wildlife, as well as esthetics, outdoor recreation opportunities, and other forest resources;

(4) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

(5) fires in rural areas threaten human lives, property, and forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

(6) trees and forests are of great environmental and economic value to urban areas; and

(7) managed forests contribute to improving the quality, quantity, and timing of water yields, which are of broad benefit to society.

(b) The purpose of this Act is to authorize the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary"), with respect to non-Federal forest lands, to assist in—

(1) the advancement of forest resources management;

(2) the encouragement of the production of timber;

(3) the prevention and control of insects and diseases affecting trees and forests;

(4) the prevention and control of rural fires;

(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

(6) the improvement and maintenance of fish and wildlife habitat; and

(7) the planning and conduct of urban forestry programs.

(c) It is in the national interest for the Secretary to work through and in cooperation with State foresters or equivalent State officials in implementing Federal programs affecting non-Federal forest lands.

(d) This Act shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974.

16 USC 1600 note.

RURAL FORESTRY ASSISTANCE

16 USC 2102.

SEC. 3. (a) Congress finds that—

(1) production of timber on non-Federal forest lands and the efficient processing and use of wood produced on these lands are important in meeting the Nation's demand for wood and wood products;

(2) the Federal Government can assist in increasing timber inventories, improving and maintaining fish and wildlife habitat, and providing other forest resources on non-Federal forest lands; and

(3) Federal assistance in forest resources management on non-Federal forest lands and the utilization of resources from these lands contribute to the economic strength and environmental quality of the Nation, providing many public benefits.

(b) The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials to—

(1) develop genetically improved tree seeds;

(2) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

(3) plant tree seeds and trees for the reforestation or afforestation of non-Federal forest lands suitable for the production of timber and other benefits associated with the growing of trees;

(4) plan, organize, and implement measures on non-Federal forest lands, including, but not limited to, thinning, prescribed burning, and other silvicultural practices designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom;

(5) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields; and

(6) provide technical information, advice, and related assistance to private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals regarding—

(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

(B) conversion of wood to energy for domestic, industrial, municipal, and other uses;

(C) management planning and treatment of forest land, including, but not limited to, site preparation, reforestation, thinning, prescribed burning, and other silvicultural practices designed to increase the quantity and improve the quality of timber and other forest resources;

(D) protection and improvement of forest soil fertility and the quality, quantity, and timing of water yields; and

(E) the effects of forestry practices on fish and wildlife and their habitats.

Appropriation authorization.

(c) There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

FORESTRY INCENTIVES

SEC. 4. (a) The Secretary is authorized to develop and implement a forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such program shall be to encourage landowners to apply practices that will provide for afforestation of suitable open lands, reforestation of cutover or other nonstocked or understocked forest lands, timber stand improvement practices, including thinning, prescribed burning, and other silvicultural treatments, and forest resources management and protection, so as to provide for the production of timber and other forest resources associated therewith. 16 USC 2103.

(b) For the purposes of this section, the term "private forest land" means land capable of producing crops of industrial wood and owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity. "Private forest land."

(c) Landowners shall be eligible for cost sharing under this program if they own one thousand acres or less of private forest land, except that the Secretary may approve cost sharing with landowners owning more than one thousand acres of such land if significant public benefits will accrue. In no case, however, may the Secretary approve cost sharing with landowners owning more than five thousand acres of private forest land. Cost sharing.

(d) The Secretary shall administer this section in accordance with regulations the Secretary shall develop in consultation with the committee described in section 10(c) of this Act. Regulations issued under title X of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973, to the extent not inconsistent with the provisions of this section, shall remain in effect until revoked or amended by regulations issued under this subsection. The regulations issued under this subsection shall include guidelines for the administration of this section at the Federal and State levels, and shall identify the measures and activities eligible for cost sharing under this section. Regulations. 16 USC 1501.

(e) Individual forest management plans developed by the landowner in cooperation with and approved by the State forester or equivalent State official shall be the basis for agreements between the landowner and the Secretary under this section. The Secretary shall encourage participating States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest management plans.

(f) In return for the agreement by the landowner, the Secretary shall agree to share the cost of implementing those forestry practices and measures set forth in the agreement for which the Secretary determines that cost sharing is appropriate. The portion of such cost (including labor) to be shared shall be that portion that the Secretary determines is necessary and appropriate to implement the forestry practices and measures under the agreement, but not more than 75 percent of the actual costs incurred by the landowner. The maximum amount any individual may receive annually under the program authorized by this section shall be determined by the Secretary in consultation with the committee described in section 10(c) of this Act.

(g) The Secretary shall, for the purposes of this section, distribute funds available for cost sharing among the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to (1) the acreage of private commerical forest land in Funds, distribution.

each State, (2) the potential productivity of such land, (3) the number of ownerships eligible for cost sharing in each State, (4) the need for reforestation, timber stand improvement, or other forestry investments on such ownerships, and (5) the enhancement of other forest resources.

(h) The Secretary may, if the Secretary determines that doing so will contribute to the effective and equitable administration of the program authorized by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements under this section.

(i) In implementing this section, the Secretary may use the authorities provided in sections 1001, 1002, 1003, 1004, and 1008 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973.

16 USC 1501-1504, 1508.

(j) There are hereby authorized to be appropriated annually such sums as may be needed to implement this section, including funds necessary for technical assistance and expenses associated therewith.

Appropriation authorization.

INSECT AND DISEASE CONTROL

16 USC 2104.

SEC. 5. (a) The Secretary is authorized to protect from insects and diseases trees and forests and wood products, stored wood, and wood in use directly on the National Forest System and in cooperation with others on other lands in the United States, in order to—

(1) enhance the growth and maintenance of trees and forests;

(2) promote the stability of forest-related industries and employment associated therewith through protection of forest resources;

(3) aid in forest fire prevention and control;

(4) conserve forest cover on watersheds;

(5) protect outdoor recreation opportunities and other forest resources; and

(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

(b) Subject to the provisions of subsections (c), (d), and (e) of this section and subject to whatever other conditions the Secretary may prescribe, the Secretary is authorized, directly on the National Forest System, and in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands, to—

(1) conduct surveys to detect and appraise insect infestations and disease conditions affecting trees;

(2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;

(3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

(4) provide technical information, advice, and related assistance in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use; and

(5) take any other actions the Secretary deems necessary to accomplish the objectives and purposes of this section.

(c) Operations planned to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

(d) No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined by the Secretary.

(e) The Secretary may, in the Secretary's discretition and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary deems necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

(f) Any money appropriated to implement this section shall be available for necessary expenses. However, no money appropriated to implement this section shall be used to (1) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees, or (2) compensate for the value of any property injured, damaged, or destroyed by any cause. The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), under whatever procedures the Secretary may prescribe, whenever the Secretary deems such action necessary and in the public interest.

(g) There are hereby authorized to be appropriated annually such sums as may be needed to implement this section. **Appropriation authorization.**

URBAN FORESTRY ASSISTANCE

SEC. 6. (a) Congress finds that— **16 USC 2105.**

(1) trees and forests in urban areas, including cities, their suburbs, and towns, improve esthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife;

(2) trees and forests in urban areas are weakened, damaged, or killed by highway and street widening, sidewalk construction, air pollution, modified drainage patterns, erosion, depletion of soil fertility, insects and diseases, mechanical and structural facilities, and other adverse influences that result from or are aggravated by the concentrated use of land; and

(3) planting, protecting, and maintaining trees and forests and utilizing wood from pruned limbs, damaged trees, and felled trees in urban areas make those areas more pleasant and healthful.

(b) The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential

developments in urban areas. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

Appropriation authorization.

(c) There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

RURAL FIRE PREVENTION AND CONTROL

16 USC 2106.

SEC. 7. (a) Congress finds that—

(1) significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;

(2) progress is being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;

(3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities are of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(4) the effective cooperative relationships between the Secretary and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;

(5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and

(6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

15 USC 2201 note.

(b) Notwithstanding the Federal Fire Prevention and Control Act of 1974, the Secretary is authorized, under whatever conditions the Secretary may prescribe, to—

(1) cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(2) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands; and

(3) provide financial, technical, and related assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas. As used herein, the term "rural areas" shall have the meaning set out in the first

"Rural areas."

clause of section 306(a)(7) of the Consolidated Farm and Rural Development Act. 7 USC 1926.

(c) The Secretary, with the cooperation and assistance of the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by State and local fire forces receiving assistance under this section. 40 USC 471 note.

(d) To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance the Secretary provides under this section with the assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974. 15 USC 2201 note.

(e) There are hereby authorized to be appropriated annually such sums as may be needed to implement subsection (b) of this section. Appropriation authorization.

(f) There shall be established in the Treasury a special rural fire disaster fund that shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section with respect to rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully used or will be fully used before expending money in the disaster fund to assist a State in which one or more rural fire emergencies exist. There are hereby authorized to be appropriated such sums as may be needed to establish and replenish the disaster fund established by this subsection. Rural fire disaster fund. Appropriation authorization.

MANAGEMENT ASSISTANCE, PLANNING ASSISTANCE, AND TECHNOLOGY IMPLEMENTATION

SEC. 8. (a) To aid in achieving maximum effectiveness in the programs and activities conducted under this Act, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the development of stronger and more efficient State organizations that will enable them to fulfill better their responsibilities for the protection and management of non-Federal forest lands. Assistance under this subsection may include, but will not be limited to, assistance in matters related to organization management, program planning and management, budget and fiscal accounting services, personnel training and management, information services, and recordkeeping. Assistance under this subsection may be extended only upon request by State foresters or equivalent State officials. 16 USC 2107.

(b) To ensure that data regarding forest lands are available for and effectively presented in State and Federal natural resources planning, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials in the assembly, analysis, display, and reporting of State forest resources data, in the training of State forest resources planners, and in participating in natural resources planning at the State and Federal levels. The Secretary shall restrict assistance under this subsection to the implementation of the forestry aspects of State and Federal natural resources planning conducted under other laws. This subsection shall not be construed, in any way whatsoever, as extending, limiting, amending, repealing, or otherwise affecting any other law or authority.

(c) To ensure that new technology is introduced, new information is integrated into existing technology, and forest resources research findings are promptly made available to State forestry personnel, private forest landowners and managers, vendors, forest operators, wood

processors, public agencies, and individuals, the Secretary is authorized to carry out a program of technology implementation.

(1) In implementing this subsection, the Secretary is authorized to work through State foresters or equivalent State officials, and, if the State forester or equivalent State official is unable to deliver these services, the Secretary is authorized to act through appropriate United States Department of Agriculture agencies, subdivisions of States, agencies, institutions, organizations, or individuals to—

(A) strengthen technical assistance and service programs of cooperators participating in programs under this Act by applying research results and conducting pilot projects and field tests of management and utilization practices, equipment, and technologies, related to programs and activities authorized under this Act;

(B) study the effects of tax laws, methods, and practices on forest management;

(C) develop and maintain technical information systems in support of programs and activities authorized under this Act;

(D) test, evaluate, and seek registration of chemicals for use in implementing the programs and activities authorized under this Act;

(E) conduct other activities, including training of State forestry personnel whom the Secretary deems necessary to ensure that the programs and activities authorized under this Act are responsive to special problems, unique situations, and changing conditions.

(2) The Secretary may make funds available to cooperators under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), which prohibits advances of public money.

(3) The Secretary shall use forest resources planning committees at National and State levels in implementing this subsection.

Appropriation authorization.

(d) There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

CONSOLIDATED PAYMENTS

16 USC 2108.

SEC. 9. (a) To provide flexibility in funding activities authorized under this Act, the Secretary may, upon the request of any State, consolidate the annual financial assistance payments to that State under this Act, in lieu of functional cost sharing mechanisms, formulas, or agreements. However, consolidated payments shall not include money appropriated under section 4 of this Act or money from any special Treasury fund established under this Act.

(b) Consolidation of payments made under this section shall be based upon State forest resources programs developed by State foresters or equivalent State officials, and reviewed by the Secretary.

(c) Consolidated payments to any State during any fiscal year shall not exceed the total amount of non-Federal funds expended within the State during that year to implement its State forest resources program. However, the Secretary may make payments that exceed the non-Federal amount expended for selected activities under the program, if the total Federal expenditure during any fiscal year does not exceed the total non-Federal expenditure during that year under the State forest resources program.

(d) The Secretary may make consolidated payments on the certificate of the State forester or equivalent State official that the conditions for Federal payment have been met.

(e) The Secretary shall administer this section to ensure that the use of consolidated payments does not adversely affect or eliminate any program authorized under this Act.

(f) Subject to applicable appropriation Acts, the total annual amount of financial assistance to any participating State after the enactment of this Act shall not be less than the base amount of financial assistance provided to that State under all the provisions of law specified in section 13 of this Act during the fiscal year in which this Act is enacted. However, financial assistance for special projects of two years or less duration shall not be included in determining the base amount for any participating State.

GENERAL PROVISIONS

SEC. 10. (a) In implementing this Act, the Secretary shall, to the maximum extent practicable— 16 USC 2109.

(1) work through, cooperate with, and assist State foresters or equivalent State officials;

(2) encourage cooperation and coordination between State foresters or equivalent State officials and other State agencies that manage renewable natural resources;

(3) use and encourage cooperators under this Act to use, private agencies, consultants, organizations, firms, and individuals to furnish necessary materials and services; and

(4) promote effectiveness and economy by coordinating the direct actions and assistance authorized under this Act with related programs the Secretary administers, and with cooperative programs of other agencies.

(b) Money appropriated under this Act shall remain available until expended. Funds, availability.

(c) Requirements for the development of State forest resources programs and State participation in management assistance, planning assistance, and technology implementation, the apportionment of funds among States participating under this Act, the administrative expenses in connection with activities and programs under this Act, and the amounts to be expended by the Secretary to assist non-State cooperators under this Act, shall be determined by the Secretary in consultation with a committee of not less than five State foresters or equivalent State officials selected by a majority of the State foresters or equivalent State officials from States participating in programs under this Act. However, the Secretary need not consult with such committee regarding funds to be expended under emergency conditions that the Secretary may determine.

(d) For the purposes of this Act—

(1) The terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States; Definitions.

(2) The term "forest resources" shall include esthetics, fish and wildlife, forage, outdoor recreation opportunities, timber, and water; and

(3) The term "urban forestry" means the planning, establishment, protection, and management of trees and associated plants, individually, in small groups, or under forest conditions within cities, their suburbs, and towns.

Rules and regulations.

(e) The Secretary may prescribe rules and regulations, as the Secretary deems appropriate, to implement the provisions of this Act.

Grants, agreements, contracts.

(f) The Secretary is authorized to make grants, agreements, contracts, and other arrangements the Secretary deems necessary to implement this Act.

(g) This Act shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in section 13 of this Act.

STATEMENT OF LIMITATION

16 USC 2110.

SEC. 11. This Act does not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, and this Act does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.

REPORTS

16 USC 1606 note.

SEC. 12. To ensure that Congress has adequate information to implement its oversight responsibilities and to provide accountability for expenditures and activities under this Act, section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by—

16 USC 1606.

(1) inserting immediately before the period at the end of the last sentence "and in cooperative State and private Forest Service programs"; and

(2) adding a new sentence at the end thereof as follows: "With regard to the cooperative forestry assistance part of the Program, the report shall include, but not be limited to, a description of the status, accomplishments, needs, and work backlogs for the programs and activities conducted under the Cooperative Forestry Assistance Act of 1978.".

REPEAL OF OTHER LAWS; EXISTING CONTRACTS AND AGREEMENTS; APPROPRIATIONS

16 USC 2111.

SEC. 13. (a) The following laws, and portions of laws, are hereby repealed:

(1) sections 1, 2, 3, and 4 of the Act of June 7, 1924, known as the Clarke-McNary Act (43 Stat. 653–654, as amended; 16 U.S.C. 564, 565, 566, 567);

(2) the Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a);

16 USC 594–1 note.

(3) the Forest Pest Control Act;

16 USC 568c note.

(4) the Cooperative Forest Management Act;

16 USC 568e.

(5) section 401 of the Agricultural Act of 1956;

7 USC 2651.

(6) title IV of the Rural Development Act of 1972; and

16 USC 1509, 1510.

(7) section 1009 and the proviso to section 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973.

(b) Contracts and cooperative and other agreements under cooperative forestry programs executed under authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) Funds appropriated under the authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall be available for expenditure for the programs authorized under this Act. Funds, availability.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall become effective October 1, 1978. 16 USC 2101 note.

Approved July 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1183 (Comm. on Agriculture).
SENATE REPORT No. 95-879 accompanying S. 3033 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 22, considered and passed House.
June 7, considered and passed Senate, amended, in lieu of S. 3033.
June 16, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 27:
July 1, Presidential statement.

Public Law 95-314
95th Congress

An Act

July 1, 1978
[H.R. 12571]

To amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada.

Fishery Conservation Zone Transition Act, amendment. 16 USC 1823 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Fishery Conservation Zone Transition Act (Public Law 95-73; 91 Stat. 283) is amended to read as follows:

"(a) CONGRESSIONAL APPROVAL.—The Congress hereby approves the Reciprocal Fisheries Agreement for 1978 between the Government of the United States and the Government of Canada (hereinafter in this section referred to as the 'Agreement') as contained in the message to Congress from the President of the United States dated May 1, 1978. The Agreement shall be in force and effect with respect to the United States from January 1, 1978, until such later date in 1978 as may be determined pursuant to the terms of the Agreement.".

Agreement; effective date.

Approved July 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1215 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-955 (Comm. on Commerce, Science, and Transportation and Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed House.
June 29, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 27:
July 1, Presidential statement.

Public Law 95-315
95th Congress

An Act

To create a solar energy and energy conservation loan program within the Small Business Administration, and for other purposes.

July 4, 1978
[H.R. 11713]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Energy Loan Act".

Small Business Energy Loan Act.
15 USC 631 note.

SEC. 2. Section 7 of the Small Business Act is amended by adding at the end thereof the following new subsection:

15 USC 636.

"(l) (1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in financing plant construction, conversion, expansion (including acquisition of land for such a plant), or startup, and the acquisition of equipment, facilities, machinery, supplies, or materials to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service any of the following energy measures:

"(A) Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types.

"(B) Photovoltaic cells and related equipment.

"(C) A product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy or which the Administrator determines to be consistent with the intent of this subsection.

"(D) Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy.

"(E) Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste.

"(F) Hydroelectric power equipment.

"(G) Wind energy conversion equipment.

"(H) Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (A) through (G).

Proceeds of loans under this subsection shall not be used primarily for research and development.

"(2) No loan shall be made under this subsection if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $500,000. No loan made or effected under this subsection directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed $350,000.

"(3) No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms from non-Federal sources.

"(4) No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.

"(5) In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"(6) The Administration's share of any loan made under this subsection shall bear interest at the same rate as loans made under subsection (a) of this section. The maximum terms of any such loan, including extensions and renewals, may not exceed fifteen years.

"(7) All loans made under this subsection shall be of such sound value as reasonably to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field: *Provided*, That factors in determining 'sound value' shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided further*, That such status need not be as sound as that required for loans under subsection (a) of this section.

Regulations. Publication in Federal Register.

"(8)(A) The Administration, after consultation with the Department of Energy and other Federal departments and agencies as the Administrator deems appropriate, shall publish in the Federal Register for public comment not later than sixty days after the date of enactment of this subsection proposed regulations to carry out the provisions of this subsection. The Administration shall make all reasonable efforts to solicit comments from small businesses and shall take into consideration comments submitted regarding such proposed regulations.

"(B) The administration shall publish final regulations under this subsection not later than one hundred and eighty days after the date of enactment of this subsection.

"(9) It is the intent of Congress that the paperwork burden and regulatory impact on applicants under this subsection shall be minimized, and that to the maximum extent practicable, the Administrator may rely upon consultation with the Department of Energy and other agencies, upon paid consultants, and upon voluntary public submissions of information to obtain market data, industry sales projections, energy savings, and other economic information needed to carry out the provisions of section 7(l)(1) (D) and (E). Nothing in this subsection shall be construed as precluding the Administrator from using any of his lawful powers to obtain information from applicants.".

15 USC 636.

SEC. 3. Section 7(d) of the Small Business Act is amended by inserting "(1)" after "(d)" and by adding at the end of such subsection the following paragraph:

Grants.

"(2) The Administration is authorized to hold seminars throughout the Nation to make potential applicants aware of the opportunities available under this subsection and related government energy programs, and to make grants to qualified organizations to provide training seminars for small business concerns regarding practical and easily implemented methods for design, manufacture, installation, and servicing of equipment and for providing services listed in paragraph (1) of this subsection, except that recipients of loans made pursuant to this subsection shall not subsequently be eligible for such grants.".

SEC. 4. Section 4(c) of the Small Business Act is amended— 15 USC 633.

(1) in subparagraph (B) of paragraph (1), by inserting "7(l)," after "7(i),"; and

(2) in subparagraph (B) of paragraph (2), by inserting "7 (l)," after "7(i),".

SEC. 5. Section 20(e) of the Small Business Act (15 U.S.C. 649(e)) is amended by adding at the end thereof a new paragraph as follows: 15 USC 631 note.

"(10) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $45,000,000 in guaranteed loans.". 15 USC 636.

SEC. 6. Section 10(b) of the Small Business Act (15 U.S.C. 639(b)) is amended by adding the following: "Such report shall contain the number and amount of loans, the number of applications, the total amount applied for, and the number and amount of defaults for each type of equipment or service for which loans are authorized by this subsection, and on the projected and actual energy savings and numbers of jobs created by firms through loans made under section 7(l) of the Small Business Act. The Department of Energy shall assist the Administration in obtaining information and compiling this report.". Reports to President, Congress, and congressional committees. 15 USC 636.

SEC. 7. Section 20(f) of the Small Business Act (15 U.S.C. 649(f)) is amended by striking the first sentence and inserting in lieu thereof: "There are authorized to be appropriated to the Administration for fiscal year 1979 $1,601,750,000 to carry out the programs referred to in subsection (e), paragraphs (1) through (10).". 15 USC 631 note. Appropriation authorization.

Approved July 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1071 (Comm. on Small Business).
SENATE REPORT No. 95-828 (Select Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 2, considered and passed House.
May 24, considered and passed Senate, amended.
June 16, House concurred in Senate amendment with amendments.
June 19, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 27:
July 4, Presidential statement.

39-194 O—80—pt. 1——28 QL3

Public Law 95-316
95th Congress

An Act

July 10, 1978
[H.R. 10730]

To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981.

Marine Mammal Protection Act, amendments. Appropriation authorizations. Federal cooperation with States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379) is amended by adding at the end thereof the following new subsection:

"(d)(1) There are authorized to be appropriated to the Department of the Interior, for the purposes of carrying out this section, not to exceed $400,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

"(2) There are authorized to be appropriated to the Department of Commerce, for the purposes of carrying out this section, not to exceed $225,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

Research grants.

SEC. 2. Section 110(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) $1,300,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1979.

"(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1979.

"(5)(A) $1,500,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1980.

"(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1980.

"(6)(A) $2,100,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1981.

"(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1981.".

SEC. 3. Section 114 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1384) is amended—

(1) by amending subsection (a)—

(A) by striking out "title." and inserting in lieu thereof "title (other than sections 109 and 110).".

(B) by striking out "and" immediately after "fiscal years,", and

(C) by inserting immediately after "September 30, 1978," the following: "not to exceed $8,500,000 for the fiscal year ending September 30, 1979, not to exceed $9,000,000 for the fiscal year ending September 30, 1980, and not to exceed $9,500,000 for the fiscal year ending September 30, 1981,"; and

(2) by amending subsection (b)—

(A) by striking out "title." and inserting in lieu thereof "title (other than sections 109 and 110).",

(B) by striking out "and" immediately after "thereafter,", and

(C) by inserting immediately after "September 30, 1978" the following: ", not to exceed $650,000 for the fiscal year ending September 30, 1979, not to exceed $760,000 for the fiscal year ending September 30, 1980, and not to exceed $876,000 for the fiscal year ending September 30, 1981".

SEC. 4. Section 207 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1407) is amended—

(1) by striking out "and" immediately after "$1,000,000"; and

(2) by inserting ", the sum appropriated for the fiscal year ending September 30, 1979, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1980, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1981, shall not exceed $1,000,000" immediately after "$2,000,000".

Approved July 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1028 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-888 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 10, considered and passed House.
June 7, considered and passed Senate, amended.
June 28, House concurred in Senate amendment.

Public Law 95-317
95th Congress

An Act

July 10, 1978
[H.R. 3447]

To amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8339(j) of title 5, United States Code, is amended by striking out the second and third sentences and inserting in lieu thereof the following: "An annuity which is reduced under this subsection or any similar prior provision of law shall, for each full month during which a retired employee or Member is not married (or is remarried if there is no election in effect under the following sentence), be recomputed and paid as if the annuity had not been so reduced. Upon remarriage the retired employee or Member may irrevocably elect during such marriage, in a signed writing received in the Commission within 1 year after such remarriage, a reduction in his annuity for the purpose of allowing an annuity for his spouse in the event such spouse survives him. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage, and shall be effective the first day of the first month beginning 1 year after the date of remarriage.".

Civil service retirement annuities. Payments to surviving spouses.

Notice.

(b) Section 8341(b)(1) of title 5, United States Code, is amended by striking out "unless the employee or Member" and all that follows, and inserting in lieu thereof the following: "unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive his annuity, or in the case of remarriage, he did not file an election under the third sentence of section 8339(j) of this title.".

Effective date.

(c) The second sentence of section 8339(k)(2) of title 5, United States Code, is amended to read as follows: "The reduced annuity shall be effective the first day of the first month beginning 1 year after the date of marriage.".

SEC. 2. Section 8339(k)(1) of title 5, United States Code, is amended by adding at the end thereof the following: "An annuity which is reduced under this paragraph or any similar prior provision of law shall, effective the first day of the month following the death of the individual named under this paragraph, be recomputed and paid as if the annuity had not been so reduced.".

5 USC 8339 note.

SEC. 3. The Civil Service Commission shall, on an annual basis, inform each annuitant of such annuitant's rights of election under sections 8339(j) and 8339(k)(2) of title 5, United States Code.

Effective date. 5 USC 8339 note.

SEC. 4. (a) This Act shall take effect—

(1) the first day of the first month which begins on or after the date of the enactment of this Act, or

(2) October 1, 1978,

whichever is later.

(b) Except as provided under subsection (c) of this section, the amendments made by the first section and section 2 of this Act shall apply with respect to annuities which commence before, on, or after the effective date of this Act, but no monetary benefit by reason of such amendments shall accrue for any period before such effective date.

(c) The amendments made by the first section of this Act shall not affect the eligibility of any individual to a survivor annuity under section 8341(b) of title 5, United States Code, or the reduction therefor under section 8339(j) of such title, in the case of an annuitant who remarried before the effective date of this Act, unless the annuitant notifies the Civil Service Commission in a signed writing received in the Commission within one year after the effective date of this Act that such annuitant does not desire the spouse of the annuitant to receive a survivor annuity in the event of the annuitant's death. Such notification shall take effect the first day of the first month after it is received in the Commission. Notice. Effective date.

Approved July 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-283 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-904 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 6, considered and passed House.
Vol. 124 (1978): June 19, considered and passed Senate, amended.
June 26, House concurred in Senate amendment.

Public Law 95-318
95th Congress

An Act

July 10, 1978
[H.R. 3755]

To provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes.

Civil service employees. Restoration of retirement annuities. 5 USC 8341 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) upon application to the Civil Service Commission, the annuity of—

(1) a surviving spouse of an employee which was terminated under the provisions of section 8341 (b) or (d) of title 5, United States Code, or of any prior applicable law, because of the remarriage of such spouse before July 18, 1966, and

(2) a surviving spouse of a Member who died before January 8, 1971, which was terminated under any such provision, because of the remarriage of such spouse,

shall be restored in accordance with the provisions of subsection (b) of this section.

(b)(1) In the case of a remarriage occurring after the surviving spouse became sixty years of age, the annuity shall be restored to such spouse under subsection (a) of this section only if any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund. If such amount is paid, the annuity shall be so restored commencing on the effective date of this section at the rate which would have been in effect if the annuity had not been terminated.

(2) In the case of a remarriage occurring before the surviving spouse became sixty years of age, the annuity shall be restored to such spouse under subsection (a) of this section only if—

(A) such spouse elects to receive this annuity instead of a survivor benefit to which the spouse may be entitled under subchapter III of chapter 83 of such title 5 or under another retirement system for Government employees by reason of the marriage; and

5 USC 8331 *et seq.*

(B) any lump sum paid on termination of the annuity is returned to such fund.

If the requirements of the preceding sentence are satisfied, such annuity shall be so restored commencing on the effective date of this section or on the first day of the month following the date the remarriage is dissolved by death, annulment, or divorce, whichever date is later, at the rate which was in effect when the annuity was terminated.

SEC. 2. Section 8341(g) of title 5, United States Code, is amended by striking out "after July 18, 1966,".

SEC. 3. The foregoing provisions of this Act shall take effect on— Effective date. 5 USC 8341 note.
(1) the first day of the month following the date of the enactment of this Act, or
(2) October 1, 1978,
whichever date is later.

Approved July 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-475 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-905 (Comm. on Governmental affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Vol. 124 (1978): June 19, considered and passed Senate, amended.
June 26, House concurred in Senate amendment.

Public Law 95-319
95th Congress

An Act

July 11, 1978
[S. 2401]

To amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Interim Consumer Product Safety Standard Act of 1978".

Emergency Interim Consumer Product Safety Standard Act of 1978.
15 USC 2051 note.
15 USC 2082 note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured cellulose insulation;

(2) an unreasonably large quantity of cellulose insulation is being distributed that does not meet minimum safety standards;

(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation; and

(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable or corrosive cellulose insulation.

(b) It is the purpose of the Congress in this Act to provide an interim mandatory safety standard for cellulose insulation manufactured for use as a consumer product.

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 3. (a) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the following new section:

"INTERIM CELLULOSE INSULATION SAFETY STANDARD

15 USC 2082.

"SEC. 35. (a)(1) Subject to the provisions of paragraph (2), on and after the last day of the 60-day period beginning on the effective date of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C (as such specification was in effect on February 1, 1978), shall be deemed to be an interim consumer product safety standard which shall have all the authority and effect of any other consumer product safety standard promulgated by the Commission under this Act. During the 45-day period beginning on the effective date of this section, the Commission may make, and shall publish in the Federal Register, such technical, nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety standard. At the end of the 60-day period specified in the first sentence of this paragraph, the Commission shall publish in the Federal Register such interim consumer product safety standard, as altered by the Commission under this paragraph.

Regulations.
Publication in Federal Register.

"(2) The interim consumer product safety standard established in paragraph (1) shall provide that any cellulose insulation which is produced or distributed for sale or use as a consumer product shall have a flame spread rating of 0 to 25, as such rating is set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C.

"(3) During the period for which the interim consumer product safety standard established in subsection (a) is in effect, in addition to complying with any labeling requirement established by the Commission under this Act, each manufacturer or private labeler of cellulose insulation shall include the following statement on any container of such cellulose insulation: 'ATTENTION: This material meets the applicable minimum Federal flammability standard. This standard is based upon laboratory tests only, which do not represent actual conditions which may occur in the home'. Such statement shall be located in a conspicuous place on such container and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such container.

"(b) Judicial review of the interim consumer product safety standard established in subsection (a), as such standard is in effect on and after the last day of the 60-day period specified in such subsection, shall be limited solely to the issue of whether any changes made by the Commission under paragraph (1) are technical, nonsubstantive changes. For purposes of such review, any change made by the Commission under paragraph (1) which requires that any test to determine the flame spread rating of cellulose insulation shall include a correction for variations in test results caused by equipment used in the test shall be considered a technical, nonsubstantive change. Judicial review.

"(c)(1)(A) Any interim consumer product safety standard established pursuant to this section shall be enforced in the same manner as any other consumer product safety standard until such time as there is in effect a final consumer product safety standard promulgated by the Commission, as provided in subparagraph (B), or until such time as it is revoked by the Commission under section 9(e). A violation of the interim consumer product safety standard shall be deemed to be a violation of a consumer product safety standard promulgated by the Commission under section 9. 15 USC 2058.

"(B) If the Commission determines that the interim consumer product safety standard does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, it shall promulgate a final consumer product safety standard to protect against such risk. Such final standard shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation. The provisions of section 9 (b), (c), and (d) shall apply to any proceeding to promulgate such final standard. In any judicial review of such final standard under section 11, the court shall not require any demonstration that each particular finding made by the Commission under section 9(c) is supported by substantial evidence. The court shall affirm the action of the Commission unless the court determines that such action is not supported by substantial evidence on the record taken as a whole. 15 USC 2060.

"(2) (A) Until there is in effect such a final consumer product safety standard, the Commission shall incorporate into the interim consumer product safety standard, in accordance with the provisions of this paragraph, each revision superseding the requirements for flame resistance and corrosiveness referred to in subsection (a) and promulgated by the General Services Administration.

Notice.

"(B) At least 45 days before any revision superseding such requirements is to become effective, the Administrator of the General Services Administration shall notify the Commission of such revision. In the case of any such revision which becomes effective during the period beginning on February 1, 1978, and ending on the effective date of this section, such notice from the Administrator of the General Services Administration shall be deemed to have been made on the effective date of this section.

Regulations.
Publication in Federal Register.

"(C) (i) No later than 45 days after receiving any notice under subparagraph (B), the Commission shall publish the revision, including such changes in the revision as it considers appropriate to make the revision suitable for promulgation as an amendment to the interim consumer product safety standard, in the Federal Register as a proposed amendment to the interim consumer product safety standard.

"(ii) The Commission may extend the 45-day period specified in clause (i) for an additional period of not more than 150 days if the Commission determines that such extension is necessary to study the technical and scientific basis for the revision involved, or to study the safety and economic consequences of such revision.

"(D) (i) Additional extensions of the 45-day period specified in subparagraph (C) (i) may be taken by the Commission if—

"(I) the Commission makes the determination required in subparagraph (C) (ii) with respect to each such extension; and

"(II) in the case of further extensions proposed by the Commission after an initial extension under this clause, such further extensions have not been disapproved under clause (iv).

"(ii) Any extension made by the Commission under this subparagraph shall be for a period of not more than 45 days.

Notice.
Publication in Federal Register.
Report to congressional committees.

"(iii) Prior notice of each extension made by the Commission under this subparagraph, together with a statement of the reasons for such extension and an estimate of the length of time required by the Commission to complete its action upon the revision involved, shall be published in the Federal Register and shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(iv) In any case in which the Commission takes an initial 45-day extension under clause (i), the Commission may not take any further extensions under clause (i) if each committee referred to in clause (iii) disapproves by committee resolution any such further extensions before the end of the 15-day period following notice of such initial extension made by the Commission in accordance with clause (iii).

"(E) The Commission shall give interested persons an opportunity to comment upon any proposed amendment to the interim consumer product safety standard during the 30-day period following any publication by the Commission under subparagraph (C).

"(F) No later than 90 days after the end of the period specified in subparagraph (E), the Commission shall promulgate the amendment to the interim consumer product safety standard unless the Commission determines, after consultation with the Secretary of Energy, that—

"(i) such amendment is not necessary for the protection of consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or

"(ii) implementation of such amendment will create an undue burden upon persons who are subject to the interim consumer product safety standard.

"(G) The provisions of section 11 shall not apply to any judicial review of any amendment to the interim product safety standard promulgated under this paragraph. 15 USC 2060.

"(d) Any Federal department, agency, or instrumentality, or any Federal independent regulatory agency, which obtains information which reasonably indicates that cellulose insulation is being manufactured or distributed in violation of this Act shall immediately inform the Commission of such information.

"(e)(1) The Commission, no later than 45 days after the effective date of this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives which shall contain a detailed statement of the manner in which the Commission intends to carry out the enforcement of this section. Report to congressional committees.

"(2)(A) The Commission, no later than 6 months after the date upon which the report required in paragraph (1) is due (and no later than the end of each 6-month period thereafter), shall submit a report to each committee referred to in paragraph (1) which shall describe the enforcement activities of the Commission with respect to this section during the most recent 6-month period.

"(B) The first report which the Commission submits under subparagraph (A) shall include the results of tests of cellulose insulation manufactured by at least 25 manufacturers which the Commission shall conduct to determine whether such cellulose insulation complies with the interim consumer product safety standard. The second such report shall include the results of such tests with respect to 50 manufacturers who were not included in testing conducted by the Commission for inclusion in the first report.

"(f)(1) The Commission shall have the authority to require that any person required to comply with the certification requirements of section 14 with respect to the manufacture of cellulose insulation shall provide for the performance of any test or testing program required for such certification through the use of an independent third party qualified to perform such test or testing program. The Commission may impose such requirement whether or not the Commission has established a testing program for cellulose insulation under section 14(b). 15 USC 2063.

"(2) The Commission, upon petition by a manufacturer, may waive the requirements of paragraph (1) with respect to such manufacturer if the Commission determines that the use of an independent third party is not necessary in order for such manufacturer to comply with the certification requirements of section 14.

15 USC 2063.
Rules.

"(3) The Commission may prescribe such rules as it considers necessary to carry out the provisions of this subsection.

Appropriation authorization.

"(g) There are authorized to be appropriated, for each of the fiscal years 1978, 1979, 1980, and 1981, such sums as may be necessary to carry out the provisions of this section.".

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068 (a)) is amended—

(1) in paragraph (8) thereof, by striking out "or";

(2) in paragraph (9) thereof, by striking out the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(10) fail to comply with any rule or requirement under section 35 (relating to labeling and testing of cellulose insulation).".

Approved July 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1116 *accompanying* H.R. 11998 (*Comm. on Interstate and* Foreign Commerce) and No. 95-1322 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Jan. 23, considered and passed Senate.

May 16, considered and passed House, amended, in lieu of H.R. 11998.

June 29, House and Senate agreed to conference report.

Public Law 95-320
95th Congress

An Act

To amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes.

July 21, 1978
[H.R. 2176]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Banking Agency Audit Act".

Federal Banking Agency Audit Act.
31 USC 65 note.

SEC. 2. Section 117 of the Accounting and Auditing Act of 1950 is amended by adding at the end thereof the following new subsection:

31 USC 67.

"(e)(1) The Comptroller General of the United States shall make, under such rules and regulations as he may prescribe, audits—

"(A) of the Federal Reserve Board, all Federal Reserve Banks, and their branches and facilities;

"(B) of the Federal Deposit Insurance Corporation; and

"(C) of the Office of the Comptroller of the Currency.

"Agency."

"(2) For purposes of this subsection, the term 'agency' means the agencies, banks, facilities, and corporation, listed in clauses (A), (B), and (C) of paragraph (1).

"(3) An audit made under paragraph (1)(A) shall not include—

"(A) transactions conducted on behalf of or with foreign central banks, foreign governments, and nonprivate international financing organizations;

"(B) deliberations, decisions, and actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

"(C) transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account; and

"(D) those portions of oral, written, telegraphic, or telephonic discussions and communications among or between Members of the Board of Governors, and officers and employees of the Federal Reserve System which deal with topics listed in subparagraphs (A), (B), and (C) of this paragraph.

Onsite examinations by GAO, restriction.

"(4) The General Accounting Office (hereinafter in this subsection referred to as the Office) shall not conduct onsite examinations of open insured banks or bank holding companies without the written consent of the agency concerned.

Nondisclosure, conditions.

"(5)(A) Except as otherwise provided in this paragraph, no officer or employee of the Office shall disclose to any person, nor shall the Office disclose in its report or otherwise outside of the Office, any information in a form which would (i) identify a specific customer of an open or closed bank or bank holding company, or (ii) identify a specific open bank or open bank holding company.

Disclosure, conditions.

"(B) The Office may disclose information in a form which would identify a customer of a closed bank or closed bank holding company only if that customer, in the opinion of the Comptroller General, had a controlling influence in the management of such closed bank or closed bank holding company or was related to or affiliated with such a controlling person or group, and then only to the extent that such disclosures relate to the affairs of such closed bank or closed bank holding company.

"(C) Subparagraph (A) shall not be deemed to prohibit the Office or its employees from discussing specific customers, banks, or bank holding companies with officials of any of the agencies or from reporting apparent criminal law violations to appropriate State or Federal law enforcement agencies.

"(D) Nothing in this subsection shall authorize the withholding of information by any officer or employee of an agency from a duly authorized committee or subcommittee of the Congress.

Reports to Congress.

"(6)(A) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed under this subsection.

"(B) An advance draft of such Office audit report shall be made available to the agency concerned (other than banks, branches, and facilities) for thirty days for agency comment on the contents thereof. The final report shall include, as an addendum, any written comments submitted by the agency within such period.

Accessibility to records.

"(7)(A) For the purposes of, and to the extent necessary in making audits required by paragraph (1), representatives of the Office shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including statistically meaningful samples, determined by the Office, of reports of examination of banks or bank holding companies, from whatever source, together with workpapers and correspondence relating to such reports whether or not a part of the reports; and all without deletions.

"(B) The Comptroller General shall have the authority to authorize Office personnel to conduct such audits and to have access to agency materials described in subparagraph (A) and shall provide the agencies with an up-to-date listing of such personnel, who upon proper identification shall be granted access to such agency materials and shall be permitted to make whatever notes or copies they deem necessary to proper conduct of the audit.

"(C) The agencies shall provide such Office personnel with suitable, lockable office space and furniture, telephone, and access to copying facilities.

"(D) All Office workpapers, and agency materials described in subparagraph (A) which come into possession of the Office during an audit, shall remain on the agency's premises, except for temporary removal of Office workpapers which do not identify a specific customer, bank, or bank holding company as provided in paragraph (5)(A). Such agency materials shall be strictly maintained in order to prevent any unauthorized access.".

SEC. 3. Section 1906 of title 18, United States Code, is amended to read as follows:

"§ 1906. Disclosure of information from a bank examination report

"Whoever, being an examiner, public or private, or a General Accounting Office employee with access to bank examination report information under section 117(e) of the Accounting and Auditing Act of 1950, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Deposit Insurance Corporation examined by him or subject to General Accounting Office audit under section 117(e) of the Accounting and Auditing Act of 1950 to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized or as authorized by section 117(e) of the Accounting and Auditing Act of 1950 shall be fined not more than $5,000 or imprisoned not more than one year or both.". 31 USC 67.

Approved July 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-492 (Comm. on Government Operations).
SENATE REPORT No. 95-723 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 14, Oct. 14, considered and passed House.
Vol. 124 (1978): May 10, considered and passed Senate, amended.
June 29, House concurred in Senate amendments.

Public Law 95-321
95th Congress

An Act

July 21, 1978
[H.R. 9757]

To impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes.

Public lands grazing fee, moratorium.
43 USC 1751 note.
43 USC 1751.
43 USC 1702.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to allow the Congress sufficient time to analyze the report and recommendations of the Secretaries of the Interior and Agriculture submitted pursuant to section 401(a) of the Federal Land Policy and Management Act (90 Stat. 2743, 2772) and take such action as may be appropriate, the fee for the 1978 grazing year shall not be raised by the Secretary of the Interior for the grazing of livestock on public lands as defined in section 103(e) of that Act (90 Stat. 2746) and by the Secretary of Agriculture for the grazing of livestock on lands under the jurisdiction of the Forest Service.

Approved July 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-859 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-761 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 24, considered and passed House.
May 19, considered and passed Senate, amended.
June 16, House concurred in Senate amendments with amendment.
June 16, House concurred in Senate amendments with an amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 29:
July 21, Presidential statement.

Public Law 95-322
95th Congress

An Act

To authorize appropriations to carry out the Standard Reference Data Act, and to authorize appropriations for the National Bureau of Standards.

July 21, 1978
[H.R. 11232]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated to the Department of Commerce not to exceed $3,575,000 for the fiscal year ending September 30, 1979, not to exceed $4,375,000 for the fiscal year ending September 30, 1980, and not to exceed $5,250,000 for the fiscal year ending September 30, 1981, to carry out the purposes of the Standard Reference Data Act (15 U.S.C. 290-290f).

Standard Reference Data Act, appropriation authorization.

Sec. 2. The Act entitled "An Act to establish the National Bureau of Standards", approved March 3, 1901 (15 U.S.C. 270 et seq.) is amended as follows:

(a) Section 12(a) of such Act (15 U.S.C. 278b(a)) is amended by striking out ", and additional amounts as from time to time may be required for the purposes of said fund are hereby authorized to be appropriated".

(b) Section 18 of such Act (15 U.S.C. 278h) is amended by (1) designating the existing paragraph as "(a)"; and (2) adding immediately thereafter the following:

"(b) There are authorized to be appropriated to carry out the provisions of this Act (including the Working Capital Fund referred to in section 12(a)), except section 16, such sums as may be necessary for each of the fiscal years 1979 and 1980.".

National Bureau of Standards. Appropriation authorization. 15 USC 271 *et seq.*

15 USC 278f.

Approved July 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-977 (Comm. on Science and Technology).
SENATE REPORT No. 95-786 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 4, considered and passed House.
May 15, considered and passed Senate, amended.
June 28, House concurred in Senate amendments with amendments.
July 10, Senate concurred in House amendments.

39-194 O—80—pt 1——29 : QL3

Public Law 95-323
95th Congress

An Act

July 28, 1978
[H.R. 3489]

To amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes.

Merchant Marine Academy, appointments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 216(b) of the Merchant Marine Act, 1936 (70 Stat. 25; 46 U.S.C. 1126(b)), is amended as follows:

(1) The second sentence of paragraph (1) is amended by striking out ", Guam, American Samoa, and the Virgin Islands, and the Commissioners of the District of Columbia." and inserting in lieu thereof "and American Samoa.".

(2) The third sentence of pargraph (1) is amended by striking out "one vacancy each shall be allocated each year to Guam, American Samoa, and the Virgin Islands, to be filled by qualified candidates nominated by the Governors of Guam, American Samoa, and the Virgin Islands, and four vacancies shall be allocated each year to the District of Columbia, to be filled by qualified candidates nominated by the Commissioners thereof" and inserting in lieu thereof "one vacancy each shall be allocated each year to Guam, American Samoa, and the Virgin Islands, and four vacancies shall be allocated each year to the District of Columbia".

(3) Paragraph (5)(a) is amended by striking out "Alaska and Hawaii" and inserting in lieu thereof "the District of Columbia, Guam, and the Virgin Islands,".

(4) Paragraph (5)(b) is amended by striking out "the Territories of Alaska and Hawaii,".

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1012 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-971 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 17, considered and passed House.
July 14, considered and passed Senate.

Public Law 95-324
95th Congress

An Act

To designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building".

July 28, 1978
[H.R. 4270]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building and United States courthouse located on Carlos Chardon Street, Hato Rey, Puerto Rico, is hereby designated as the "Federico Degetau Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Federico Degetau Federal Building".

Federico Degetau Federal Building. Designation.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1208 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-979 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 5, considered and passed House.
July 14, considered and passed Senate.

Public Law 95-325
95th Congress

Joint Resolution

July 28, 1978
[H.J. Res. 613]

To authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day".

National Grandparents Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1327 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-137 accompanying S.J. Res. 24 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 16, S.J. Res. 24, considered and passed Senate.
Vol. 124 (1978): July 10, considered and passed House.
July 14, considered and passed Senate.

Public Law 95-326
95th Congress

An Act

To amend the North Pacific Fisheries Act of 1954.

July 28, 1978
[H.R. 12637]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Pacific Fisheries Act of 1954 (16 U.S.C. 1021 et seq.) is amended as follows:

North Pacific Fisheries Act of 1954, amendment.

(1) Section 2 is amended—

(A) by amending subsection (a) to read as follows:

Definitions. 16 USC 1021.

"(a) 'Convention' means the International Convention for the High Seas Fisheries of the North Pacific Ocean with a protocol and annex relating thereto signed at Tokyo, May 9, 1952, as amended by the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo, April 25, 1978."; and

(B) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) 'Fishery conservation zone' means the fishery conservation zone of the United States established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

"(f) 'Fishing vessel' means—

"(1) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

"(2) any vessel outfitted to engage in any activity described in paragraph (1); or

"(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

"(g) 'Permit' means a permit issued by the Secretary of State in cooperation with the Secretary under section 13 of this Act.

Post, p. 404.

"(h) 'Secretary' means the Secretary of Commerce.".

(2)(A) Section 3(a) is amended to read as follows:

16 USC 1022.

"SEC. 3. (a) The United States shall be represented on the Commission by not more than four United States Commissioners to be appointed by the President and serve at his pleasure. Each United States Commissioner shall be appointed for a term of office of not to exceed four years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than four years if such appointment is necessary to insure that the terms of office of not more than one Commissioner will expire in any one year. Of the Commissioners, who shall receive no compensation for their services as Commissioners—

"(1) one shall be an official of the United States Government;

"(2) two shall be residents of the State of Alaska; and

"(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the fisheries covered by the Convention.".

(B) The amendment made by paragraph (A) shall take effect on the sixtieth day after the date of the enactment of this Act.

Effective date. 16 USC 1022 note.

16 USC 1023.

(3) Section 4 is amended—

(A) by amending subsection (a) to read as follows:

"SEC. 4. (a) The United States Section shall appoint an advisory committee of not less than six and not more than twenty-one members and shall fix the terms of office thereof. The members shall be appointed from among—

"(1) individuals who are knowledgeable or experienced with respect to the fisheries covered by the Convention; and

"(2) officers and employees of the fishery agencies of States the residents of which maintain a substantial fishery in the Convention area;

except that two-thirds of the membership of the committee shall consist of individuals, appointed under paragraphs (1) and (2), who are residents of Alaska."; and

(B) by amending the second sentence of subsection (d) to read as follows:

"On approval by the United States Section, not more than five members of the committee, designated by the committee, shall be paid for transportation expenses and per diem incident to attendance at meetings of the Commission or the United States Section; except that in the case in which—

"(1) one member is so designated, such member shall be from among the members representing Alaska;

"(2) two or three members are so designated, two members shall be from among those representing Alaska; and

"(3) four or five members are so designated, three members shall be from among those representing Alaska.".

16 USC 1025.

(4) Section 6 is amended to read as follows:

"SEC. 6. The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article III, section 1 of the Convention.".

16 USC 1025a.

(5) Section 7 is amended to read as follows:

"SEC. 7. (a) The Secretary shall administer and, except to the extent otherwise provided for in this Act, enforce the provisions of the Convention, this Act, and regulations issued under this Act.

Regulations.

"(b) In carrying out such functions, the Secretary—

"(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating and the United States Section, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act; and

"(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the government of any party to the Convention.

"(c) The Secretary may adopt regulations which apply only to stocks of fish in the Convention area north of the parallel of north latitude of 48 degrees and 30 minutes, but such regulations shall not apply in the Convention area south of the 49th parallel of north latitude with respect to sockeye salmon (Oncorhynchus nerka) or pink salmon (Oncorhynchus gorbuscha).".

Enforcement.

16 USC 1027.

(6) Section 9 is amended to read as follows:

"SEC. 9. (a) This Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all

elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency which has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers (hereinafter in this Act referred to as 'enforcement officers') to enforce the provisions of the Convention, this Act, and regulations adopted and permits issued under this Act: *Provided*, That any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(b) Enforcement officers may, within the fishery conservation zone—

"(1) with or without a warrant or other process—

"(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 10; *Post*, p. 402.

"(B) board, and search or inspect, any fishing vessel which is subject to the provisions of the Convention and this Act;

"(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this Act, or any regulation adopted or permit issued under this Act;

"(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C); and

"(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

"(2) execute any warrant or other process issued by any court of competent jurisdiction; and

"(3) exercise any other lawful authority.

"(c) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions this Act. Jurisdiction.

"(d)(1) Enforcement officers may in the Convention area outside the fishery conservation zone and similar zones of Canada and Japan—

"(A) board any fishing vessel of Canada or Japan fishing for or processing anadramous species and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel for the purpose of carrying out the provisions of the Convention, this Act, or any regulation adopted or permit issued under this Act; and

"(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the enforcement officer, detain such vessel or person and further investigate the circumstances if necessary.

If an enforcement officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall further detain the vessel or person and deliver the vessel or person as promptly as practicable to the authorized officials of the appropriate nation.

"(2) When requested by the appropriate authorities of Canada or Japan, as the case may be, an enforcement officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution in Canada or Japan of any violation of the provisions of the Convention or any Canadian or Japanese law relating to the enforcement thereof.

Unlawful activities.
16 USC 1029.

(7) Section 10 is amended to read as follows:

"SEC. 10. It is unlawful for any person subject to the jurisdiction of the United States—

"(1) to violate any provision of the Convention, this Act, or any regulation adopted or permit issued under this Act;

"(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this Act, or any regulation or permit referred to in paragraph (1);

"(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

"(4) to resist a lawful arrest or detention for any act prohibited by this section;

"(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of the Convention or this Act or any regulation adopted or permit issued under this Act;

"(6) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such person has committed any act prohibited by this section.".

Penalties.
16 USC 1030.
Notice.
Hearing.
Supra.

(8) Section 11 is amended to read as follows:

"SEC. 11. (a)(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 10 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

Review.

"(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

"(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(b)(1) A person is guilty of an offense if he commits any act prohibited by section 10 (1), (3), (4), or (5). *Ante*, p. 402.

"(2) Any offense described in subsection paragraph (1) is punishable by a fine of not more than $50,000, or imprisonment for not more than six months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000, or imprisonment for not more than ten years, or both. Penalty.

"(c)(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 10 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

"(2) Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4). Jurisdiction.

"(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

"(A) the disposition of forfeited property;

"(B) the proceeds from the sale of forfeited property;

"(C) the remission or mitigation of forfeitures; and

"(D) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with repect to this Act, be performed by officers or other persons designated for such purpose by the Secretary of Commerce.

"(4)(A) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 9(c) shall— *Ante*, p. 400.

"(i) stay the execution of such process; or

"(ii) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (I) delivering such property to the

appropriate court upon order thereof, without any impairment of its value, or (II) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

"(B) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

"(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 10 were taken or retained in violation of the Convention and this Act.".

Ante, p. 402.

Repeal.
16 USC 1031.
16 USC 1032.

(9) Section 12 is repealed and section 13 is redesignated as section 12.

(10) Section 12 (as redesignated by paragraph (7)) is amended by striking out subsection (b) and inserting in lieu thereof the following:

Funds, availability.

"(b) Such funds as shall be made available to the Secretary for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs established pursuant to the Convention.

Appropriation authorization.
Infra.

"(c) There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of section 14, such sums not to exceed $1,000,000 for fiscal year 1979 and for each of the next two fiscal years.

Appropriation authorization.

"(d) There are authorized to be appropriated to the Secretary, for purposes of carrying out a sonar censusing project in the Arctic-Yukon-Kuskokwim region of Alaska, not to exceed $500,000 during the period beginning October 1, 1978, and ending September 30, 1981.".

16 USC 1021 note.

(11) Section 14 is redesignated as section 16.

(12) The following new sections are inserted immediately after section 12 (as redesignated in paragraph (7)):

16 USC 1033.

"SEC. 13. (a) Each Canadian or Japanese fishing vessel which is authorized to fish in the fishery conservation zone pursuant to the Convention shall have on board a registration permit issued under subsection (b).

Registration permit.

"(b) The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each Canadian or Japanese fishing vessel which is authorized to fish within the fishery conservation zone pursuant to the Convention. Each such permit shall set forth the terms and conditions contained in the Convention that apply with respect to such operations, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall comply with any regulations adopted under section 14(a) of this Act and shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any enforcement officer. The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the pay-

Post, p. 405.

Fees.

ment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

"(c) Notwithstanding any other provision of law, Canadian and Japanese fishing vessels authorized to fish for anadromous species outside the fishery conservation zone pursuant to the Convention shall not be required to obtain any permit relating to such species.

"SEC. 14. (a) The Secretary shall take such actions as are necessary and appropriate to assure the full implementation of the provisions of the Convention under which the United States and the Government of Japan have agreed— 16 USC 1034.

"(1) to carry out a marine mammal research program;

"(2) to determine the effect of the salmon fishery on marine mammal populations; and

"(3) to work to reduce or eliminate the taking of marine mammals incidental to fishing operations.

during the research period ending on June 9, 1981. Such actions shall include, but not be limited to, (A) the placement of observers aboard Japanese fishing vessels for purposes of making scientific observations and studies with respect to the incidental taking of marine mammals, and (B) the adoption of regulations, which conform to the provisions of the convention, governing the incidental taking of marine mammals by Japanese fishing vessels within the fishery conservation zone, including, but not limited to, regulations which require the collection of biological material and data on all marine mammals incidentally taken within such zone and the use of such gear and fishing techniques as are determined to be feasible to reduce or eliminate such incidental taking. Regulations.

"(b) During the research period ending on June 9, 1981, the taking of marine mammals incidental to fishing operations by Japanese vessels within the fishery conservation zone shall be regulated in accordance with paragraph 1(c) of the annex to the Convention; except that if the Secretary finds—

"(1) on the basis of the marine mammal research program referred to in subsection (a)(1), that the population of Dall porpoise or of any other marine mammal affected by such incidental taking is below optimum sustainable population and is not trending upward toward such level or is in danger of depletion; or

"(2) that the contemplated research efforts cannot be successfully implemented or that necessary and desirable potential reductions or elimination of incidental taking of marine mammals, although feasible, are not being realized,

the Secretary, acting through the Secretary of State, shall immediately initiate negotiations with the Government of Japan to modify the Convention or recommend such other action as is necessary to limit or eliminate the incidental taking of marine mammals to the extent feasible and, in any event, to the extent required to assure that such populations attain and remain at their optimum sustainable population levels.

"(c) After June 9, 1981, the taking of marine mammals incidental to fishing operations by Japanese vessels within the fishing conservation zone shall be regulated pursuant to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.). Regulations.

Report to Congress.

"(d) The Secretary shall submit to Congress a report, prepared in consultation with the Secretary of State, on May 1 of 1979, 1980, and 1981 which shall set forth the activities undertaken by the United States and Japan to implement the objectives referred to in subsection (a) (1), (2), and (3) and the results of such activities. The report shall detail the steps taken by both nations to implement the Convention, the results of all research and statistical reporting and analysis carried out pursuant to the Convention and a description of all enforcement activities and their disposition. The report shall include an analysis of salmon harvesting and research, estimates of the magnitude of incidental taking of Dall porpoises (Phocoenoides dalli) by Japanese fishing vessels, estimates, as possible, of the abundance, distribution, recruitment rates, status, trends, and impacts of incidental taking upon the optimum sustainable populations of Dall porpoises, and any proposals for adoption of fishing gear or techniques designed to reduce or eliminate such incidental taking. If available information is inadequate to provide the basis for such estimates or proposals, the report shall include an indication of what research efforts are needed to provide the requisite information.

16 USC 1035.

"SEC. 15. The Secretary, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating may administer this Act consistent with the terms of the Convention on a provisional basis pending the exchange by all the contracting parties of instruments of ratification or approval of the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on April 25, 1978, in accordance with article II thereof.".

Effective dates. 16 USC 1021 note.

SEC. 2. This Act, including the amendments made by this Act, shall take effect on the date of enactment of this Act, except the amendments made by paragraph (10) of the first section of this Act shall take effect on October 1, 1978.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1194 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-924 accompanying S. 3082 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 6, considered and passed House.
June 14, considered and passed Senate, amended.
June 28, House concurred in certain Senate amendments; in others with amendments.
July 13, Senate concurred in House amendments.

Public Law 95-327
95th Congress

An Act

To declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

July 28, 1978
[S. 1291]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, all right, title, and interest of the United States in and to the following described lands, and improvements thereon, are hereby declared to be held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma:

Cheyenne-Arapaho Indian Tribes, Okla. Land in trust.

A tract, piece, or parcel of land lying partly in the northeast quarter section 12, township 13 north, range 8 west, Indian meridian, and partly in the northwest quarter, section 7, township 13 north, range 7 west, Indian meridian, Canadian County, State of Oklahoma, more particularly described as follows: beginning at the northeast corner of said section 12,

thence south 0 degree 56 minutes 25 seconds east a distance of 2,622.63 feet to the east quarter corner of said section 12;

thence north 89 degrees 08 minutes 36 seconds east a distance of 232.24 feet;

thence south 4 degrees 03 minutes 30 seconds west a distance of 420.90 feet;

thence south 64 degrees 49 minutes 23 seconds west a distance of 1,193.98 feet;

thence north 1 degree 21 minutes 07 seconds west a distance of 911.11 feet;

thence north 89 degrees 08 minutes 36 seconds east a distance of 212.31 feet to a point of intersection with the west right-of-way line of the Rock Island Railroad;

thence north 11 degrees 47 minutes 24 seconds east along said right-of-way line a distance of 2,339.61 feet;

thence northeasterly along a curve to the left with a radius of 2,192.01 feet a distance of 344.39 feet to a point of intersection with the north line of said section 12;

thence north 89 degrees 07 minutes 19 seconds east a distance of 600.83 feet to the point or place of beginning which coincides with and is identical to the northwest corner of section 7, township 13 north, range 7 west, Indian meridian, from whence proceed north 89 degrees 20 minutes 20 seconds east a distance of 1,320.00 feet;

thence south 1 degree 32 minutes 45 seconds east a distance of 974.19 feet;

thence south 89 degrees 20 minutes 04 seconds west a distance of 1,330.29 feet;

thence north 0 degree 56 minutes 25 seconds west a distance of 974.19 feet to the point or place of beginning, subject to the easements of record. Portion of tract in section 12 (13 north-8 west) contains 73.24 acres, more or less. Portion of tract in section 7 (13 north-7 west) contains 29.63 acres, more or less. Total area equals 102.87 acres, more or less.

A tract or parcel of land in the east half northwest quarter of section 18, township 12 north, range 16 west of Indian meridian, Custer County, State of Oklahoma, more particularly described as follows: beginning at point on the north line of said quarter section, 259 feet west of the northeast corner (quarter corner); thence west along north boundary 426 feet;

thence south 01 degree 20 minutes west 705 feet;

thence east 640.43 feet parallel with north line;

thence south 0 degree 43 minutes west 926.97 feet;

thence south 87 degrees 11 minutes 40 seconds west 227.5 feet;

thence south 0 degree 38 minutes west 843.67 feet;

thence south 25 degrees 10 minutes 20 seconds east 169.5 feet to south boundary of said quarter section; thence east along south boundary 202.85 feet to southeast corner 1 inch diameter iron pin;

thence north 0 degree 43 minutes east 2315 feet along east boundary;

thence west parallel with north line 259 feet;

thence north 0 degree 43 minutes east 325 feet to point of beginning, containing 16.56 acres, more or less.

Conveyances.

SEC. 2. The Secretary of the Interior is authorized and directed upon request of the Cheyenne-Arapaho Tribes of Oklahoma to accept the conveyance from such tribes of the fee simple title to the lands, and improvements thereon, conveyed to such Tribes from the United States pursuant to the Act of September 14, 1960 (74 Stat. 1029) and the Act of May 18, 1968 (82 Stat. 124). Such lands, together with the improvements thereon, shall be held in trust by the United States for the Cheyenne-Arapaho Tribes of Oklahoma.

43 USC 615 note.

SEC. 3. The conveyances made pursuant to this Act shall be subject to any existing easements, licenses, permits, or commitments heretofore granted or made for a specific period of time, but no such easement, license, permit, or commitment shall be renewed or continued beyond its presently effective termination date without the express consent of the Cheyenne-Arapaho Tribes of Oklahoma. The conveyances made pursuant to this Act shall be also subject to existing rights-of-way for waterlines, electric transmission lines, other utilities, roads, and railroads.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1306 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-239 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 9, considered and passed Senate.
Vol. 124 (1978): July 17, considered and passed House.

Public Law 95-328
95th Congress

An Act

Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.

July 28, 1978
[S. 1582]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby declares that it is the policy of Congress to resolve, without costly and lengthy litigation, the claims of the Ak-Chin Indian community for water based upon failure of the United States to meet its trust responsibility to the Indian people provided reasonable settlement can be reached.

Ak-Chin Indians, water right claims.

(b) The Congress hereby finds and declares that—

(1) the Ak-Chin Indian community relies for its economic sustenance on farming, and that ground water, necessary thereto, is declining at a rate which will make it uneconomical to farm within the next few years;

(2) at the time of the settlement of the reservation, it was the obligation and intention of the United States to provide water to the Ak-Chin Indian Reservation, and such obligation remains unfulfilled;

(3) it is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined;

(4) there exists a critical situation at Ak-Chin in that there is not sufficient economically recoverable ground water beneath the reservation to sustain a farming operation until a permanent source of water suitable for irrigation on the reservation can be delivered;

(5) this Act is proposed to settle the Ak-Chin Indian community's claim for water by meeting the emergency needs of the Ak-Chin community through construction of a well field and water delivery system from nearby Federal lands and by obligating the United States to meet the Ak-Chin community's needs for a permanent supply of water in a fixed amount to be available upon a date certain, in exchange for a release of all claims such community has against the United States for failing to act consistently with its trust responsibility to protect and deliver the water resources of the community; and

(6) it is the intention of this Act not to discriminate against any non-Indian landowners or other persons, but to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian community.

Studies.

SEC. 2. (a) For the purposes of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall undertake engineering and hydrological studies as may be necessary to determine whether there exists, on Federal lands near the Ak-Chin Indian Reservation, a source of ground water which could be taken, on an annual basis, for use in connection with any contract entered into pursuant to subsection (b) of this section, subject to the provisions in (c) (2).

Report to Congress.

Such studies shall be completed and a report with respect thereto submitted to the Congress within twelve months after the date of the enactment of this Act.

Contracts.

(b) Within one hundred and eighty days following the submission to the Congress of the report referred to in subsection (a), the Secretary, if he determines that there exists a source of ground water which can be so taken on an annual basis, shall enter into a contract or other agreement with the Ak-Chin Indian community pursuant to which the Secretary shall agree, on behalf of the United States, to—

(1) furnish, subject to the provisions of clause (2) of subsection (c) of this section, to the Ak-Chin Indian community, commencing within sixty days following the completion of the necessary facilities under clause (2) of this subsection but in no event later than four years from the date of said contract, the delivery to the southeast corner of the lands comprising the Ak-Chin Indian Reservation, on an annual basis, of eighty-five thousand acre-feet of ground water from nearby Federal lands covered by such studies;

(2) take such action as may be necessary to begin within sixty days following the date of such contract, to drill, construct, equip, maintain, repair, reconstruct, and operate a well field on such Federal lands, and to construct and maintain a delivery system, including canals, pumping stations and other appurtenant works, sufficient to provide for the delivery of such ground water from such Federal lands to the southeast corner of the lands comprising the Ak-Chin Indian Reservation.

(c)(1) The delivery of ground water under clause (1) of subsection (b) shall continue until augmented or replaced by the permanent water supply required under section 3 to be delivered to the Ak-Chin Indian Reservation, except that the obligation to deliver ground water during any year shall be reduced for that year by an amount equal to the amount of surface water delivered to such community pursuant to such contract during such year.

(2) Notwithstanding the provisions of clause (1) of subsection (b) of this section, the Secretary, if he determines that pumping eighty-five thousand acre-feet of ground water annually from nearby Federal lands to the Ak-Chin community would (A) not be hydrologically feasible or (B) diminish the ground water supply in the basin and thereby cause severe damage to other water users; may deliver a lesser amount.

(d) The Secretary is authorized to receive and consider any claims arising under this Act from water users other than the Ak-Chin Indian community for compensation for any losses or other expenses incurred by such users by reason of the enactment of this Act or actions taken thereunder.

Plan, report to Congress.

(e) Notwithstanding any other provision of this Act, if the Secretary determines on the basis of studies conducted pursuant to subsection (a) of this section, that the pumping on an annual basis of any such ground water pursuant to clause (1) of subsection (b) of this section in excess of sixty thousand acre-feet is not possible by reason of clause (2) of subsection (c), and the Ak-Chin Indian community does not agree to contract for a lesser amount, the Secretary shall report to the Congress an alternative plan for meeting the emergency needs of the Ak-Chin Indian community. Such alternative plan shall be submitted to the Congress within one hundred and eighty days following the submission of the report referred to in subsection (a).

SEC. 3. In addition, and as a part of the contract referred to in section 2(b) of this Act, the Secretary shall provide for, commencing as soon as possible, but in no event later than the expiration of the twenty-five-year period following the date of the enactment of this Act, the permanent delivery, on an annual basis, to the lands comprising the Ak-Chin Indian Reservation, of eighty-five thousand acre-feet of water suitable for irrigation on the reservation.

Waivers.

SEC. 4. (a) As consideration on the part of the Ak-Chin Indian community for entering into any contract or agreement pursuant to section 2(b), the Ak-Chin Indian community shall agree to waive, in a manner satisfactory to the Secretary, any and all claims of water rights or injuries to water rights of the Ak-Chin Indian community, including both ground water and surface water from time immemorial to the present, which it might have against the United States, the State of Arizona or agency thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(b) As further consideration on the part of the Ak-Chin Indian community for entering into any contract or other agreement pursuant to section 2(b), the Ak-Chin Indian community shall agree to waive any and all claims of water rights or injuries to water rights, including both ground water and surface water, arising under the laws of the United States or the State of Arizona, which it might have in the future against any person, corporation, municipal corporation, or the State of Arizona or agency thereof.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the community will not thereby waive any claims against the United States for breach, if any, of the contract referred to in section 2(b) of this Act. A failure to deliver water within the times specified in either section 2(b) or 3 shall be deemed a breach of the contract. The measure of damages for any such breach shall be the replacement cost of water not delivered by the United States.

Breach of contract.

Damages.

Appropriation authorization.

SEC. 5. There are authorized to be appropriated for the fiscal year ending September 30, 1979, the sum of $500,000, and the aggregate sum of $42,500,000 to be appropriated prior to the fiscal year ending September 30, 1983, for carrying out the purposes of section 2 of this Act. Notwithstanding any other provisions of this Act, no authorization to make payments under this Act, or to enter into contracts, shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-954 accompanying H.R. 8099 (*Comm. on Interior and Insular Affairs*).
SENATE REPORT No. 95-460 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 11, considered and passed Senate.
Vol. 124 (1978): May 2, H.R. 8099 considered and failed of passage in House.
June 29, H.R. 8099 considered and passed House; proceedings vacated and S. 1582, *amended, passed in lieu.*
July 13, Senate concurred in House amendment.

39-194 O—80—pt 1——30 QL3

Public Law 95-329
95th Congress

An Act

July 28, 1978
[S. 947]

To declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.

Indians.
Creek Nation of Oklahoma.
Land in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to existing permits and rights-of-way, all right, title, and interest of the United States in the five acres, more or less, described as west half of the northwest quarter of the northwest quarter of the northwest quarter of section 10, township 10 north, range 13, I.B.M., McIntosh County, Oklahoma, are hereby declared to be held in trust by the United States for the Creek Nation of Oklahoma.

Approved July 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1305 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-238 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 9, considered and passed Senate.
Vol. 124 (1978): July 17, considered and passed House.

Public Law 95-330
95th Congress

Joint Resolution

Making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.

July 31, 1978
[H.J. Res. 1024]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978; namely:

Supplemental appropriations, 1978.

DEPARTMENT OF AGRICULTURE

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $57,145,000: *Provided*, That, in addition, not to exceed $23,391,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed $5,950,000 under the limitation on Commodity Credit Corporation administrative expenses).

Approved July 31, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1326 (Comm. on Appropriations).
SENATE REPORT No. 95-1021 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 11, considered and passed House.
July 24, considered and passed Senate.

Public Law 95-331
95th Congress

An Act

Aug. 2, 1978
[H.R. 11877]

To authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act.

Peace Corps Act Amendments of 1978.
22 USC 2501 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Peace Corps Act Amendments of 1978".

SEC. 2. Section 2 of the Peace Corps Act (22 U.S.C. 2501) is amended by inserting "particularly in meeting the basic needs of those living in the poorest areas of such countries," immediately after "manpower,".

Appropriation authorization.

SEC. 3. Section 3 of the Peace Corps Act (22 U.S.C. 2502) is amended—

(1) in subsection (b) by striking out the matter before the first proviso and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act (1) for fiscal year 1978 not to exceed $86,544,000, and (2) for fiscal year 1979 not to exceed $112,424,000 of which $1,000,000 shall be available only for Peace Corps contributions to the United Nations volunteer program:";

(2) in subsection (c) by striking out "for the fiscal year 1978, $1,000,000" and by inserting after "by law" the following: ", for fiscal year 1978, $1,069,000, and for fiscal year 1979 such sums as may be necessary"; and

(3) by adding at the end thereof the following new subsection:

"(g) In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.".

SEC. 4. Section 5 of the Peace Corps Act (22 U.S.C. 2504) is amended—

(1) in the first sentence of subsection (c) by striking out "; except that" and all that follows through "President"; and

(2) in subsection (h) by adding at the end thereof the following new sentences: "The provisions of section 1091 of the Foreign Service Act of 1946, relating to malpractice protection, shall apply to volunteers, and the Director of ACTION shall have the authority granted to the Secretary of State in subsection (f) of such section. For purposes of subsection (g) of such section, a Peace Corps representative shall be deemed to be a principal representative of the United States.".

22 USC 817.

SEC. 5. (a) Section 10 of the Peace Corps Act (22 U.S.C. 2509) is amended—

(1) in subsection (a)(2) by striking out ": *Provided*" and all that follows through "section";

(2) in subsection (b) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof the following new subsection:

"(h) The President may provide hospitalization and medical treatment to Foreign Service local employees who are within the United States for training related to their employment under this Act, for illnesses, injuries, or conditions other than those arising out of and in the course of employment, which, in the judgment of the President, began during such employee's travel related to such training or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required.".

(b) The amendment made by paragraph (2) of subsection (a) shall apply to claims made after the date of the enactment of this Act. 22 USC 2509 note.

(c) Section 10(a) of such Act is further amended— 22 USC 2509.

(1) by inserting the following new paragraph after paragraph (2):

"(3) assign volunteers to duty or otherwise make them available to any entity referred to in paragraph (1), in order to assist such organizations and agencies in providing development or other relief assistance to displaced persons and refugees in any country, if the government of the country agrees to such assignment;"; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively.

SEC. 6. Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by adding at the end thereof the following new sentence: "Each report shall contain information describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including— Reports to Congress.

"(1) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organization; and

"(2) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organization.".

SEC. 7. Section 301(b)(1) of the Peace Corps Act is amended to read as follows: 22 USC 2501a.

"(b)(1) Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) shall be limited to—

"(A) furnishing technical assistance, materials, tools, supplies, and training appropriate to the support of volunteer programs in such countries or areas; and

"(B) conducting demonstration projects in such countries or areas.

None of the funds made available to carry out the purposes of clauses (1) and (2) of subsection (a) may be used to pay the administrative costs of any program or project, other than a demonstration project, or to assist any program or project of a paramilitary or military nature. Funds allocated for activities set forth in this paragraph should be kept to a minimum so that such allocation will not be detrimental to other Peace Corps programs and activities.".

SEC. 8. (a) Section 301(b)(2) of the Peace Corps Act (22 U.S.C. 2501a(b)(2)) is amended by striking out "$350,000 may be used in any fiscal year" and inserting in lieu thereof "2 per centum of the amount appropriated to the Peace Corps for a fiscal year may be used in such fiscal year.".

Effective date. 22 USC 2501a note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

Approved August 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1049 (Comm. on International Relations) and 95-1333 (Comm. of Conference).
SENATE REPORT No. 95-807 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 25, considered and passed House.
June 8, considered and passed Senate, amended.
June 29, Senate agreed to conference report.
July 25, House agreed to conference report.

Public Law 95-332
95th Congress

Joint Resolution

Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.

Aug. 2, 1978
[H.J. Res. 945]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1978:

Black lung program. Appropriation for FY 1978.

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

For payments from the Black Lung Disability Trust Fund, $181,689,000, of which $162,700,000 shall be available for payments of all benefits after March 31, 1978, interest on advances under subsection (b) (2) of Section 3 of the Black Lung Benefits Revenue Act of 1977, reimbursement to operators, and repayment into the Treasury for amounts expended for claims and expenses incurred for operation and administration of the Black Lung benefits program prior to April 1, 1978, as authorized by Section 424(a) of the Black Lung Benefits Act, as amended, and of which $17,819,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $1,170,000 for transfer to Departmental Management, Salaries and Expenses, for expenses of operation and administration of the Black Lung benefits program after March 31, 1978 as authorized by Section 424(a) (5) of the Black Lung Benefits Act, as amended: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided further*, That funds provided under the heading "Advances to the Unemployment Trust Fund and Other Funds" in the Departments of Labor and Health, Education, and Welfare Appropriation Act, 1977, shall be available for the payment of repayable advances to the Black Lung Disability Trust Fund as authorized by subsection (b) (2) of section 3 of the Black Lung Benefits Revenue Act of 1977.

30 USC 924.

30 USC 934.

90 Stat. 1418.

30 USC 924.

RAILROAD RETIREMENT BOARD

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

For an additional amount for payment of benefits under section 509 of the Rail Reorganization Act of 1973, to remain available until expended, $43,500,000.

87 Stat. 1020.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

EDUCATION DIVISION

EMERGENCY SCHOOL AID

20 USC 1607.

For an additional amount of carrying out section 708(a) of the Emergency School Aid Act, $25,000,000: *Provided*, That the deadline for application under the program for which appropriation is made under this paragraph shall be extended until August 1, 1978, for any district in which there has been a change in circumstances which precluded such district from making application in conformity with the regular application cycle.

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ASSISTANCE

ECONOMIC DEVELOPMENT ADMINISTRATION

LOCAL PUBLIC WORKS PROGRAM

42 USC 6701 note.

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94-369), $3,788,000.

Approved August 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1236 (Comm. on Appropriations).
SENATE REPORT No. 95-937 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 9, considered and passed House.
June 23, considered and passed Senate, amended.
July 19, House concurred in certain Senate amendments and concurred in amendment No. 2 with an amendment.
July 20, Senate concurred in House amendments.

Public Law 95-333
95th Congress

An Act

To provide for a temporary increase in the public debt limit.

Aug. 3, 1978
[H.R. 13385]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the period beginning on the date of the enactment of this Act and ending on March 31, 1979, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $398,000,000,000.

Public debt limit.
Temporary increase.
31 USC 757b note.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of October 4, 1977, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 95-120), is hereby repealed.

Repeal; effective date.

SEC. 3. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$27,000,000,000" and inserting in lieu thereof "$32,000,000,000".

31 USC 757b note.

Approved August 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1349 (Comm. on Ways and Means).
SENATE REPORT No. 95-1042 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 19, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 95-334
95th Congress

An Act

Aug. 4, 1978
[H.R. 11504]

To amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranchers, extend the Emergency Livestock Credit Act of 1974, and for other purposes.

Agricultural Credit Act of 1978.
7 USC 1921 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Credit Act of 1978".

TITLE I—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

ELIGIBILITY FOR FARM OWNERSHIP AND OTHER LOANS UNDER SUBTITLE A

7 USC 1922.

SEC. 101. Section 302 of the Consolidated Farm and Rural Development Act is amended to read as follows:

"SEC. 302. The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, and partnerships, members, stockholders, or partners, as applicable, holding a majority interest in such entity, must (1) be citizens of the United States, (2) have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become owner-operators of not larger than family farms (or in the case of cooperatives, corporations, and partnerships in which a majority interest is held by members, stockholders, or partners, as applicable, who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this section, in the case of cooperatives, corporations, and partnerships, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an ownership and operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity.".

LOANS FOR RECREATIONAL AND POLLUTION ABATEMENT FACILITIES

SEC. 102. Section 304 of the Consolidated Farm and Rural Development Act is amended by— 7 USC 1924.

(1) in subsection (a), striking out the word "individual"; and

(2) adding at the end thereof a new subsection (c) as follows:

"(c) Loans may also be made or insured under this subtitle to any farm owners or tenants without regard to the requirements of clauses (1), (2), and (3) of section 302 of this title for the purposes of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including the construction, modification, or relocation of farm or other structures necessary to comply with such pollution abatement requirements.". 7 USC 1922.

LIMITATIONS ON LOANS UNDER SECTIONS 302, 303, 304, AND 310D OF THE ACT

SEC. 103. Section 305 of the Consolidated Farm and Rural Development Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall make or insure no loan under sections 302, 303, 304, and 310D of this title that would cause the unpaid indebtedness under such sections of any one borrower to exceed the smaller of (1) the value of the farm or other security, or (2) in the case of a loan other than a loan guaranteed by the Secretary, $200,000, or, in the case of a loan guaranteed by the Secretary, $300,000.". 7 USC 1925. 7 USC 1922, 1923, 1924. *Post*, p. 424.

ELIMINATION OF REQUIREMENT FOR BOND COUNSEL FOR CERTAIN WATER AND WASTE DISPOSAL FACILITY LOANS

SEC. 104. Section 306(a)(1) of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following: "With respect to loans of less than $500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.". 7 USC 1926.

WATER AND WASTE DISPOSAL FACILITY GRANTS

SEC. 105. Effective October 1, 1978, section 306(a)(2) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out "$300,000,000" and inserting in lieu thereof "$500,000,000"; and

(2) striking out "50 per centum" and inserting in lieu thereof "75 per centum".

RURAL AREAS

SEC. 106. Section 306(a)(7) of the Consolidated Farm and Rural Development Act is amended by striking out ", the Commonwealth of Puerto Rico and the Virgin Islands,".

LOANS FOR POWER TRANSMISSION FACILITIES

SEC. 107. (a) Section 306(a) of the Consolidated Farm and Rural
7 USC 1926. Development Act is amended by adding at the end thereof a new paragraph (14) as follows:

"(14)(A) The Secretary may make or insure loans in the full amount thereof, but not to exceed $1,000,000 for any such loan, to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies, for the purpose of financing the construction, acquisition, and operation of transmission facilities for any electric system that is owned and operated by a public body located in a rural area and as of October 1, 1976, was receiving bulk power from any of the following agencies of the Department of the Interior:

"(i) the Southwestern Power Administration,
"(ii) the Southeastern Power Administration,
"(iii) the Bonneville Power Administration,
"(iv) the Bureau of Reclamation, or
"(v) the Alaska Power Administration.

A loan may not be made or insured under this paragraph unless the Secretary determines that the applicant for the loan cannot obtain sufficient credit elsewhere from reliable sources at reasonable rates and terms for financing the construction, acquisition, and operation of such facilities.

"(B) Interest or other income from obligations evidencing loans guaranteed under this paragraph shall be included in gross income for the purposes of chapter 1 of the Internal Revenue
26 USC 1 *et seq.* Code of 1954.

"(C) The Administrator of the Rural Electrification Administration shall administer loans made or insured under this paragraph.

"(D) The authority provided to the Secretary by subparagraph (A) of this paragraph shall terminate September 30, 2006.".

(b) Section 309A(a) of the Consolidated Farm and Rural Develop-
7 USC 1929a. ment Act is amended by inserting "306(a)(14)," immediately after "sections 304(b), 306(a)(1),".

INTEREST RATES FOR LOANS UNDER SUBTITLE A; DELETION OF ESCROW AGENT PROVISION

7 USC 1927. SEC. 108. Section 307 of the Consolidated Farm and Rural Development Act is amended by—

(1) amending subsection (a) to read as follows:

"(a)(1) The period for repayment of loans under this subtitle shall not exceed forty years.

"(2) Except as otherwise provided in paragraphs (3), (4), and (5) of this subsection, the interest rates on loans under this subtitle shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

"(3) The interest rates on loans (other than guaranteed loans)
Post, p. 424. under section 310D of this title, and loans (other than guaranteed loans) to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recog-

nized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be as determined by the Secretary, but not in excess of 5 per centum per annum.

"(4) The interest rates on loans under sections 304(b), 306(a)(1), and 310B of this title (other than guaranteed loans and loans as described in paragraph (3) of this subsection) shall be as determined by the Secretary, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for rates comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund, and further adjusted to the nearest one-eighth of 1 per centum. 7 USC 1924, 1926, 1932.

"(5) The interest rate on any loan made under this subtitle as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.";

(2) redesignating subsection (b) as subsection (c); and

(3) inserting a new subsection (b) as follows:

"(b) The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this title shall prepay to the Secretary such taxes and insurance as the Secretary may require, on such terms and conditions as the Secretary may prescribe.".

REPEAL OF LIMITATION ON AMOUNT OF OUTSTANDING LOANS UNDER THE AGRICULTURAL CREDIT INSURANCE FUND; USE OF THE AGRICULTURAL CREDIT INSURANCE FUND FOR PAYMENT OF COSTS OF ADMINISTRATION

SEC. 109. (a) Section 309(f) of the Consolidated Farm and Rural Development Act is amended by— 7 USC 1929.

(1) in paragraph (1), changing the period at the end of the first sentence to a semicolon and striking out the second sentence therein which reads: "The aggregate of the principal of such loans made and not disposed of shall not exceed $500,000,000 at any one time;";

(2) striking out "and" at the end of paragraph (4), and changing the period at the end of paragraph (5) to a semicolon; and

(3) adding at the end thereof new paragraph (6) as follows:

"(6) to pay the Secretary's costs of administration necessary to insure, make grants, service, and otherwise carry out the programs under this title not specifically covered by the Rural Development Insurance Fund of section 309A, including costs of the Secretary incidental to guaranteeing loans under this title, either directly from the Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.". 7 USC 1929a.

(b) Section 328 of the Consolidated Farm and Rural Development Act is amended by striking out ": *Provided*, That loans made under this section shall not be included in applying the $500,000,000 limitation in section 309(f)(1)". 7 USC 1968. 7 USC 1929.

TRANSFER OF ADMINISTRATIVE FUNDS

SEC. 110. Section 309A(g)(8) of the Consolidated Farm and Rural Development Act is amended to read as follows:

7 USC 1929a.

"(8) to pay the Secretary's costs of administration necessary to insure loans under the programs referred to in subsection (a) of this section, make grants under sections 306(a) and 310B of this title, service, and otherwise carry out such programs, including costs of the Secretary incidental to guaranteeing rural development loans under this title, either directly from the Insurance Fund or by transfers from the Fund to, and merger with, any appropriations for administative expenses.".

7 USC 1926, 1932.

PURCHASE BY THE SECRETARY OF GUARANTEED PORTIONS OF LOANS

SEC. 111. The Consolidated Farm and Rural Development Act is amended by adding immediately after section 309A a new section 309B as follows:

7 USC 1929b.

"SEC. 309B. The Secretary may purchase, on such terms and conditions as the Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this title: *Provided*, That the Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. The Secretary may use for such purchases funds from the Rural Development Insurance Fund with respect to rural development loans as defined in section 309A(a) of this title and funds from the Agricultural Credit Insurance Fund with respect to all other loans under this title. This authority may be exercised only if the Secretary determines that an adequate secondary market is not available in the private sector.".

EXEMPTION OF SMALL BUSINESS PROJECTS FROM RESTRICTIONS ON RURAL INDUSTRIAL ASSISTANCE AND OTHER LOANS

SEC. 112. Section 310B of the Consolidated Farm and Rural Development Act is amended by—

7 USC 1932.

(1) inserting in paragraphs (1), (2), and (3) (that follow subsection (d)) immediately after "312(b)", wherever that term appears therein, the following: ", except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees," ; and

(2) in paragraph (3) (that follows subsection (d)), striking out "60" and inserting in lieu thereof "30".

LOW-INCOME FARM OWNERSHIP LOAN PROGRAM

SEC. 113. The Consolidated Farm and Rural Development Act is amended by adding immediately after section 310C a new section as follows:

7 USC 1934.

"SEC. 310D. (a) The Secretary is authorized to make and insure loans for any of the purposes referred to in clauses (1) through (5) of section 303(a) of this title to farmers and ranchers in the United States who (1) are citizens of the United States, (2) meet the requirements of clauses (2) through (4) of section 302, (3) are unable to obtain sufficient credit under section 302 of this title to finance their actual needs, (4) are owners or operators of small or family farms (including new owners or operators), (5) are farmers or ranchers with

7 USC 1923.

7 USC 1922.

a low income, and (6) demonstrate a need to maximize their income from farming or ranching operations. The Secretary is also authorized to make such loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of clauses (2) through (6) of the preceding sentence.

"(b) Each loan made or insured under this section shall be repayable in such installments as the Secretary determines will provide for reduced payments during the initial repayment period of the loan and larger payments during the remainder of the repayment period of the loan.".

ELIGIBILITY FOR OPERATING LOANS

SEC. 114. Section 311(a) of the Consolidated Farm and Rural Development Act is amended to read as follows: 7 USC 1941.

"(a) The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, and partnerships, members, stockholders, or partners, as applicable, holding a majority interest in such entity, must (1) be citizens of the United States, (2) have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, and partnerships in which a majority interest is held by members, stockholders, or partners, as applicable, who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of cooperatives, corporations, and partnerships, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity.".

OPERATING LOANS FOR RECREATIONAL FACILITIES

SEC. 115. Section 312(a) of the Consolidated Farm and Rural Development Act is amended by striking out "individual". 7 USC 1942.

LIMITATIONS ON FARM OPERATING LOANS

SEC. 116. Section 313 of the Consolidated Farm and Rural Development Act is amended to read as follows: 7 USC 1943.

"SEC. 313. The Secretary shall make or insure no loan under this subtitle (1) that would cause the total principal indebtedness outstanding at any one time for loans made under this subtitle to any one borrower to exceed, in the case of a loan other than a loan guaranteed by the Secretary, $100,000, or, in the case of a loan guaranteed by the Secretary, $200,000; or (2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.".

FARM OPERATING LOAN INTEREST RATES; CONSOLIDATION AND RESCHEDULING OF LOANS

SEC. 117. Section 316 of the Consolidated Farm and Rural Development Act is amended to read as follows: 7 USC 1946.

"SEC. 316. (a) The Secretary shall make all loans under this subtitle upon the full personal liability of the borrower and upon such security as the Secretary may prescribe. The interest rates on such loans, except for guaranteed loans, shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge not to exceed 1 per centum as determined by the Secretary, which charge shall be deposited in the Rural Development Insurance Fund or the Agricultural Credit Insurance Fund, as appropriate, and adjusted to the nearest one-eighth of 1 per centum. The interest rate on any guaranteed loan made under this subtitle shall be such rate as may be agreed upon by the borrower and lender, but not in excess of a rate as may be determined by the Secretary.

"(b) Loans made under this subtitle shall be payable in not to exceed seven years. The Secretary may consolidate or reschedule outstanding loans for payment over a period not to exceed seven years from the date of such consolidation or rescheduling, and the amount of unpaid principal and interest of the prior loans so consolidated or rescheduled shall not create a new charge against any loan levels authorized by law. A new loan may be included in a consolidation. Such new loan shall be charged against any loan level authorized by law. The interest rate on such consolidated or rescheduled loans, other than guaranteed loans, may be changed by the Secretary to a rate not to exceed the rate being charged for loans made under this subtitle at the time of the consolidation or rescheduling. The interest rate on any guaranteed loan under this subtitle that may be consolidated or rescheduled for payment shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.".

EMERGENCY LOAN ELIGIBILITY

SEC. 118. Section 321 of the Consolidated Farm and Rural Development Act is amended to read as follows: 7 USC 1961.

"SEC. 321. The Secretary shall make and insure loans under this subtitle to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States, and (2) to farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who

are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture, where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President pursuant to the provisions of the Disaster Relief Act of 1974: *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time. For the purposes of this subtitle 'aquaculture' means husbandry of aquatic organisms under a controlled or selected environment.". 42 USC 5121 note. "Aquaculture."

DELETION OF REQUIREMENT FOR EMERGENCY LOAN INTEREST RATES TO BE BASED ON SMALL BUSINESS ADMINISTRATION LOAN RATES

SEC. 119. Section 324 of the Consolidated Farm and Rural Development Act is amended, effective October 1, 1978, by striking out subsection (b) and redesignating subsection (c) as subsection (b). 7 USC 1964.

CONFORMING AMENDMENT

SEC. 120. The Consolidated Farm and Rural Development Act is amended by repealing section 325. Repeal. 7 USC 1965.

DELEGATION OF AUTHORITY TO COMPROMISE CLAIMS; AUTHORITY IN AREAS THAT HAVE CEASED TO BE RURAL

SEC. 121. Section 331 of the Consolidated Farm and Rural Development Act is amended by— 7 USC 1981.

(1) in clause (a), striking out "and in Puerto Rico and the Virgin Islands";

(2) in clause (d), striking out "$15,000" and inserting in lieu thereof "$25,000";

(3) at the end of clause (i), striking out the period and inserting lieu thereof "; and"; and

(4) adding at the end thereof a new clause (j) to read as follows:

"(j) notwithstanding that an area ceases, or has ceased, to be 'rural', in a 'rural area', or an eligible area, make loans and grants, and approve transfers and assumptions, under this title on the same basis as though the area still was rural in connection with property securing any loan made, insured, or held by the Secretary under this title or in connection with any property held by the Secretary under this title.".

LOAN MORATORIUM AND POLICY ON FORECLOSURES

SEC. 122. The Consolidated Farm and Rural Development Act is amended by adding after section 331 a new section 331A as follows:

"SEC. 331A. In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other 7 USC 1981a.

law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.".

APPEAL AND REVIEW OF COUNTY COMMITTEE DETERMINATIONS; EXEMPTION OF GUARANTEED LOANS FROM "GRADUATION" REQUIREMENT

7 USC 1983. SEC. 123. Section 333 of the Consolidated Farm and Rural Development Act is amended by—

(1) at the end of subsection (b), striking out the semicolon and inserting in lieu thereof the following: ": *Provided*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;";

(2) in subsection (c), inserting "except for guaranteed loans," immediately before "an agreement by the borrower"; and

(3) in subsection (c), inserting after "private credit source" the following: "(or, in the case of a borrower under section 310D of this title, the borrower may be able to obtain a loan under section 302 of this title)".

Ante, p. 424.

7 USC 1922.

DEFINITION OF "UNITED STATES" AND "STATE"

7 USC 1991. SEC. 124. Section 343 of the Consolidated Farm and Rural Development Act is amended by striking out "and" immediately before "(5)" and inserting immediately before the period at the end of the section the following: ", and (6) the terms 'United States' and 'State' shall include each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands".

AUTHORIZATION OF INSURED AND GUARANTEED LOANS AMOUNTS; PARTICIPATION BY OTHER DEPARTMENTS AND AGENCIES

SEC. 125. The Consolidated Farm and Rural Development Act is amended by adding at the end thereof new sections 346 and 347 as follows:

7 USC 1994. "SEC. 346. Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subtitle of this title during each three-year period thereafter shall not exceed such amounts as may be authorized by law after the date of enactment of this section. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this title, one against which direct and insured loans shall be charged and the other against which

guaranteed loans shall be charged, with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration.

"SEC. 347. Notwithstanding any other provision of law, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or executive establishment, except that any limitation on joint participation is superseded by this section.". 7 USC 1995.

USE OF QUALIFIED PERSONNEL BY THE DEPARTMENT OF AGRICULTURE

SEC. 126. It is the sense of Congress that, in carrying out the provisions of the Consolidated Farm and Rural Development Act, the Secretary of Agriculture should ensure that— 7 USC 1921 note.

(1) only officers and employees of the Department of Agriculture who are adequately prepared to understand the particular needs and problems of farmers in an area are assigned to such area; and

(2) a high priority is placed on keeping existing farm operations operating.

TITLE II—EMERGENCY AGRICULTURAL CREDIT ADJUSTMENT ACT OF 1978

SHORT TITLE

SEC. 201. This title may be cited as the "Emergency Agricultural Credit Adjustment Act of 1978". 7 USC prec. 1961 note.

AUTHORITY TO INSURE OR GUARANTEE LOANS

SEC. 202. The Secretary of Agriculture may insure or guarantee loans to (1) bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who are citizens of the United States and (2) farm cooperatives and private domestic corporations and partnerships that are primarily and directly engaged in agricultural production and in which a majority interest is held by members, stockholders, or partners, as applicable, who themselves are citizens of the United States and are primarily and directly engaged in agricultural production, if the applicant for such loan— 7 USC prec. 1961 note.

(A) has the experience or training and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan;

(B) needs such credit in order to maintain a viable agricultural production operation; and

(C) is unable at the time the loan application is filed to obtain sufficient credit from normal credit sources to finance actual needs at reasonable rates and terms due to national or areawide economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities.

"Agricultural production."

As used in this title, the term "agricultural production" shall include aquaculture; and the term "Secretary" shall mean the Secretary of Agriculture.

PURPOSES OF LOANS

7 USC prec. 1961 note.

SEC. 203. (a) Loans may be insured or guaranteed under this title for (1) refinancing outstanding indebtedness, including the making of installment payments of principal and interest, on farm or home real estate and other farm and essential home debts that cannot be paid unless assistance is provided under this title to provide adequate terms within the applicant's repayment ability and assure continuation of the applicant's farming, ranching, or aquaculture operation, (2) reorganization of the farming, ranching, or aquaculture operation, including changes in the nature or method of operation, necessary to provide an economically sound operating unit, (3) purchase of essential water rights, supplies, and irrigation facilities, (4) purchase of essential livestock, poultry, and farm equipment, (5) purchase of feed, seed, fertilizer, insecticides, and farm supplies and other essential farm operating expenses, including cash rent, (6) financing essential land and water development, use, and conservation, (7) other essential farm, ranch, and aquaculture needs, including, but not limited to, family subsistence, and (8) loan closing costs. No loan may be insured or guaranteed under this title the purpose of which is to purchase or lease additional land.

(b) In making loans under this title, preference shall be given to owners or operators of not larger than family farms. In the case of farm cooperatives, corporations, and partnerships, the family farm preference shall apply to the farm or farms in which both the entity and its principal members, stockholders, or partners, as applicable, have an ownership or operator interest and are primarily and directly engaged in agricultural production.

GUARANTEED LOAN LIMITS; RATES OF INTEREST; REPAYMENT PERIOD; RESTRICTIONS

7 USC prec. 1961 note.

SEC. 204. (a) The Secretary may guarantee under this title the principal and interest on any loan that is made by a legally organized lending agency, and that otherwise meets the purposes and conditions of this title, except that such guarantee shall not exceed 90 per centum of the principal and interest of the loan.

(b) Loans guaranteed under this title shall bear interest at rates to be agreed upon by the lender and borrower. Loans insured under this title shall bear interest at rates determined by the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(c) Loans insured and guaranteed under this title shall be repayable at such times as the Secretary may determine, taking into account the purpose of, and need for, the loan, but not later than provided for loans for similar purposes under the Consolidated Farm and Rural Development Act: *Provided*, That, if the loan is for a purpose described in subtitle B of such Act, the Secretary may make the loan repayable at the end of a period not exceeding twenty years if the Secretary determines that the need of the applicant justifies a longer repayment period.

7 USC 1921 note.
7 USC 1941.

(d) No fees or charges shall be assessed by the Secretary for any loan insured or for any guarantee provided under this title.

LOAN CERTIFICATIONS AND CONDITIONS

SEC. 205. (a) As a condition of the Secretary's guaranteeing any loan under this title, the lender shall certify that— 7 USC prec. 1961 note.

(1) the lender is unwilling to provide credit to, or continue with, the loan applicant in the absence of the guarantee authorized by this title;

(2) the loan applicant is directly and in good faith engaged in agricultural production; and

(3) the financing to be furnished the loan applicant is to be used for one or more of the purposes set forth in section 203 of this title.

(b) As a condition of the Secretary's insuring any loan under this title, the loan applicant shall certify that—

(1) the loan applicant will be unable to obtain financing in the absence of the assistance authorized by this title;

(2) the loan applicant is directly and in good faith engaged in agricultural production; and

(3) the financing to be furnished the loan applicant is to be used for one or more of the purposes set forth in section 203 of this title.

(c) As a condition of insuring or guaranteeing any loan under this title, the Secretary must find that there is reasonable probability of accomplishing the objectives of this title and repayment of the loan.

(d) The Secretary shall require—

(1) the county committee authorized under section 332 of the Consolidated Farm and Rural Development Act to certify in writing that the applicant for a loan under this title meets the eligibility requirements for the loan, has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out the applicant's undertakings and obligations; and 7 USC 1982.

(2) except for guaranteed loans, an agreement by the applicant for a loan under this title that if at any time it shall appear to the Secretary that the applicant may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, the applicant will, upon request by the Secretary, apply for and accept such loan in an amount sufficient to repay the Secretary or the insured lender, or both, and pay for any stock in a cooperative lending agency that must be purchased in connection with such loan.

LOAN SECURITY

SEC. 206. Loans shall be insured or guaranteed under this title upon the full personal liability of the borrower secured by such collateral as is available that, together with the confidence of the Secretary, and, for guaranteed loans, the confidence of the lender, in the repayment ability of the loan applicant, is deemed by the Secretary adequate to protect the Government's interest. The collateral may be subject to a prior lien or may be collateral that has depreciated in value owing to temporary economic conditions. 7 USC prec. 1961 note.

FUNDING; LIMITATION ON OUTSTANDING LOANS

7 USC prec. 1961 note.
7 USC 1929.

SEC. 207. (a) The fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary for the operation of the loan program, and for the discharge of the obligations incurred by the Secretary, under this title. The Secretary may use such fund to (1) pay administrative expenses of the Secretary necessary to insure, guarantee, and service loans, and otherwise carry out the provisions of this title, and (2) purchase, on such terms and conditions as the Secretary may deem appropriate, all or any portion of any loan insured or guaranteed under this title, or to defer payments of principal and interest with respect to such loan and pay expenses and fees incident to such purchase or deferral. There shall be reimbursed to such fund by appropriations annually an amount equal to the costs incurred in the operation and administration of the program created by this title.

(b) The total principal balance outstanding at any time on loans insured or guaranteed under this title for any borrower shall not exceed $400,000: *Provided*, That no loan may be insured or guaranteed under this title to a borrower who has any loans outstanding under subtitle A or B of the Consolidated Farm and Rural Development Act that would cause the total outstanding principal indebtedness under this title and subtitles A and B of the Consolidated Farm and Rural Development Act to exceed $650,000, and no loan may be made, insured, or guaranteed under subtitle A or B of the Consolidated Farm and Rural Development Act to any borrower who has any loans outstanding under this title that would cause the total outstanding principal indebtedness under subtitles A and B of the Consolidated Farm and Rural Development Act and this title to exceed $650,000.

7 USC 1922, 1941.

(c) The total principal balance outstanding at any time on loans insured or guaranteed under this title shall not exceed $4,000,000,000.

FULL FAITH AND CREDIT

7 USC prec. 1961 note.

SEC. 208. Any contract of guarantee or insurance executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge at the time it becomes a holder.

ISSUANCE OF CERTIFICATES OF BENEFICIAL OWNERSHIP; CONTRACTS OF GUARANTEE ASSIGNABLE; REGULATIONS

7 USC prec. 1961 note.
7 USC 1932.

SEC. 209. (a) The provisions of section 310B(6) of the Consolidated Farm and Rural Development Act shall apply to loans insured or guaranteed under this title. The Secretary is authorized to handle loans guaranteed under this title in the same manner as loans guaranteed under the Consolidated Farm and Rural Development Act.

7 USC 1921 note.

(b) Contracts of guarantee executed pursuant to the provisions of this title shall be fully assignable.

(c) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out this title. Final regulations shall be issued as soon as possible, but in no event later than thirty days after the date of enactment of this title. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days after its receipt.

AVAILABILITY OF THE PROGRAM

SEC. 210. Financial assistance may be made available under this title throughout the "United States" as that term is defined in section 343 of the Consolidated Farm and Rural Development Act. 7 USC prec. 1961 note. 7 USC 1991.

EFFECTIVE PERIOD

SEC. 211. The provisions of this title shall become effective upon enactment, and the authority to make new contracts of insurance or guarantee under this title shall terminate May 15, 1980. 7 USC prec. 1961 note.

TITLE III—EXTENSION AND AMENDMENT OF THE EMERGENCY LIVESTOCK CREDIT ACT OF 1974 AND AMENDMENT OF THE BEEF RESEARCH AND INFORMATION ACT

EMERGENCY LIVESTOCK CREDIT ACT OF 1974

SEC. 301. The Emergency Livestock Credit Act of 1974 is amended by— 7 USC prec. 1961 note.

(1) in section 2, inserting after the words "bona fide farmers and ranchers" the following: ", including bona fide farmers or ranchers owning livestock that are fed in custom feedyards,";

(2) amending section 8 to read as follows: Effective date.

"SEC. 8. The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire September 30, 1979, except that, with respect to any loan for a line of credit guaranteed under this Act, if the lender advances loan funds within the line of credit at any time during the remaining term or authorized renewal period of the loan after September 30, 1979, the guarantee of such advances shall not be considered new guarantees.";

(3) in section 11, amending the first sentence to read as follows: "The Secretary shall, not later than December 15 of each year, report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on the effectiveness of this Act."; and Report to congressional committees.

(4) adding at the end thereof a new section 12 as follows:

"SEC. 12. Financial assistance may be made available under this Act throughout the 'United States' as that term is defined in section 343 of the Consolidated Farm and Rural Development Act.". 7 USC 1991.

BEEF RESEARCH AND INFORMATION ACT

SEC. 302. Section 9 of the Beef Research and Information Act (7 U.S.C. 2908) is amended by striking out in the third sentence the words "not less than two-thirds" and inserting in lieu thereof "a majority".

TITLE IV—EMERGENCY CONSERVATION PROGRAM

SEC. 401. The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters when, as a result of the foregoing, new conservation problems have been created that (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent 16 USC 2201.

damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

16 USC 2202. SEC. 402. The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures during periods of severe drought as determined by the Secretary.

16 USC 2203. SEC. 403. The Secretary of Agriculture is authorized to undertake emergency measures for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

Appropriation authorization. 16 USC 2204. SEC. 404. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this title. Such funds shall remain available until expended. In implementing the provisions of this title, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out the provisions of this title unless funds specifically appropriated for such purpose have been transferred to it.

Regulations. 16 USC 2205. SEC. 405. The Secretary of Agriculture is authorized to prescribe such regulations as the Secretary determines necessary to carry out the provisions of this title.

Effective date. 16 USC 2201 note. SEC. 406. The provisions of this title shall become effective October 1, 1978.

TITLE V—PRICE SUPPORT FOR PRODUCERS OF RICE

7 USC 1309. SEC. 501. (a) Section 1001(b) of the Food and Agriculture Act of 1977 is amended by striking out "and upland cotton" and inserting in lieu thereof "upland cotton, and rice".

Effective date. 7 USC 1309 note. (b) This section shall become effective October 1, 1978, and any producers who, prior to such date, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, may elect after September 30, 1978, to receive payments as computed under section 1001(b) of the Food and Agriculture Act of 1977, as amended by this section.

7 USC 1281 note.

7 USC 1309.

Approved August 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-986 (Comm. on Agriculture) and No. 95-1344 (Comm. of Conference).

SENATE REPORT No. 95-752 accompanying S. 2146 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 24, considered and passed House.

May 1, 2, S. 2146 considered in Senate.

May 2, considered and passed Senate, amended, in lieu of S. 2146.

July 19, House agreed to conference report.

July 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 31:

Aug. 4, Presidential statement.

Public Law 95-335
95th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

Aug. 4, 1978
[H.R. 12933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriation Act, 1979.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $27,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine, $33,050,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $11,450,000.

Limitation on Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $54,069,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation together with advances and reimbursements received by the Department of Transportation.

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed ten passenger motor vehicles, for replacement only; and recreation and welfare; $965,318,000, of which $214,904 shall be applied to Capehart Housing debt reduction: *Provided*, That the number of aircraft on hand at any one time shall not exceed one hundred and seventy-seven exclusive of planes and parts stored to meet future attrition.

14 USC 92 note.

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1981, $286,617,000, of which $3,500,000 shall be derived by transfer from the appropriation "Pollution Fund".

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges; $14,900,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans; $173,500,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $39,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $20,000,000, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for research, development, testing and evaluation.

STATE BOATING SAFETY ASSISTANCE

For financial assistance for State boating safety programs in accordance with the provisions of the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 et seq.), $5,000,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act; purchase of three passenger motor vehicles for replacement only and purchase and repair of skis and snowshoes: $1,981,400,000,

49 USC 1701 note.

of which $300,000,000 shall be derived from the Airport and Airway Trust Fund, for the purposes of subsection (e) of section 14 of the Airport and Airway Development Act of 1970, as amended, and subject to the conditions of that subsection: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further*, That none of these funds shall be available for new applicants for the second career training program. 49 USC 1714.

FACILITIES, ENGINEERING AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, for acquisition and modernization of facilities and equipment and service testing in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant and purchase of three aircraft for replacement only, $18,370,000, to remain available until expended; and, in addition, not to exceed $145,000 from unobligated balances in the appropriations for "Civil supersonic aircraft development" and "Civil supersonic aircraft development termination" may be transferred to this account: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for engineering and development.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for; for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund, $336,660,000, of which $54,363,000 shall be derived by transfer from the appropriation "Facilities and Equipment (Airport and Airway Trust Fund), 1976", to remain available until September 30, 1981: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That no part of the foregoing appropriation shall be available for the construction of a new wind tunnel, or to purchase any land for or in connection with the National Aviation Facilities Experimental Center, or to decommission in excess of five flight service stations.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering and development in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant; $75,100,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

49 USC 1714.

For liquidation of obligations incurred for airport development under authority contained in section 14 of Public Law 91–258, as amended, to be derived from the Airport and Airway Trust Fund and to remain available until expended, $550,000,000; and for airport planning grants $15,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally owned civil airports in the vicinity of the District of Columbia, including purchase of ten passenger motor vehicles for police or ambulance type use, for replacement only; and purchase of two motor bikes for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition; $23,858,000.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally owned civil airports in the vicinity of the District of Columbia, $5,000,000, to remain available until September 30, 1981.

AVIATION WAR RISK INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation war risk insurance activities under said Act.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration not to exceed $169,650,000 shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with

advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed $35,400,000 of the amount provided herein shall remain available until expended.

MOTOR CARRIER SAFETY

For necessary expenses to carry out motor carrier safety functions of the Secretary, as authorized by the Department of Transportation Act (80 Stat. 939–40), $12,351,000, of which $4,000,000 of the amount appropriated herein shall remain available until expended and not to exceed $1,090,000 shall be available for "Limitation on general operating expenses".

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out provisions of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $9,000,000.

HIGHWAY BEAUTIFICATION

For necessary expenses to carry out the provisions of title 23, United States Code, sections 131 and 136, and the Federal-Aid Highway Act of 1976, section 105(a)(11), $13,135,000, to remain available until expended, together with $18,000,000, for payment of obligations incurred in carrying out the provisions of title 23, United States Code, sections 131, 136, and 319(b), to remain available until expended. 90 Stat. 427.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $23,000,000 to be derived from the Highway Trust Fund: *Provided*, That not to exceed $633,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of railroad-highway crossings demonstration projects, as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, and title III of the National Mass Transportation Assistance Act of 1974, to remain available until expended, $40,000,000 of which $26,666,667 shall be derived from the Highway Trust Fund. 23 USC 130 note. 49 USC 1605 note.

OFF-SYSTEM RAILWAY-HIGHWAY CROSSINGS

For necessary expenses for the elimination of hazards of railway-highway crossings on roads other than those on any Federal-aid system in accordance with the provisions of section 203 of the Highway Safety Act of 1973, as amended, to remain available until September 30, 1982; $15,000,000. 23 USC 130 note.

TERRITORIAL HIGHWAYS

For necessary expenses in carrying out the provisions of title 23, United States Code, sections 152, 153, 215, and 402, $6,600,000, to remain available until expended, together with $5,500,000 for payment

of obligations, incurred in carrying out the provisions of title 23, United States Code, sections 215, 402, and 405, to remain available until expended.

OFF-SYSTEM ROADS (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of section 122 of Public Law 93-643; $44,000,000, to remain available until expended.

23 USC 219.

SAFER OFF-SYSTEM ROADS

For necessary expenses to carry out the provisions of 23 U.S.C. 219; $15,000,000, to remain available until September 30, 1982.

NATIONAL SCENIC AND RECREATIONAL HIGHWAY (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 148, to remain available until expended, $19,000,000, of which $13,000,000 shall be derived from the Highway Trust Fund.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

For necessary expenses not otherwise provided, to carry out the provisions of 23 U.S.C. 155, $7,900,000, to remain available until September 30, 1981.

FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $6,950,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

HIGHWAYS CROSSING FEDERAL PROJECTS

For necessary expenses in carrying out the provisions of 23 U.S.C. 156, $16,000,000, to remain available until September 30, 1981.

OVERSEAS HIGHWAY

For necessary expenses for construction of the Overseas Highway in accordance with the provisions of section 118, Federal-Aid Highway Amendments of 1974, as amended, to remain available until expended, $87,100,000 to be derived from the Highway Trust Fund.

88 Stat. 2288.

PROJECT ACCELERATION DEMONSTRATION PROGRAM

For necessary expenses to enable the Secretary to conduct a demonstration project authorized by section 141 of the Federal-Aid Highway Act of 1976, $10,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

23 USC 124 note.

SANDHILL CRANE WILDLIFE REFUGE

For necessary expenses of land acquisition in Jackson County, Mississippi, with respect to Interstate Route 10, $4,000,000, to remain available until expended: *Provided*, That the Secretary of Transportation is authorized to transfer said land to the Secretary of the Interior, who shall administer it as a wildlife refuge. Jackson County, Miss., land acquisition.

ALASKA HIGHWAY

For necessary expenses to carry out the provisions of section 218 of title 23, United States Code, $15,000,000, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

TRAFFIC AND HIGHWAY SAFETY

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), $81,620,000, of which $25,875,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed $36,715,000 shall remain available until expended, of which $8,252,000 shall be derived from the Highway Trust Fund. 15 USC 1901 note.

STATE AND COMMUNITY HIGHWAY SAFETY (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402 and 406, to remain available until expended, $166,000,000 to be derived from the Highway Trust Fund, and for necessary expenses in carrying out the provisions of 23 U.S.C. 402 and 406, $1,715,000, to remain available until expended.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $8,245,000.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $23,655,000, of which $7,040,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $51,980,000, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for engineering, testing and development.

RAIL SERVICE ASSISTANCE

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, and for necessary administrative expenses in connection with Federal rail assistance programs not otherwise provided for, $75,040,000, together with $9,330,000 for the Minority Business Resource Center, as authorized by section 906 of Public Law 94-210, to remain available until expended.

49 USC 1654.
49 USC 1657a.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of Public Law 94-210, as amended, $455,000,000, to remain available until expended: *Provided*, That, notwithstanding any other provisions of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program.

45 USC 851.
45 USC 851 note.
50 USC 1431.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $660,000,000, to remain available until expended, of which not more than $510,000,000 shall be available for operating losses incurred by the Corporation, including payment of additional operating expenses of the Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, not more than $101,000,000 shall be available for capital improvements, not more than $24,000,000 shall be available only for the fiscal year 1979 purchase payments for the Northeast Corridor, and not more than $25,000,000 shall be available for the retirement of loan guarantees made pursuant to 45 U.S.C. 602: *Provided*, That none of the funds herein appropriated shall be used for the lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

45 USC 851.

THE ALASKA RAILROAD

ALASKA RAILROAD REVOLVING FUND

The Alaska Railroad Revolving Fund shall continue available until expended for the work authorized by law, including operation and maintenance of oceangoing or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for transportation of freight, passengers, or mail, when deemed necessary for the benefit and development of industries or travel in the area served; and payment of compensation and expenses as authorized by 5 U.S.C. 8146, to be reimbursed as therein provided: *Provided*, That no employee shall be paid an annual salary out of said fund in excess of the salaries prescribed by the Classification Act of 1949, as amended, for grade GS-15, except the general manager of said railroad, one assistant general manager at not to exceed the salaries prescribed by said Act for GS-17, and five officers at not to exceed the salaries prescribed by said Act for grade GS-16.

63 Stat. 954.
5 USC 5332 note.

PAYMENTS TO THE ALASKA RAILROAD REVOLVING FUND

For payment to the Alaska Railroad Revolving Fund for capital replacements, improvements, and maintenance, $9,300,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505–507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, for the uses authorized for the Fund, in amounts not to exceed $170,000,000. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed $600,000,000 principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94–210, as amended, shall not exceed $600,000,000.

45 USC 822, 825–827, 829.

45 USC 832.

45 USC 831–833.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., as amended by Public Law 91–453 and Public Law 93–503); the Federal-Aid Highway Act of 1973 (Public Law 93–87); the Federal-Aid Highway Act of 1976 (Public Law 94–280) and the Urban Mass Transportation Act Amendments of 1978 or similar legislation, in connection with the activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109; $18,100,000.

49 USC 1601a note.
49 USC 1601b note.
23 USC 101 note.
23 USC 101 note.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

For necessary expenses for research and training, as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended; $63,500,000: *Provided*, That $61,000,000 shall be available for research, development, and demonstrations, $2,000,000 shall be available for university research and training and not to exceed $500,000 shall be available for managerial training as authorized under the authority of said Act.

URBAN DISCRETIONARY GRANTS

For necessary expenses for urban discretionary grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,250,000,000, of which $25,000,000 shall be available for technical studies, to remain available until September 30, 1982.

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RURAL AND SMALL URBAN GRANTS

For necessary expenses for assistance in rural areas and in those urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined for the purposes of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $76,500,000, of which $1,500,000 shall be available for technical studies.

URBAN FORMULA GRANTS

For necessary expenses for urban formula grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $553,500,000, of which $28,500,000 shall be available for technical studies and $75,000,000 shall be available for rail service operating payments, to remain available until September 30, 1982.

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., as amended by Public Law 91-453 and Public Law 93-503) and 23 U.S.C. 142(c) and of obligations incurred for projects substituted for Interstate System segments withdrawn prior to enactment of the Federal-Aid Highway Act of 1976; $1,850,000,000, to remain available until expended: *Provided*, That none of these funds shall be made available for the establishment of depreciation reserves or reserves for replacement accounts: *Provided further*, That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

49 USC 1601a note.
49 USC 1601b note.
Funds, transfer.

PROJECTS SUBSTITUTED FOR INTERSTATE SYSTEM PROJECTS

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4), to remain available until expended, $400,000,000: *Provided*, That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the Corporation except as hereinafter provided.

31 USC 849.

LIMITATION ON ADMINISTRATIVE EXPENSES, SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Not to exceed $1,280,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Pro-*

vided, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901–5902), and $15,000 for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS DIRECTORATE

Research and Special Programs

Pipeline safety program grants.

For expenses necessary to discharge the functions of the Research and Special Programs Directorate, $24,760,000, of which not to exceed $11,455,000 shall remain available until expended for expenses for conducting research and development and not to exceed $2,820,000 shall remain available until expended for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674).

TITLE II

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and Expenses

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $15,600,000, of which not to exceed $300 shall be used for official reception and representation expenses.

5 USC 5332 note.

CIVIL AERONAUTICS BOARD

Salaries and Expenses

For necessary expenses of the Civil Aeronautics Board, including hire of aircraft; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); and not to exceed $5,000 for official reception and representation expenses, $27,000,000.

Payments to Air Carriers

For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376), as is payable by the Board, $68,900,000, to remain available until expended.

INTERSTATE COMMERCE COMMISSION

Salaries and Expenses

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, $70,400,000, of which $1,850,000 shall be available for necessary expenses of the Office

49 USC 305a.

of Rail Public Counsel: *Provided*, That Joint Board members and cooperating state commissioners may use Government transportation requests when traveling in connection with their official duties as such.

THE PANAMA CANAL

Canal Zone Government

OPERATING EXPENSES

For operating expenses necessary for the Canal Zone Government, including operation of the Postal Service of the Canal Zone; hire of passenger motor vehicles; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); expenses incident to conducting hearings on the Isthmus; expenses of special training of employees of the Canal Zone Government as authorized by 5 U.S.C. 4101–4118, contingencies of the Governor, residence for the Governor; medical aid and support of the insane and of lepers and aid and support of indigent persons legally within the Canal Zone, including expenses of their deportation when practicable; and maintaining and altering facilities of other Government agencies in the Canal Zone for Canal Zone Government use, $74,000,000.

Capital Outlay

For acquisition of land and land under water and acquisition, construction, and replacement of improvements, facilities, structures, and equipment, as authorized by law (2 C.Z. Code, sec. 2; 2 C.Z. Code, sec. 371), including the purchase of not to exceed twenty passenger motor vehicles of which eighteen are for replacement only; improving facilities of other Government agencies in the Canal Zone for Canal Zone Government use; and expenses incident to the retirement of such assets; $1,035,000, to remain available until expended.

Panama Canal Company

CORPORATION

The Panama Canal Company is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation, including maintaining and improving facilities of other Government agencies in the Canal Zone for Panama Canal Company use.

LIMITATION ON GENERAL AND ADMINISTRATIVE EXPENSES

Not to exceed $27,580,000 of the funds available to the Panama Canal Company shall be available for obligation during the current fiscal year for general and administrative expenses of the Company, including operation of tourist vessels and guide services. Funds available to the Panama Canal Company for obligation shall be available for the purchase of not to exceed twenty-eight passenger motor vehicles for replacement only, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, of fund anticipation notes, $170,000,000. 45 USC 829.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, $23,000,000, of which not to exceed $4,000 shall be available for official reception and representation expenses. 45 USC 701 note.

PAYMENTS FOR PURCHASE OF CONRAIL SECURITIES

For acquisition of series A preferred stock issued by the Consolidated Rail Corporation, to remain available until expended, $300,000,000, except that no funds shall become available until authorizing legislation is passed.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

To enable the Department of Transportation to pay the Washington Metropolitan Area Transit Authority costs of debt service assistance and the interest subsidy authorized by Public Law 92-349, $38,142,000, to remain available until expended. D.C. Code 1-1441 note.

TITLE III

GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $35,990,000 in fiscal year 1979 for general aviation discretionary grants. Aviation discretionary grants.

SEC. 303. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $593,150,000 in fiscal year 1979 for "Grants-in-aid for airports" under 49 U.S.C. 1714 (a) and (b) other than general aviation discretionary grants.

Highway safety funds.

SEC. 304. None of the funds provided under this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $28,000,000 in fiscal year 1979 for "Highway-related safety grants".

SEC. 305. None of the funds provided under this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $172,000,000 in fiscal year 1979 for "State and Community Highway Safety": *Provided*, That within such total obligations not to exceed $40,000,000 shall be reserved for use at the discretion of the Secretary for high priority highway safety projects.

SEC. 306. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for contract authority under the Urban Mass Transportation Act of 1964, as amended, aggregating more than $850,000,000 in fiscal year 1979.

49 USC 1601 note.

Everglades National Park, Fla. Ecology study.

SEC. 307. None of the funds provided under this Act shall be available for the planning or execution of programs for any further construction of the Miami jetport or of any other air facility in the State of Florida lying south of the Okeechobee Waterway and in the drainage basins contributing water to the Everglades National Park until it has been shown by an appropriate study made jointly by the Department of the Interior and the Department of Transportation that such an airport will not have an adverse environmental effect on the ecology of the Everglades and until any site selected on the basis of such study is approved by the Department of the Interior and the Department of Transportation: *Provided*, That nothing in this section shall affect the availability of such funds to carry out this study.

Canal Zone, consultants.

SEC. 308. The Governor of the Canal Zone is authorized to employ services as authorized by 5 U.S.C. 3109, in an amount not exceeding $150,000.

Canal Zone Government, pay increases.

SEC. 309. Funds appropriated for operating expenses of the Canal Zone Government may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

FAA personnel, dependents' school expenses. 20 USC 241 note.

SEC. 310. Funds appropriated under this Act for expenditure by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 311. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5

U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

5 USC 5332 note.

SEC. 312. None of the funds in this Act shall be available for the implementation or execution of a program in the Department of Transportation to collect fees, charges or prices for approvals, tests, authorizations, certificates, permits, registrations, and ratings which are in excess of the levels in effect on January 1, 1973, or which did not exist as of January 1, 1973, until such program is reviewed and approved by the appropriate committees of the Congress.

Review by congressional committees.

SEC. 313. None of the funds provided in this Act for liquidation of contractual obligations under the Urban Mass Transportation Act of 1964, as amended, shall be made available for liquidation of obligations entered into under section 5 of that Act to support mass transit facilities, equipment or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and form as the Secretary may require, and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the rates generally applicable to other persons at peak hours: *Provided*, That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall (1) permit applicants to continue the use of preferential fare systems for elderly or handicapped persons where those systems were in effect on or prior to November 26, 1974, (2) allow applicants a reasonable time to expand the coverage of operating preferential fare systems as appropriate, and (3) allow applicants to define the eligibility of "handicapped persons" for the purposes of preferential fares in conformity with other Federal laws and regulations governing eligibility for benefits for disabled persons.

Mass transit fares for elderly and handicapped.
49 USC 1601 note.
49 USC 1604.

SEC. 314. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year limitation.

SEC. 315. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $7,950,000,000 for "Federal-Aid Highways" in fiscal year 1979: *Provided*, That this limitation shall not apply to obligations for emergency relief authorized by 23 U.S.C. 125: *Provided further*, for replacement of the West Seattle bridge in the State of Washington, $50,000,000 to be made available from obligations authorized by 23 U.S.C. 125 on the date of enactment of this proviso: *Provided further*, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on "Federal-Aid Highways" for fiscal year 1979 is enacted into law by September 30, 1978.

Federal-Aid Highways.

West Seattle bridge, Wash.

SEC. 316. Obligations for the Great River Road shall include preliminary engineering and the planning or execution of projects for the acquisition of areas of archeological, scientific, or historical importance and of necessary easements for scenic purposes, the construction or reconstruction of roadside rest areas, bicycle trails, and scenic viewing areas, the reconstruction and rehabilitation of existing road segments, and the construction of new route segments. No such funds, however, shall be used for constructing new segments until 60 per centum of the Great River Road in each State is completed: *Provided*, That such completion may be waived if the Administrator determines that circumstances in such State prevent such completion.

Great River Road.

Motor vehicle occupant restraint systems.

SEC. 317. None of the funds appropriated under this Act shall be used to implement or enforce any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system (other than a belt system).

SEC. 318. Nothing in section 317 of this title shall be construed to prohibit the use of funds for any research and development activity relating to occupant restraint systems.

Short title.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriation Act, 1979".

Approved August 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1252 (Comm. on Appropriations) and No. 95-1329 (Comm. of Conference).

SENATE REPORT No. 95-938 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 9, 12, considered and passed House.

June 23, considered and passed Senate, amended.

July 19, House agreed to conference report.

July 20, Senate agreed to conference report.

Public Law 95-336
95th Congress

An Act

To amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act, and for other purposes.

Aug. 4, 1978
[H.R. 10569]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Amendments of 1978".

Alcohol and Drug Abuse Education Amendments of 1978.
21 USC 1001 note.

SEC. 2. Section 2(b) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1001(b)) is amended—

(1) by inserting after "encourage" the following: "the prevention of alcohol and drug abuse; to stimulate";

(2) by striking out "curricula on" and inserting in lieu thereof "approaches to";

(3) by striking out "problems of" the first time it appears therein and inserting in lieu thereof "prevention of alcohol and";

(4) by striking out "curricula" the second time it appears therein and inserting in lieu thereof "approaches";

(5) by striking out "curricular materials" and inserting in lieu thereof "successful approaches"; and

(6) by striking out "on drug abuse problems", and inserting in lieu thereof "on alcohol and drug abuse problems".

SEC. 3. (a)(1) Section 3(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(a)) is amended—

(A) by inserting after "carry out" a comma and the following: "throughout the Nation in rural areas as well as urban areas,";

(B) by striking out "projects" the first time it appears therein and inserting in lieu thereof "programs, including programs of proven effectiveness";

(C) by striking out "projects throughout the Nation" and inserting in lieu thereof "programs to develop local capability to meet problems of alcohol and drug abuse"; and

(D) by inserting at the end thereof the following new sentence: "The Commissioner shall seek equitable distribution of available resources among the various regions of the country and seek to ensure that the special needs of rural areas are appropriately addressed.".

(2) Section 3(b)(5) of such Act is amended by inserting "prevention" after "abuse".

(b) Section 3(d)(1) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(d)) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clauses:

"(E) provides assurance that the applicant will coordinate its efforts with the appropriate State and local alcohol and drug abuse agencies, and educational agencies and organizations; and

"(F) provides a proposed performance standard to measure, or research procedure to determine, the effectiveness of the program or project for which assistance is sought.".

21 USC 1002. (c) Section 3(e)(2) of such Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

SEC. 4. (a) Section 3 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002) is amended by redesignating subsection (d) through (f) as subsections (g) through (i), respectively, and by inserting after subsection (c) the following new subsections:

Grants. "(d) In addition to the purposes described in subsections (b) and (c), from funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act, the Commissioner is authorized to make grants to State educational agencies, local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in alcohol and drug abuse prevention, and to develop exemplary alcohol and drug abuse prevention programs. To maximum extent practicable, funds expended under this subsection shall be used for grants and programs reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

Office of Alcohol and Drug Abuse Education. Establishment. "(e)(1) In order to carry out the provisions of this Act, there is established in the Office of Education an Office of Alcohol and Drug Abuse Education (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director.

"(2) The Director shall report directly to the Commissioner.

"(3) The Office of Education shall provide the Office of Alcohol and Drug Abuse Education with sufficient staff and resources to carry out its responsibilities under this Act.

"(4) In carrying out the provisions of this Act, the Director of such Office shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and shall coordinate the activities of such Office with the activities of such Institutes to the extent feasible.

"(f) The Secretary shall assure cooperation and coordination between the Office of Education (acting through the Office of Alcohol and Drug Abuse Education) and the Alcohol, Drug Abuse, and Mental Health Administration (acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse) to identify and implement successful prevention programs and strategies, to identify research and development priorities, and to disseminate the results of such activities. The Secretary shall further assure that all such prevention programs and strategies which are school-based (assisted or conducted by the Department of Health, Education, and Welfare) shall, to the extent feasible, be coordinated through the Office of Education (acting through the Office of Alcohol and Drug Abuse Education).".

21 USC 1002. (b) Section 3(h)(1) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by striking out "not exceeding 1 per centum" and inserting in lieu thereof "of 3 per centum".

(c)(1) The first sentence of section 3(i) (as redesignated by subsection (a)) is amended by striking out "and", and by inserting before the period at the end thereof a comma and the following: "$10,000,000

Supra.

for the fiscal year 1979; $14,000,000 for the fiscal year 1980; and $18,000,000 for the fiscal year 1981".

(2) Subsection 3(i) of such Act (as redesignated by subsection (a)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs: *Ante*, p. 452.

"(2) To the maximum extent practicable, of the amount appropriated in any fiscal year under this subsection, sums shall be allotted for alcohol and drug abuse education projects reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(3) Funds appropriated under this subsection shall remain available for obligation through fiscal year 1981 in order to permit multiple year funding of projects under this Act.". Funds, availability.

SEC. 5. Section 8(c) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1007(c)) is amended by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands,".

SEC. 6. (a) Section 420(a) of the Higher Education Act of 1965 is amended by adding after paragraph (3) the following new paragraph: 20 USC 1070e-1.

"(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

(b) Clause (1) of section 310(b) of the GI Bill Improvement Act of 1977 (91 Stat. 1446) is amended by inserting at the end of subsection (a) of the new section 246, which was conditionally added to title 38, United States Code, by such clause, a new paragraph as follows: 38 USC 246.

"(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institu-

tion was entitled to payments under this section as the number of such recipients in all institutions of higher learning during the same academic year for which the determination is made bears to the number of such recipients in all institutions of higher learning for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Administrator determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

Effective date. 20 USC 1070e-1 note.

(c) The amendments made by this section shall be effective with respect to payments to which institutions are entitled as of June 30, 1978.

Approved August 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-884 (Comm. on Education and Labor).
SENATE REPORT No. 95-819, accompanying S. 2915 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 21, considered and passed House.
May 23, considered and passed House, amended in lieu of S. 2915.
July 24, House concurred in Senate amendment.

Public Law 95-337
95th Congress

An Act

To declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

Aug. 4, 1978
[S. 785]

Be it enacted by the Senate and House of Representatives of the United States of Amercia in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

Paiute and Shoshone Tribes, Fallon Indian Reservation and Colony, Nev. Lands in trust.

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter:

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30 east; section 33, south half; section 34, south half; section 35, west half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, beginning on October 1, 1978, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, beginning on October 1, 1978, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada. Nothing in this Act shall be construed to permit the transfer of water rights from lands within the existing Fallon Indian Reservation to lands added to the reservation by this Act.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian Reservation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or section 4 of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and section 4 of this Act. Nothing in this section or in section 4 of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition or exchange pursuant to this section or section 4 of this Act which involves public lands or interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D-183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R-2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practicably irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes.

Approved August 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1298 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-417 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 17, considered and passed Senate.
Vol. 124 (1978): July 17, considered and passed House, amended.
July 21, Senate concurred in House amendments.

Public Law 95-338
95th Congress

An Act

Aug. 8, 1978
[H.R. 11832]

To authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes.

Arms Control and Disarmament Act, amendment. Appropriation authorizations. 22 USC 2576.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 36 of the Arms Control and Disarmament Act is amended—

(1) by striking out in subsection (a)(3) "weapons systems or technology" and inserting in lieu thereof "technology with potential military application or weapons systems"; and

(2) by amending subsection (b)(2) to read as follows:

"(2) No request to the Congress for authorizations or appropriations for—

"(A) any program described in subsection (a) (1) or (2), or

"(B) any program described in subsection (a)(3) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations,

shall be transmitted without a complete statement analyzing the impact of such program, either as an individual program or as an aggregation of related programs, on arms control and disarmament policy and negotiations. Any such statement transmitted in classified form shall be accompanied by an unclassified version thereof.".

SEC. 2. Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)), is amended to read as follows:

Study. Report to Congress.

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated for fiscal year 1979 the sum of $18,395,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) of which $1,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency, and of which such sums as may be necessary shall be available to conduct a study of the arms control study centers at academic institutions, and to report the results of such study with possible recommendations to Congress not later than January 31, 1979. The sums authorized to be appropriated by this subsection shall remain available until expended.".

SEC. 3. Section 49 of the Arms Control and Disarmament Act, as amended by section 2 of this Act, is further amended by adding at the end thereof the following: 22 USC 2589.

"(d) Beginning with its request to the Congress for an authorization of appropriations for the fiscal year 1980, and with such request for each fiscal year thereafter, the Agency shall accompany such request with a detailed budget for each bureau and functional category within each bureau, which budget shall set forth and justify obligations and outlays for the fiscal year for which such request is made and for the fiscal year preceding and next following such year.".

SEC. 4. The amendment made by section 2 shall take effect on October 1, 1978. Effective date. 22 USC 2589 note.

Approved August 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1048 (Comm. on International Relations).
SENATE REPORT No. 95-843 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 26, considered and passed House.
June 8, considered and passed Senate, amended.
July 16, House concurred in certain Senate amendments; concurred in amendment No. 1 with an amendment.
July 27, Senate concurred in House amendments.

39-194 O—80—pt 1——33 : QL3

Public Law 95-339
95th Congress

An Act

Aug. 8, 1978
[H.R. 12426]

To authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

New York City Loan Guarantee Act of 1978.

SHORT TITLE

31 USC 1521 note.

SECTION 1. This Act may be cited as the "New York City Loan Guarantee Act of 1978".

TITLE I—LOAN GUARANTEES

DEFINITIONS

31 USC 1521.

SEC. 101. For the purpose of this title, the term—

(1) "city" means the city of New York;

(2) "State" means the State of New York;

(3) "Secretary" means the Secretary of the Treasury;

(4) "independent fiscal monitor" means an agency, board, or other entity authorized by the law of the State which has the authority to control the fiscal affairs of the city during the entire period for which assistance under this title will be outstanding and which authority the State has covenanted will not be substantially impaired during such period;

(5) "financing agent" means any agency or instrumentality of the State duly authorized by the law of the State to act on behalf of or in the interest of the city, and no other subdivision of the State, with respect to the city's financial affairs;

(6) "city indebtedness" means indebtedness for borrowed money of (A) a financing agent, but only if the proceeds thereof are advanced to or applied for the benefit of the city, or (B) the city; and

(7) "fiscal year" means a fiscal year of the city, except in section 111.

GUARANTEE AUTHORITY

31 USC 1522.

SEC. 102. (a) Upon the written request of the city and the Governor of the State, the Secretary may guarantee the payment, in whole or in part, of interest, principal, or both, of city indebtedness in accordance with this title, but any such guarantee shall cease to be effective not later than fifteen years after the date of the issuance of the city indebtedness involved.

(b) A guarantee under this title is effective only with respect to city indebtedness which is issued or is to be issued to employee pension funds of the city or of the State, or of any agency of the city or of the State, and shall terminate whenever such indebtedness is sold or otherwise disposed of by such a fund (other than to a successor in interest not involving a change in beneficial ownership).

(c) Whenever the payment of principal and interest on city indebtedness is guaranteed under this title, the Secretary shall assess

and collect from the issuer, no less frequently than annually, a guarantee fee computed daily at a rate of no less than one-half of 1 per centum per annum on the outstanding principal amount of city indebtedness guaranteed hereunder. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury. The Secretary may periodically escalate the guarantee fee to induce the obligor to enter the public credit markets.

CONDITIONS OF ELIGIBILITY

SEC. 103. The Secretary may make guarantees under this title only if— 31 USC 1523.

(1) there is a reasonable prospect of repayment of the city indebtedness to be guaranteed in accordance with its terms and conditions;

(2) the Secretary determines that the city is effectively unable to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the city's financing needs;

(3) the interest rate on such city indebtedness is reasonable, taking into consideration current average market yields for other obligations guaranteed by the United States;

(4) during the four-year period ending June 30, 1982, the long-term and seasonal borrowing needs of the city (other than borrowing assisted or to be assisted under this title) will be met through commitments from the State, an agency of the State, private sources, or through public credit markets, in amounts which will be sufficient to enable the city, when the guarantee authority conferred by this title has terminated, to meet all of its long-term and seasonal borrowing needs through the public credit markets, and for the purpose of making such determination, the Secretary may assume that all other conditions under this section are and will be fulfilled;

(5)(A) the independent fiscal monitor is requiring the city to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not, for fiscal years of the city beginning after June 30, 1981, show a deficit when reported in accordance with generally accepted accounting principles and, for fiscal years of the city beginning on or prior thereto but after June 30, 1978, to make substantial progress toward that goal, and, for each fiscal year of the city beginning prior to June 30, 1981, but after June 30, 1978, is requiring the city to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not show a deficit when reported in accordance with accounting principles established under State law;

(B) the city has submitted to the Secretary, with the approval of the independent fiscal monitor, in such detail and in accordance with such accounting principles as the Secretary may prescribe, a plan for bringing all of its expenditures other than capital items into balance with its revenues for each of the first three full fiscal years of the city beginning after June 30, 1978, and the city agrees to publish, after the completion of each fiscal year covered by the plan, an analysis reconciling its actual revenues and expenditures with projected revenues and expenditures, and to publish periodic projections which reflect the impact of the plan on tax rates; and

(C) the city submits, with the approval of the independent fiscal monitor, in such detail as the Secretary may prescribe and in accordance with generally accepted accounting principles, a plan for bringing all of its expenditures other than capital items into balance with its revenues no later than the final fiscal year of the four year period which begins with the fiscal year beginning July 1, 1978, and the city is required, on or before the first day of each fiscal year thereafter during which city indebtedness guaranteed under this title is outstanding, to have prepared and submit a plan covering the four year period beginning with such fiscal year which will result in budgets which would not show a deficit when reported in accordance with accounting principles set forth in subparagraph (A);

(6) the independent fiscal monitor demonstrates to the satisfaction of the Secretary that it has the authority to control the fiscal affairs of the city for the entire period during which assistance under this title will be outstanding;

(7) the city has agreed—

Independent public accountants, opinions.

(A) to obtain and submit to the Secretary, as soon as practicable after the close of each fiscal year of the city during which the Secretary may make guarantees under this title or during which any city indebtedness guaranteed hereunder is outstanding, an opinion of independent public accountants setting forth the results of an audit by such accountants of the financial statements of the city for such fiscal year, which opinion shall describe any deviation in the preparation of such financial statements from generally accepted accounting principles applicable to governmental bodies and shall state that the audit of such financial statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary under the circumstances; and

Audit committee. Establishment.

(B) to establish an audit committee which shall assist in the determination of areas of inquiry for, review the progress of, and evaluate the results of, audits to be conducted by such independent public accountants, and which shall consist of the mayor of the city, the comptroller of the city, the president of the city council, two individuals with expertise in municipal finance, and two officers or employees of two different firms of independent public accountants which are not engaged either by the city or by the comptroller of the city, such individuals and such officers or employees of such firms to be selected by the independent fiscal monitor;

(8) (A) in the case of guarantees issued after June 30, 1979, the State has furnished to the Secretary satisfactory assurances that the amount of financial assistance to be provided by the State to the city during the fiscal year in which such guarantee is to be issued will not be less than the amount of such assistance which was provided during the fiscal year ending June 30, 1979, except during any fiscal year for which the city has presented a budget which the Secretary has determined is balanced in accordance with generally accepted accounting principles; and

(B) the State or an agency of the State, subject to and in accordance with applicable State law, when any guarantee hereunder is made by the Secretary, shall deposit in a fund approved by the Secretary, an amount which, together with all amounts

previously so deposited in such fund, shall equal not less than 5 per centum of the principal of and of one year's interest on the then outstanding city indebtedness then guaranteed under this title, and which shall, under the direction of the Secretary, be used to pay, or to reimburse the Treasury for paying, principal and interest which the city fails to pay, the payment of which is guaranteed under this title, but in no case will the fund be used to pay or reimburse an amount in excess of 5 per centum of the principal amount of and of one year's interest on all guaranteed city indebtedness outstanding on the date of the failure;

(9) the city has agreed, in addition to other efforts undertaken by the city to increase employee productivity, to establish a productivity council (A) which shall consist of representatives of the city government and of city employee unions, (B) which shall develop and seek to implement methods for enhancing the productivity of the city's labor force, and (C) which shall have a representative of the independent fiscal monitor as an observer, and the independent fiscal monitor shall review and report, not less than annually, on the development and implementation of such methods, such report to be published and made available to the public, and transmitted to the Secretary; Information, availability to the public.

(10) the city has agreed to offer to sell for distribution to the public its short-term notes in fiscal years 1980, 1981, and 1982 and its long-term bonds in fiscal years 1981 and 1982, unless the Secretary determines that any such offer would be inconsistent with the financial interests of the city;

(11) the city has agreed that—

(A) following the fiscal year ending June 30, 1982, and during any fiscal year thereafter in which a guarantee under this title is outstanding, the city will pay or provide for the payment of city indebtedness than guaranteed hereunder, giving priority to city indebtedness having the longest maturity or maturities, in a principal amount not less than 15 per centum of the net proceeds of city indebtedness issued in public credit markets during such year, except that the Secretary may modify or waive such 15 per centum requirement to the extent he determines that its application (i) would substantially impair the city's ability to meet its essential capital needs, or (ii) would substantially overburden the market for long-term city indebtedness; and

(B) as soon as practicable after the Secretary determines that the city has demonstrated its ability to meet its long-term credit needs through public credit markets. the city will implement a program satisfactory to the Secretary of refunding any outstanding city indebtedness guaranteed under this title for the purpose of achieving complete repayment of such indebtedness at the earliest practicable date, taking into consideration such factors as the Secretary deems appropriate, including the effect of such refunding on the city's need to maintain the city's continued access to public credit markets for its long-term credit needs; and

(12) the city and the State are meeting their respective obligations under this section.

Any determination by the Secretary that the conditions set forth in this section have been met shall be conclusive, such determination to be evidenced by the making of such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of the holder of

such city indebtedness, except for fraud or material misrepresentation on the part of such holder. The Secretary is authorized to determine the manner in which such guarantees will be issued and, in addition to the terms and conditions required by this section, to require from, or agree to with, the city, a financing agent, the holders of the city indebtedness guaranteed, and any other party in interest such other terms and conditions as he may deem appropriate, including provision of security for the repayment of amounts paid pursuant to any guarantee under this title. Any such other term or condition may be modified, amended, or waived in the discretion of the Secretary.

LIMITATIONS ON GUARANTEE AUTHORITY

31 USC 1524.

SEC. 104. (a) (1) The authority of the Secretary to extend guarantees under this title shall not at any time exceed $1,650,000,000 in the aggregate principal amount outstanding.

(2) During the fiscal year beginning on July 1, 1978, not to exceed $750,000,000 shall be available for the guarantee of city indebtedness—

(A) of which not to exceed $500,000,000 shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, and

(B) of which not to exceed $325,000,000 shall be available for the guarantee of city indebtedness maturing in one year or less after its date of issuance, but only to the extent authorized by the provisions of subsection (b).

(3) During the fiscal year beginning on July 1, 1979, not to exceed the sum of—

(A) $250,000,000, and

(B) $750,000,000 reduced by the principal amount of city indebtedness guaranteed prior to July 1, 1979, and outstanding on the date on which the guarantees are made under this paragraph,

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, except that no guarantees may be made under this paragraph if prior to July 1, 1979, either the Senate or the House of Representatives agrees to a resolution stating in substance that it disapproves such guarantees.

(4) During the fiscal year beginning on July 1, 1980, not to exceed the sum of—

(A) $325,000,000, and

(B) $1,000,000,000 reduced by the sum of (i) the principal amount of city indebtedness guaranteed under paragraphs (2) (A) and (3) and outstanding on the date on which the guarantees are made under this paragraph, and (ii) the amount, if any, covered by a resolution agreed to by the Senate or the House of Representatives pursuant to paragraph (3),

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, except that no guarantees may be made under this paragraph if prior to July 1, 1980, either the Senate or the House of Representatives agrees to a resolution stating in substance that it disapproves such guarantees.

(5) During the fiscal year beginning on July 1, 1981, not to exceed the sum of—

(A) $325,000,000, if the Secretary determines, in accordance with generally accepted accounting principles, that the city has presented a balanced budget, and

(B) $1,325,000,000 reduced by the sum of (i) the principal amount of city indebtedness guaranteed under paragraphs (2)(A), (3), and (4) and outstanding on the date on which the guarantees are made under this paragraph, and (ii) the sum of the amounts, if any, covered by resolutions agreed to by the Senate or the House of Representatives pursuant to paragraphs (3) and (4),

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance.

(b) The Secretary may guarantee the payment of principal or interest, or both, on city indebtedness issued prior to January 1, 1979, and maturing prior to July 1, 1979, but only to the extent that the Secretary determines, after taking into account any commitments the employee pension funds of the city have made with respect to the purchase of city indebtedness maturing more than one year from its issuance, that the employee pension funds of the city are not able to provide sufficient amounts of seasonal financing as required under section 103(4) of this title without being considered to have failed to meet the requirements of section 401(a) of the Internal Revenue Code of 1954 (as such requirements apply to such pension funds) or being considered to have engaged in a prohibited transaction described in section 503(b) of the Internal Revenue Code of 1954. 26 USC 401. 26 USC 503.

REMEDIES

SEC. 105. (a) The Secretary shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title. Any sums recovered pursuant to this section shall be paid into the general fund of the Treasury. 31 USC 1525.

(b) The Secretary shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payment made pursuant to any guarantee agreement entered into under this title, and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

(c) Notwithstanding any other provision of law, the Secretary shall provide for the withholding of any payment from the United States to the city or State which may be or may become due pursuant to any law and offset the amount of such withheld payment against any claim the Secretary may have against the city or State pursuant to this title.

(d) The remedies prescribed in this title shall be cumulative and not in limitation of or substitution for any other remedies available to the Secretary or the United States.

(e) With respect to any debt of the United States arising under this title, for the purposes of section 3466 of the Revised Statutes (31 U.S.C. 191), the term "person" includes the city and any financing agent. Notwithstanding the provisions of such section, the Secretary is authorized to waive, wholly or partially, the priority for the United States established thereunder with respect to any indebtedness of the city or the financing agent issued after the effective date of this title (other than any indebtedness the proceeds of which are applied to the repayment prior to the stated maturity thereof of indebtedness outstanding on or before the effective date of this title owed to the lender of such proceeds) if, in his judgment such waiver is necessary to facilitate the ability of the city to meet its financing needs. No waiver under the preceding sentence shall by its terms subordinate the claims of the "Person." Waiver.

United States to those of any creditor of the city or any financing agent.

Civil action. Jurisdiction.

(f) The Secretary may bring a civil action in any United States district court or any other appropriate court to enforce compliance with the provisions of this title, any agreement related thereto, or any provision of State law related thereto, by the city, the State, the financing agent, the independent fiscal monitor, or any official of any of the foregoing, or any other party to any such agreement, and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

INSPECTION OF DOCUMENTS

31 USC 1526.

SEC. 106. At any time a request for a guarantee is pending or indebtedness guaranteed under this title is outstanding, the Secretary is authorized to inspect and copy all accounts, books, records, memorandums, correspondence, and other documents of the city or any financing agent relating to the city's financial affairs.

GENERAL ACCOUNTING OFFICE AUDITS

31 USC 1527.

SEC. 107. The General Accounting Office is authorized to make such audits as may be deemed appropriate by the Comptroller General of all accounts, books, records, and transactions of the city and any financing agent. No guarantee may be made under this title unless and until the city and any financing agent agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of any such audit to the Congress.

Report to Congress.

REPORTS TO CONGRESS

31 USC 1528.

SEC. 108. Within three months after the date of enactment of this title, and at six-month intervals until June 30, 1982, and thereafter at twelve-month intervals, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report containing a detailed statement of his activities under this title.

SEVERABILITY

31 USC 1529.

SEC. 109. If any provision of this title is held to be invalid, or the application of such provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERMINATION

31 USC 1530.

SEC. 110. The authority of the Secretary to make guarantees under this title terminates on June 30, 1982. Such termination does not affect the carrying out of any contract, guarantee, or other obligation entered into pursuant to this title, or the taking of any action necessary to preserve or protect the interests of the United States arising hereunder, except that no commitment to guarantee the payment of principal or interest on city indebtedness under this title shall be effective after such date.

AUTHORIZATION

SEC. 111. (a) There are authorized to be appropriated beginning October 1, 1978, and to remain available without fiscal year limitation, such sums as may be necessary to carry out this title. 31 USC 1531.

(b) Any other provision of this title to the contrary notwithstanding, the authority of the Secretary to make any guarantee under this title shall be limited to such extent or amounts as are provided in advance in appropriation Acts.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. TAXABILITY OF CERTAIN FEDERALLY GUARANTEED OBLIGATIONS.

(a) CERTAIN FEDERALLY GUARANTEED OBLIGATIONS.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 26 USC 103.

"(f) CERTAIN FEDERALLY GUARANTEED OBLIGATIONS.—Any obligation the payment of interest or principal (or both) of which is guaranteed in whole or in part under title I of the New York City Loan Guarantee Act of 1978 shall, with respect to interest accrued during the period for which such guarantee is in effect, be treated as an obligation not described in subsection (a).".

(b) OBLIGATIONS MAY NOT BE ACQUIRED BY FEDERAL FINANCING BANK.—Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire any obligation the payment of interest or principal of which has at any time been guaranteed in whole or in part under title I of the New York City Loan Guarantee Act of 1978. 12 USC 2285a.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 103 note.

Approved August 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1129, Pt. 1 (Comm. on Banking, Finance and Urban Affairs), and Pt. 2 (Comm. on Ways and Means); and No. 95-1369 (Comm. of Conference).

SENATE REPORT No. 95-952 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 6-8, considered and passed House.

June 29, considered and passed Senate, amended.

July 25, House agreed to conference report.

July 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 32:

Aug. 8, Presidential statement.

Public Law 95-340
95th Congress

An Act

Aug. 11, 1978
[H.R. 12138]

To name a certain Federal building in Laguna Niguel, California, the "Chet Holifield Building".

Chet Holifield Building, Laguna Niguel, Calif.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 2400 Avila Road, Laguna Niguel, California, is hereby designated as the "Chet Holifield Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Chet Holifield Building.

Approved August 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1210 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-1038 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 5, considered and passed House.
July 28, considered and passed Senate.

Public Law 95-341
95th Congress

Joint Resolution

American Indian Religious Freedom.

Aug. 11, 1978
[S.J. Res. 102]

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the First Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgment of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

American Indian Religious Freedom.
42 USC 1996.

42 USC 1996 note.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to the Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

Presidential report to Congress.

Approved August 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1308 accompanying H.J. Res. 738 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-709 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 3, considered and passed Senate.
July 18, H.J. Res. 738 considered and passed House; proceedings vacated and S.J. Res. 102, amended, passed in lieu.
July 27, Senate concurred in House amendment.

Public Law 95-342
95th Congress

An Act

Relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.

Aug. 11, 1978
[S. 920]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lake Murray Recreational Demonstration Area Project, Okla.

SECTION 1. That notwithstanding section 3 of the Act entitled "An Act to authorize the disposition of recreational demonstration projects and for other purposes", approved June 6, 1942 (56 Stat. 326; 16 U.S.C. 459t) the State of Oklahoma is hereby authorized to convey oil and gas mineral leases to the following described lands in Carter County, Oklahoma: those lands situated within the project designated and known as the Lake Murray Recreational Demonstration Area, said project lands being more particularly described in a quitclaim deed of the United States of America executed on February 1, 1943, by Harold L. Ickes, Secretary of the Interior approved on February 2, 1943, by Franklin D. Roosevelt, President of the United States, and recorded in book 186, pages 312 through 320 of the records of Carter County, Oklahoma. Any conditions providing for a reversion of title to the United States that may be contained in the conveyance of such lands by the United States to the State of Oklahoma are hereby released as to oil and gas exploration and development affecting the lands herein authorized to be leased. The State of Oklahoma shall surrender the present deed of conveyance by the United States of the lands described in this Act and the United States shall issue a new deed to the State of Oklahoma for those lands, which new deed shall include oil and gas exploration and development as permitted uses of such lands: *Provided, however*, That it shall be a condition of such new deed that oil and gas exploration and development shall take place on the lands described in this Act only pursuant to plans which have been reviewed (such review to include preparation of a detailed statement of the type specified in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(a)), and approved by the Secretary of the Interior and which will assure that such exploration and development shall be carried out in a manner which to the maximum extent possible will assure the preservation of the natural, scenic, and recreational values of the Demonstration Area: *Provided further*, (i) That it shall be a further condition of such new deed that the State of Oklahoma, in consideration for the release of the conditions referred to in this section, shall hold all proceeds hereafter received from any oil and gas exploration and development of the lands described in this Act in a separate fund open to inspection by the Secretary of the Interior, and shall pay the Secretary each year from such fund 50 per centum of the gross income from such exploration and development, including rents, royalties, bonuses and any interest accruing thereon and all costs which the Secretary determines are included in his review of the oil and gas exploration and development plans and the operation of such fund; and (ii) That all

amounts paid to the Secretary pursuant to this proviso shall be deposited in the general fund of the Treasury as miscellaneous receipts: *And provided further*, That the State of Oklahoma shall continue to use such lands in the Lake Murray Recreational Demonstration Area primarily for park, recreational, and conservation purposes.

SEC. 2. The issuance of the new deed described in section 1 of this Act shall take place only upon payment to the Secretary of the Interior by the State of Oklahoma for administrative costs of issuance of the new deed. Moneys paid to the Secretary of the Interior for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current.

Approved August 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1102 accompanying H.R. 4691 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-523 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 28, considered and passed Senate.
Vol. 124 (1978): May 15, H.R. 4691 considered and passed House; proceedings vacated and S. 920, amended, passed in lieu.
July 21, Senate concurred in House amendment with an amendment.
July 28, House concurred in Senate amendment.

Public Law 95-343
95th Congress

An Act

To amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.

Aug. 11, 1978
[S. 2463]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 712 of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 91 Stat. 445, 524) is hereby amended as follows:

Surface Mining Control and Reclamation Act of 1977, appropriation authorization.
30 USC 1302.

(1) in subsection (a), delete all after "September 30, 1978," and insert in lieu thereof: "$25,000,000 for each of the two succeeding fiscal years, and in such fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs."; and

(2) delete subsection (b) and insert in lieu thereof:

30 USC 1257.
30 USC 1231.

"(b) For the implementation and funding of section 507(c) there are authorized to be appropriated sums reserved by section 401(b)(1) for the purposes of section 507(c) and such additional sums as may be necessary (i) for the fiscal year ending September 30, 1978, to provide an amount not to exceed $10,000,000 to carry out the purposes of section 507(c) and (ii) for the fiscal years ending September 30, 1979, and September 30, 1980, to provide an amount not to exceed $25,000,000 to carry out the purposes of section 507(c).".

Approved August 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1143 accompanying H.R. 11827 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-788 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 16, considered and passed Senate.
July 11, H.R. 11827 considered and passed House; passage vacated and S. 2463, amended, passed in lieu.
July 28, Senate concurred in House amendment.

Public Law 95-344
95th Congress

An Act

Aug. 15, 1978
[H.R. 8336]

To authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chattahoochee River National Recreation Area, Ga.
Establishment.
16 USC 460ii.

TITLE I

SEC. 101. The Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area", numbered CHAT-20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

Publication in Federal Register.

Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may, by publication of a revised map or other boundary description in the Federal Register, (1) make minor revisions in the boundary of the recreation area, and (2) revise the boundary to facilitate access to the recreation area, or to delete lands which would be of little or no benefit to the recreation area due to the existence of valuable improvements completely constructed prior to the date of enactment of this Act. The total area, exclusive of the river and its bed, within the recreation area may not exceed six thousand three hundred acres.

Land acquisition.
16 USC 460ii-1.

SEC. 102. (a) Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(b) When a tract of land lies partly within and partly without the boundaries of the recreation area, the Secretary may acquire the entire tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the recreation area may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(d) Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"Improved property."

(e) As used in this section, the term "improved property" means a detached, year-round noncommercial residential dwelling, the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

16 USC 460ii-2.

SEC. 103. (a) The Secretary shall administer, protect, and develop the recreation area in accordance with the Act of August 25, 1916 (39 Stat. 535), and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this Act. In developing and administering the recreation area, the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

16 USC 1.

(b) The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this Act.

(c) In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

39-194 O—80—pt 1——34 : QL3

(d) In administering the recreation area, the Secretary may permit fishing in waters under his jurisdiction in accordance with applicable State and Federal laws and regulations. The Secretary, after consultation with the appropriate State agency responsible for fishing activities, may designate zones where, and establish periods when, fishing shall be permitted and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, such regulations shall be put into effect only after consultation with the appropriate State agency.

Regulations.

16 USC 460ii–3.

SEC. 104. (a) The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on the date of approval of this Act. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (1) advising the Secretary in writing of its intention to do so and (2) reporting to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the recreation area and the values to be protected by it under this Act. It is not the intention of Congress by this Act to require the manipulation or reduction of lake water levels in Lake Sidney Lanier. Nothing in this Act shall be construed in any way to restrict, prohibit, or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

Report to congressional committees.

(c) The Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act.

Land acquisition.

16 USC 460ii–4.

SEC. 105. (a) From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water

Conservation Fund Act (78 Stat. 897), as amended, not more than $72,900,000 may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act. 16 USC 460*l*-4.

(b) Effective on October 1, 1978, there are authorized to be appropriated not to exceed $500,000 for the development of essential public facilities. Appropriation authorization.

(c) Within three years from the effective date of this Act, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this Act, indicating: Plan, report to congressional committees.

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, the estimated cost of acquisition, and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

TITLE II

SEC. 201. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended, providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing "$2,000,000." to "$2,750,000.": *Provided*, That such increase shall be effective on October 1, 1978. Appropriation authorization.

TITLE III

FINDINGS AND PURPOSE

SEC. 301. (a) The Congress hereby finds that— 16 USC 2301.

(1) the purpose of the National Park System is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the National Park System have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the National Park System to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring the provision of roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this title is to make the National Park System more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to and within units of the National Park System with minimum disruption to nearby communities through authorization of a pilot transportation program.

16 USC 2302.

SEC. 302. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

Land acquisition.

(b) To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this title, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided*, That any land or interests in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further*, That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Acquisitions pursuant to subsection (b) (3) and (4) of this section shall not commence prior to sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(d) All fees directly collected by the National Park Service in the operation of the facilities and services authorized by this title shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

Information, availability to public.

(e) The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

16 USC 20.

(f) Transportation facilities and services provided pursuant to this title shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969) and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such

requirements would not be consistent with the purposes and provisions of this title.

(g) No grant of authority in this title shall be deemed to expand the exemption of section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)).

16 USC 2303.

SEC. 303. (a) To carry out the purposes of this title, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

Report to congressional committees.

(b) Within one hundred and eighty days from the enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this title. The Secretary shall revise the compilation thereafter as he deems necessary.

Notice, publication in Federal Register. 16 USC 2304.

SEC. 304. (a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 302 of this title—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the National Park System.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

Notice.

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

Report to congressional committees.

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary may proceed with the implementation of such plan only after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) have elapsed following submission of the plan.

Report to Congress. 16 USC 2305.

SEC. 305. The Secretary shall submit a report to the Congress within three years of the effective date of this Act. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the National Park System through access alternatives;

(b) effects of transportation projects on communities in close proximity to the units of the National Park System; and

(c) future transportation projects formulated pursuant to this title.

Appropriation authorization. 16 USC 2306.

SEC. 306. In carrying out the purposes of this title, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended. In a fiscal year when the amounts actually appropriated are less than the amounts listed above, the authorized but unappropriated amount shall continue to be available for appropriation in succeeding fiscal years.

Approved August 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-598 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-812 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Feb. 9, 14, considered and passed House.
July 21, considered and passed Senate, amended.
July 31, House concurred in Senate amendment with an amendment.
Aug. 3, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 33:
Aug. 15, Presidential statement.

Public Law 95-345
95th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes.

Aug. 15, 1978
[H.R. 7581]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendments.

SECTION 1. TREATMENT OF MUTUAL OR COOPERATIVE TELEPHONE COMPANY INCOME FROM NONMEMBER TELEPHONE COMPANY.

(a) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1954 (relating to certain organizations exempt from income tax) is amended by adding at the end thereof the following new sentence: "In the case of any mutual or cooperative telephone company, the preceding sentence shall be applied without taking into account any income received or accrued from a nonmember telephone company for the performance of communication services which involve members of such mutual or cooperative telephone company.". 26 USC 501.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974. 26 USC 501 note.

SEC. 2. LENDING OF SECURITIES BY EXEMPT ORGANIZATIONS.

(a) TREATMENT OF INCOME FROM PAYMENTS WITH RESPECT TO SECURITIES LOANS.—

(1) INCLUSION IN GROSS INVESTMENT INCOME FOR PURPOSES OF DEFINING PRIVATE FOUNDATION.—Section 509(e) of the Internal Revenue Code of 1954 (relating to definition of gross investment income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "dividends,". 26 USC 509. *Infra.*

(2) EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME.—Section 512(b)(1) of such Code (relating to modifications of unrelated business taxable income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5)), after "interest,". 26 USC 512.

(3) REGULATED INVESTMENT COMPANY INCOME.—Section 851(b)(2) of such Code (relating to limitations on regulated investment company income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "interest,". 26 USC 851.

(4) INCLUSION IN NET INVESTMENT INCOME OF PRIVATE FOUNDATIONS.—Section 4940(c)(2) of such Code (relating to gross investment income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "rents,". 26 USC 4940.

(b) DEFINITION OF PAYMENTS WITH RESPECT TO SECURITIES LOANS.—Section 512(a) of such Code (relating to definition of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph: 26 USC 512.

"(5) DEFINITION OF PAYMENTS WITH RESPECT TO SECURITIES LOANS.—

"(A) The term 'payments with respect to securities loans' includes all amounts received in respect of a security (as

26 USC 1236. 26 USC 1058.

defined in section 1236(c)) transferred by the owner to another person in a transaction to which section 1058 applies (whether or not title to the security remains in the name of the lender) including—

"(i) amounts in respect of dividends, interest, or other distributions,

"(ii) fees computed by reference to the period beginning with the transfer of securities by the owner and ending with the transfer of identical securities back to the transferor by the transferee and the fair market value of the security during such period,

"(iii) income from collateral security for such loan, and

"(iv) income from the investment of collateral security.

"(B) Subparagraph (A) shall apply only with respect to securities transferred pursuant to an agreement between the transferor and the transferee which provides for—

"(i) reasonable procedures to implement the obligation of the transferee to furnish to the transferor, for each business day during such period, collateral with a fair market value not less than the fair market value of the security at the close of business on the preceding business day,

"(ii) termination of the loan by the transferor upon notice of not more than 5 business days, and

"(iii) return to the transferor of securities identical to the transferred securities upon termination of the loan.".

26 USC 514.

(c) TREATMENT FOR PURPOSES OF SECTION 514.—Subsection (c) of section 514 of such Code (relating to unrelated debt-financed income) is amended by adding at the end thereof the following new paragraph:

"(8) SECURITIES SUBJECT TO LOANS.—For purposes of this section—

"(A) payments with respect to securities loans (as defined in section 512(a)(5)) shall be deemed to be derived from the securities loaned and not from collateral security or the investment of collateral security from such loans,

Ante, p. 481.

"(B) any deductions which are directly connected with collateral security for such loan, or with the investment of collateral security, shall be deemed to be deductions which are directly connected with the securities loaned, and

"(C) an obligation to return collateral security shall not be treated as acquisition indebtedness (as defined in paragraph (1)).".

(d) TREATMENT OF GAIN OR LOSS ON CERTAIN LOANS OF SECURITIES.—

26 USC 1051 *et seq.* 26 USC 1059.

(1) NONRECOGNITION OF GAIN OR LOSS.—Part IV of subchapter O of chapter 1 of such Code (relating to special rules) is amended by redesignating section 1058 as 1059 and by inserting after section 1057 the following new section:

26 USC 1058.

"SEC. 1058. TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS.

26 USC 1236.

"(a) GENERAL RULE.—In the case of a taxpayer who transfers securities (as defined in section 1236(c)) pursuant to an agreement which meets the requirements of subsection (b), no gain or loss shall be recognized on the exchange of such securities by the taxpayer for an obligation under such agreement, or on the exchange of rights

under such agreement by that taxpayer for securities identical to the securities transferred by that taxpayer.

"(b) AGREEMENT REQUIREMENTS.—In order to meet the requirements of this subsection, an agreement shall—

"(1) provide for the return to the transferor of securities identical to the securities transferred;

"(2) require that payments shall be made to the transferor of amounts equivalent to all interest, dividends, and other distributions which the owner of the securities is entitled to receive during the period beginning with the transfer of the securities by the transferor and ending with the transfer of identical securities back to the transferor;

"(3) not reduce the risk of loss or opportunity for gain of the transferor of the securities in the securities transferred; and

"(4) meet such other requirements as the Secretary may by regulation prescribe.

"(c) BASIS.—Property acquired by a taxpayer described in subsection (a), in a transaction described in that subsection, shall have the same basis as the property transferred by that taxpayer.".

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following: 26 USC 1051 *et seq.*

"Sec. 1058. Transfers of securities under certain agreements.
"Sec. 1059. Cross references.".

(e) EFFECTIVE DATE.—The amendments made by this section apply with respect to— 26 USC 509 note.

(1) amounts received after December 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of the Internal Revenue Code of 1954), and *Ante*, p. 481.

(2) transfers of securities, under agreements described in section 1058 of such Code, occurring after such date. *Ante*, p. 482.

SEC. 3. USE OF COMPLETED CROP POOL METHOD OF ACCOUNTING.

Section 1382 of the Internal Revenue Code of 1954 (relating to taxable income of cooperatives) is amended by adding at the end thereof the following new subsection: 26 USC 1382.

"(g) USE OF COMPLETED CROP POOL METHOD OF ACCOUNTING.—

"(1) IN GENERAL.—An organization described in section 1381(a) which is engaged in pooling arrangements for the marketing of products may compute its taxable income with respect to any pool opened prior to March 1, 1978, under the completed crop pool method of accounting if— 26 USC 1381.

"(A) the organization has computed its taxable income under such method for the 10 taxable years ending with its first taxable year beginning after December 31, 1976, and

"(B) with respect to the pool, the organization has entered into an agreement with the United States or any of its agencies which includes provisions to the effect that—

"(i) the United States or such agency shall provide a loan to the organization with the products comprising the pool serving as collateral for such loan,

"(ii) the organization shall use an amount equal to the proceeds of such loan to make price support advances to eligible producers (as determined by the United States or such agency), to defray costs of handling, processing, and storing such products, or to pay all or part of any administrative costs associated with the price support program,

"(iii) an amount equal to the net proceeds (as determined under such agreement) from the sale or exchange of the products in the pool shall be used to repay such loan until such loan is repaid in full (or all the products in the pool are disposed of), and

"(iv) the net gains (as determined under such agreement) from the sale or exchange of such products shall be distributed to eligible producers, except to the extent that the United States or such agency permits otherwise.

"(2) COMPLETED CROP POOL METHOD OF ACCOUNTING DEFINED.—For purposes of this subsection, the term 'completed crop pool method of accounting' means a method of accounting under which gain or loss is computed separately for each crop year pool in the year in which the last of the products in the pool are disposed of.".

Approved August 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-742 (Comm. on Ways and Means).
SENATE REPORT No. 95-762 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 24, considered and passed House.
Apr. 27, considered and passed Senate, amended.
June 14, House concurred in Senate amendments with amendments.
Aug. 2, Senate concurred in House amendments.

Public Law 95-346
95th Congress

An Act

To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

Aug. 17, 1978
[S. 2424]

Amercian Legion, eligibility for membership.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; August 5, 1964, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however*, That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

Approved August 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1416 (Comm. on the Judiciary).
SENATE REPORT No. 95-726 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 11, considered and passed Senate.
Aug. 7, considered and passed House.

Public Law 95-347
95th Congress

Joint Resolution

Aug. 18, 1978
[H.J. Res. 946]

To designate October 7, 1978, as "National Guard Day".

Whereas several units of the militia of the Massachusetts Bay Colony were organized on October 7, 1636, as the First Militia Regiment and became the forerunner of the National Guard of the United States;

Whereas the National Guard has served with distinction, during the three hundred and forty-two years since 1636, in every major military conflict involving the United States, from the Revolutionary War through the Vietnam conflict;

Whereas the National Guard currently consists of nearly four hundred and fifty thousand volunteer soldiers and airmen, organized into nearly four thousand military units located in the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, and forms the Reserve Military Force that supports the Regular Army and Air Force; and

Whereas the people of the United States owe a debt of gratitude to those citizen soldiers and airmen who are members of the National Guard for their continuing contribution to the security of the United States: Now, therefore, be it

National Guard Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 7, 1978, as "National Guard Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Approved August 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1372 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1102 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 24, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 95-348
95th Congress

An Act

To authorize appropriations for certain insular areas of the United States, and for other purposes.

Aug. 18, 1978
[S. 2821]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States insular areas. Appropriation authorizations.

GUAM

SECTION 1. (a)(1) For grants to the government of Guam for the rehabilitation, upgrading, and construction of public facilities, there is hereby authorized to be appropriated to the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") $13,868,000 for fiscal year 1979, and $20,000,000 thereafter, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1978 price levels as indicated by engineering cost indexes applicable to the types of construction involved.

(2) The Secretary may place such stipulations as he deems appropriate on the use of funds appropriated pursuant to subsection (a)(1) hereof.

(3) Grants provided pursuant to this Act and not obligated or expended by the government of Guam during any fiscal year will remain available for obligation or expenditure by such government in subsequent fiscal years for the purposes for which the funds were appropriated.

(4) Funds provided under paragraph (a)(1) may be used by Guam as the matching share for Federal programs and services.

(5) Authorizations of moneys to be appropriated under this subsection shall be effective on October 1, 1978.

Effective date.

(6) The Secretary is directed to prepare and transmit to the Congress no later than July 1, 1979, an analysis of the capital infrastructure needs of Guam for the 1985–1990 timeframe. The analysis shall detail the nature and type of infrastructure needed, the adequacy of the existing infrastructure, the estimated costs of improvement, extension, rehabilitation, or replacement of the existing infrastructure to meet the projected demands, the capability of local government to fund such costs and the options available, and shall provide a series of alternatives for Federal support for that portion of the infrastructure which cannot be financed by local government.

Report to Congress. 48 USC 1421 note.

(b) The government of Guam in carrying out the purposes of this Act or Public Law 95-134, may utilize, to the extent practicable, the available services and facilities of agencies and instrumentalities of the Federal Government on a reimbursable basis. Such amounts may be credited to the appropriation or fund which provided the services and facilities. Agencies and instrumentalities of the Federal Government may, when practicable, make available to the government of Guam upon request of the Secretary such services and facilities as they are equipped to render or furnish, and they may do so without reimbursement if otherwise authorized by law.

91 Stat. 1159.

Duties and taxes.
48 USC 1421h.

(c) Section 30 of the Organic Act of Guam (64 Stat. 384), as amended, is further amended by adding at the end thereof the following: "Beginning as soon as the government of Guam enacts legislation establishing a fiscal year commencing on October 1 and ending on September 30, the Secretary of the Treasury, prior to the commencement of any fiscal year, shall remit to the government of Guam the amount of duties, taxes, and fees which the governor of Guam, with the concurrence of the government comptroller of Guam, has estimated will be collected in or derived from Guam under this section during the next fiscal year, except for those sums covered directly upon collection into the treasury of Guam. The Secretary of the Treasury shall deduct from or add to the amounts so remitted the difference between the amount of duties, taxes, and fees actually collected during the prior fiscal year and the amount of such duties, taxes, and fees as estimated and remitted at the beginning of that prior fiscal year, including any deductions which may be required as a result of the operation of Public Law 94-395 (90 Stat. 1199) or Public Law 88-170, as amended (82 Stat. 863).".

(d) Section 205 of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (Public Law 95-134) is amended by striking out "$25,000,000: *Provided*" and inserting in lieu thereof "$35,000,000: *Provided*, That $10,000,000 of such sums is not authorized to be appropriated prior to October 1, 1978. Health care needs shall include goods and services provided to maintain and operate the Medical Center of the Marianas: *Provided further*".

91 Stat. 1162.

TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 2. (a) There is hereby authorized to be appropriated $15,000,000 for the Bikini people evacuated from Bikini Atoll, Trust Territory of the Pacific Islands, as a result of United States nuclear tests commencing in 1946, and their descendants. Of this $15,000,000:

(1) $12,000,000 is authorized for the relocation and resettlement of the Bikini people within the Marshall Islands; and

(2) to compensate the Bikini people for any radiological damage to their atoll an additional $3,000,000 shall be held in trust pursuant to the trust agreement established by Public Law 94-34, with the proceeds to be distributed in accordance with the provisions thereof.

89 Stat. 212.

(b) None of the funds authorized pursuant to subsection (a)(2) above shall be available for payment of any attorneys fees or associated expenses.

Report to Congress.
48 USC 1681 note.

(c) The Secretary of the Interior shall prepare and submit to Congress by July 1, 1979, a progress report on his efforts to establish a permanent location for the displaced people of Bikini Island. Such report shall review: alternative actions taken to provide the people of Bikini with temporary homes; political and social consequences of the relocation of these people on Kili Island; and the Secretary's attempt to locate, acquire, and develop a permanent location for the settlement of these people. Such report shall also suggest probable economic, social, political, and cultural consequences which may result from the permanent settlement of these people in various alternative locations and inform the Congress of additional plans adopted by the

Secretary, together with any recommendations he may have for legislation necessary to implement those plans, to provide further assistance to the people of Bikini.

NORTHERN MARIANA ISLANDS

SEC. 3. (a) There is hereby authorized to be appropriated for expenditure after October 1, 1978, not more than $12,000,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1978 price levels as indicated by engineering cost indexes applicable to the types of construction involved, to assist in the acquisition and construction of a powerplant for the Northern Mariana Islands together with upgrading, rehabilitation, or replacement of distribution facilities.

(b) (1) The government of the Northern Marianas in carrying out the purposes of this Act, Public Law 95-134, or Public Law 94-241, may utilize, to the extent practicable, the available services and facilities of agencies and instrumentalities of the Federal Government on a reimbursable basis. Such amounts may be credited to the appropriation or fund which provided the services and facilities. Agencies and instrumentalities of the Federal Government may, when practicable, make available to the government of the Northern Marianas, upon request of the Secretary, such services and facilities as they are equipped to render or furnish, and they may do so without reimbursement if otherwise authorized by law.

91 Stat. 1159.
90 Stat. 263.

(2) Any funds made available to the Northern Mariana Islands under grant-in-aid programs by section 502 of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Public Law 94-241), or pursuant to any other Act of Congress enacted after March 24, 1976, are hereby authorized to remain available until expended.

Funds, availability.

90 Stat. 268.

(3) Any amount authorized by the Covenant described in paragraph (2) or by any other Act of Congress enacted after March 24, 1976, which authorizes appropriations for the Northern Mariana Islands, but not appropriated for a fiscal year is authorized to be available for appropriation in succeeding fiscal years.

(c) Notwithstanding the provisions of the Food Stamp Act of 1977, the Secretary of Agriculture is authorized, upon the request of the Governor of the Northern Mariana Islands, acting pursuant to legislation enacted in accordance with sections 5 and 7 of article II of the Constitution of the Northern Mariana Islands, and for the period during which such legislation is effective, (1) to implement a food stamp program in part or all of the Northern Mariana Islands with such income and household standards of eligibility, deductions, and allotment values as the Secretary determines, after consultation with the Governor, to be suited to the economic and social circumstances of such islands: *Provided*, That in no event shall such income standards of eligibility exceed those in the forty-eight contiguous States, and (2) to distribute or permit a distribution of federally donated foods in any part of the Northern Mariana Islands for which the Governor has not requested that the food stamp program be implemented. This authority shall remain in effect through September 30, 1981, and shall not apply to section 403 of Public Law 95-135.

Food stamp program.
48 USC 1681 note.
7 USC 2011 note.

91 Stat. 1166.

(d) The Secretary of the Treasury is authorized and directed, upon the request of the Governor of the Northern Mariana Islands,

48 USC 1681 note.

acting pursuant to legislation enacted in accordance with sections 5 and 7 of article II of the Constitution of the Northern Mariana Islands, without reimbursement or other cost to the government of the Northern Mariana Islands, to administer and enforce the provisions of section 601, 603, or 604 of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Public Law 94-241; 90 Stat. 263, 269) and in order to administer and enforce the collection of any payroll tax or other tax measured by income which may be in force in the Northern Mariana Islands pursuant to section 602 of such Covenant. This authority shall continue until such time as the Governor of the Northern Mariana Islands, acting pursuant to legislation enacted in accordance with sections 5 and 7 of article II of the Constitution of the Northern Mariana Islands, requests the Secretary of the Treasury to discontinue the administration and enforcement of such taxes. The administration and enforcement of such taxes by the government of the Northern Mariana Islands shall begin on January 1 of the year following the year in which such Northern Mariana Islands law is enacted.

VIRGIN ISLANDS

SEC. 4. (a) There is hereby authorized to be appropriated to the Secretary not to exceed $5,000,000 of which not more than $1,000,000 may be appropriated for fiscal year 1979 to be paid to the government of the Virgin Islands for the purpose of promoting economic development in the Virgin Islands. The Secretary shall prescribe the types of programs for which such sums may be used.

(b) (1) There is authorized to be appropriated for construction of hospital facilities in the Virgin Islands not more than $52,000,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1978 price levels as indicated by engineering cost indexes applicable to the types of construction involved.

(2) Grants provided pursuant to this section and not obligated or expended by the government of the Virgin Islands during any fiscal year will remain available for obligation or expenditure by such government in subsequent fiscal years for the purposes for which the funds were appropriated.

(3) Funds provided under paragraph (b) (1) may be used by the Virgin Islands as the matching share for Federal programs and services.

Effective date.

(4) Authorizations of moneys to be appropriated under this subsection shall be effective on October 1, 1978.

48 USC 1575.

(c) (1) Section 9(c) of the Revised Organic Act of the Virgin Islands (68 Stat. 497) is amended by deleting the period at the end thereof and inserting "or such other date as the Legislature of the Virgin Islands may determine.".

Duties and taxes.
48 USC 1645.

(2) Beginning as soon as the government of the Virgin Islands enacts legislation establishing a fiscal year commencing on October 1 and ending on September 30, the Secretary of the Treasury, prior to the commencement of any fiscal year, shall remit to the government of the Virgin Islands the amount of duties, taxes, and fees which the Governor of the Virgin Islands, with the concurrence of the government comptroller of the Virgin Islands, has estimated will be collected

in or derived from the Virgin Islands under the Revised Organic Act of the Virgin Islands during the next fiscal year, except for those sums covered directly upon collection into the treasury of the Virgin Islands. There shall be deducted from or added to the amounts so remitted, as may be appropriate, at the beginning of the fiscal year, the difference between the amount of duties, taxes, and fees actually collected during the prior fiscal year and the amount of such duties, taxes, and fees as estimated and remitted at the beginning of that prior fiscal year, including any deductions which may be required as a result of the operation of Public Law 94-392 (90 Stat. 1195). 48 USC 1541 note.

(3) Subsection 28(a) of the Revised Organic Act of the Virgin Islands is amended by deleting the phrase "less the cost of collecting all of said duties, taxes, and fees,". 48 USC 1642.

(d) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000 per annum, for fiscal years 1979, 1980, and 1981 for grants to the government of the Virgin Islands to offset any anticipated deficit during such fiscal years. The Secretary is authorized and directed, after consultation with the Governor of the Virgin Islands, to impose such conditions and requirements, on these grants as he deems advisable. Not later than July 1, 1979, the Secretary shall submit to the Congress a report on the financial condition of the Virgin Islands. The report shall: 48 USC 1641 note. Report to Congress.

(1) identify, the specific sources of revenues, both Federal and local, available to the government of the Virgin Islands;

(2) chart the revenues derived from each source and what, if any, increases could be occasioned in the amount of such revenues by actions of the Virgin Islands Government;

(3) describe the extent to which changes in actual revenues were occasioned by actions of the Federal Government or by circumstances beyond the control of the Virgin Islands Government;

(4) analyze expenditures to determine what economies, if any, could be obtained and identify the actions which could be taken by the Virgin Islands Government to obtain such economies;

(5) review the long term debt structure of the Virgin Islands Government, including, but not limited to, whether such debt was incurred for purposes authorized by law, the total amount of such debt, the relation of the total debt ceiling, and the impact retirement of the debt will have on the future economic situation of the Virgin Islands;

(6) detail and discuss various alternatives available to the government of the Virgin Islands and the Federal Government to revise and improve the process of supporting the necessary expenditures of the Virgin Islands Government; and

(7) include his recommendations for any changes he deems advisable in the present Federal-territorial economic relationship.

AMERICAN MEMORIAL PARK

SEC. 5. (a) The Secretary, acting through the Director of the National Park Service, is authorized and directed to develop, maintain, and administer the existing American Memorial Park (hereinafter in this section referred to as the "park"), located at Tanapag Harbor Reservation, Saipan. The park shall be administered for the

primary purpose of honoring the dead in the World War II Mariana Islands campaign.

(b) The Secretary is authorized and directed to the maximum extent feasible to employ and train residents of the Mariana Islands to develop, maintain, and administer the park.

(c) Other points in the Northern Mariana Islands relevant to the park may be identified, established, and marked by the Secretary in agreement with the Governor of the Northern Marianas.

(d) The Secretary shall provide for interpretative activities at the park, for which he is authorized to seek the assistance of appropriate historians to interpret the historical aspects of the park. To the greatest extent possible, interpretative activities shall be conducted in the following four languages: English, Chamorro, Carolinian, and Japanese.

(e) Notwithstanding any provision of law to the contrary, no fee or charge may be imposed for entrance or admission into the American Memorial Park.

(f) The Secretary shall transfer administration of the park to the government of the Northern Mariana Islands at such time as the Governor, acting pursuant to legislation enacted in accordance with sections 5 and 7 or article II of the Constitution on the Northern Mariana Islands, requests such a transfer. All improvements, including real and personal property, shall thereupon be transferred without cost to the government of the Northern Mariana Islands and thereafter the full cost of development, administration, and maintenance for the park shall be borne by the government of the Northern Mariana Islands, except as provided in subsection (g) of this section.

(g) For the development, maintenance, and operation of the park (but not for any acquisition of land or interests in lands), there is hereby authorized to be appropriated not to exceed $3,000,000 effective October 1, 1978. Amounts appropriated pursuant to this subsection shall remain available until expended.

(h) Nothing contained in this Act is intended to alter or diminish the authority to exercise the five year option contained in article VIII of Public Law 94-241.

90 Stat. 273.

WAR IN THE PACIFIC NATIONAL HISTORICAL PARK

16 USC 410dd.

SEC. 6. (a) In order to commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater of World War II and to conserve and interpret outstanding natural, scenic, and historic values and objects on the island of Guam for the benefit and enjoyment of present and future generations, the War in the Pacific National Historical Park (hereinafter in this section referred to as the "park") is hereby established.

(b) The boundaries of the park shall be as generally depicted on the drawing entitled "Boundary Map, War in the Pacific National Historical Park, Guam" numbered P-24-80,000-B and dated March 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. Following ninety days notice to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate, the Secretary may make minor revisions of the boundary of the park by publication of a revised map in the Federal Register.

Publication in Federal Register.

(c) Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Land acquisition.

(d) Other points on the island of Guam relevant to the park may be identified, established, and marked by the Secretary in agreement with the Governor of Guam.

(e) The Secretary shall administer property acquired in accordance with the laws generally applicable to the management of units of the National Park System.

(f) The Secretary is authorized to seek the assistance of appropriate historians to interpret the historical aspects of the park. To the greatest extent possible, interpretative activities will be conducted in the following three languages: English, Chamorro, and Japanese.

(g) The Secretary is authorized to enter into negotiations with the Secretary of Defense for the berthing and interpretation of a naval vessel of World War II vintage which shall be accessible to the public on the island of Guam.

(h) Within two years from the date of enactment of this Act, the Secretary shall develop and transmit to the committees named in subsection (b) a general management plan for the national historical park consistent with the purposes of this section. Within five years from the date of enactment, the Secretary, through the Director of the National Park Service, shall conduct and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a study of additional areas and sites associated with the Pacific campaign of World War II. The study shall contain a description and evaluation of each area or site, and an estimated cost of acquisition, development, and maintenance of the area or site, if appropriate, together with such additional authority as may be needed to enable him to implement his recommendations. The Secretary shall concentrate his study within Guam and the Northern Mariana Islands, but shall also investigate additional areas and sites within the Trust Territory of the Pacific Islands to the extent possible, and may include other areas and sites in the Pacific area if practicable. Report to congressional committees. Study.

(i) The Secretary is authorized and directed, to the maximum extent feasible, to employ and train residents of Guam or of the Northern Mariana Islands to develop, maintain, and administer the park.

(j) Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the War in the Pacific National Historical Park.

(k) For the purposes of the park established under this section, effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary, but not to exceed $16,000,000 for the acquisition of lands or interests in lands and $500,000 for development.

VIRGIN ISLANDS NATIONAL PARK

SEC. 7. (a)(1) The first paragraph of section 1 of the Act of October 5, 1962 (76 Stat. 746; 16 U.S.C. 398c), is amended by adding a comma after the words "adjoining lands, submerged lands, and waters" and inserting "and Hassel Island located in Saint Thomas Harbor and adjoining lands, submerged lands, and waters,".

(2) Such section 1 is further amended by inserting immediately before the last paragraph, the following: Land acquisition.

"HASSEL ISLAND

"The area known as Hassel Island in Saint Thomas Harbor consisting of approximately 135 acres, together with such adjoining lands, submerged lands, and waters as the Secretary of the Interior deems appropriate, but the boundaries shall not, in any event, extend beyond 100 yards from the mean high water mark of the island.".

16 USC 398d.

(b) Section 2 of such Act is amended by—

(1) inserting "(a)" after "SEC. 2.";

(2) adding at the end of the first sentence the following: "In acquiring such lands, up to 6.6 acres, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding the current prevailing commercial rate.", and

(3) adding the following at the end thereof:

"(b) The Secretary is authorized and directed to the maximum extent feasible to employ and train residents of the Virgin Islands to develop, maintain, and administer the Virgin Islands National Park.

"(c) Subject to continued protection and use of Hassel Island for park and recreation purposes, and such other conditions as the Secretary may deem appropriate, the Territory of the Virgin Islands may, within, but not after, five years after the date of the enactment of this subsection, by duly enacted legislation acquire all interests of the United States in Hassel Island by reimbursing the United States in an amount equal to the amount actually expended by the United States for the acquisition of lands and interests in lands and for the costs of construction of permanent improvements, if any.

"(d) (1) Except for property deemed necessary by the Secretary of the Interior for visitor facilities or administration of the park, any owner or owners of improved property on Hassel Island on the date of its acquisition, may retain for themselves a right of use and occupancy of the property for noncommercial residential purposes for twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner. The authority of the Secretary to acquire the property commonly known as the Royal Mail (hotel) by condemnation shall be suspended for ten years from the date of enactment if such owner or owners agree, in writing, within ninety days after the enactment of this subsection to grant to the United States the right to purchase such property at a purchase price, mutually agreed upon by the Secretary and the landowner, which does not exceed the fixed value of said property on July 1, 1978.

"Improved property."

"(2) As used in subsection (d)(1), 'improved property' means a single-family dwelling, the construction of which began before January 1, 1977, together with such lands as are in the same ownership and appurtenant buildings located thereon.

"(3) The Secretary may terminate a right of use and occupancy retained pursuant to subsection (d)(1) upon his determination that such use and occupancy is being, or may be, exercised in a manner inconsistent with the purposes for which they were included within

the park and upon tender to the holder of such right of the amount equal to the value of that portion of the right which remains unexpired on the date of termination.".

(4) Section 3 is amended by inserting "(a)" immediately after "SEC. 3." and by adding the following new subsection at the end thereof: 16 USC 398e.

"(b) Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the Virgin Islands National Park.".

(5) Section 4 is amended to read as follows: Land acquisition.

"SEC. 4. Effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests in lands within the Virgin Islands National Park. For purposes of this section, acquisitions of land on Hassel Island shall be deemed to be acquisitions qualifying for payment under the provisions of paragraph (2) of the Act of June 10, 1977 (Public Law 95-42; 91 Stat. 210). In addition to such sums as may have heretofore been appropriated for development of public facilities within the Virgin Islands National Park, effective October 1, 1978, there are authorized to be appropriated not more than $1,000,000 for restoration and rehabilitation of historic structures and for development of public facilities on Hassel Island, and not more than $500,000 as a grant to the Territory of the Virgin Islands for its use in furthering projects undertaken pursuant to the Land and Water Conservation Fund Act, the Historic Preservation Act, or other comparable programs upon the transfer of title to the United States of all properties held by the territory on Hassel Island.". 16 USC 398f.

(6) Section 2(c) of the Act entitled "An Act to authorize the establishment of the Virgin Islands National Park, and for other purposes" (70 Stat. 940; 16 U.S.C. 398) is amended by adding the following sentence at the end thereof: "Notwithstanding the acreage limitations and boundary designations contained in this section, the Secretary is authorized to accept through donation, or purchase from a willing seller, the real and personal property located on Lots 251-252 Estate Contant Enighed, Parcels 86B and 86AA Cruz Bay Quarter.". 16 USC 398a.

AUTHORIZATIONS TO REMAIN AVAILABLE

SEC. 8. Any amount authorized by this Act or by the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (Public Law 95-134; 91 Stat. 1159) but not appropriated for a fiscal year is authorized to be available for appropriation in succeeding fiscal years.

TECHNICAL AMENDMENTS

SEC. 9. Section 501 of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (Public Law 95-134; 91 Stat. 1159) is amended— 48 USC 1469a.

(1) by inserting ", notwithstanding any provision of law to the contrary," after "it is hereby declared to be the policy of the Congress"; and

(2) in subsection (a) by striking out "Notwithstanding any provision of law to the contrary, any" and inserting in lieu thereof "Any".

EFFECTIVE DATE

SEC. 10. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1978.

Approved August 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1112 accompanying H.R. 12481 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-784 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, H.R. 12481 considered in House.
May 10, considered and passed Senate.
June 5, H.R. 12481 considered and passed House; proceedings vacated and S. 2821, amended, passed in lieu.
June 7, proceedings vacated, S. 2821 reconsidered and passed House, amended.
Aug. 3, Senate concurred in House amendment with an amendment.
Aug. 4, House concurred in Senate amendment.

Public Law 95-349
95th Congress

Joint Resolution

Designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day".

Aug. 18, 1978
[H.J. Res. 963]

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and unconscionable treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;
Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1979, is designated as "National P.O.W-M.I.A. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

National P.O.W.-M.I.A. Recognition Day. Designation.

Approved August 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1377 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1099 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 1, considered and passed House.
Aug. 11, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 33:
Aug. 18, Presidential statement.

Public Law 95-350
95th Congress

Joint Resolution

Aug. 18, 1978
[H.J. Res. 682]

To provide for the designation of a week as "National Lupus Week".

National Lupus Week.
Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of September 17 through 23, 1978, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1370 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1101 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 24, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 95-351
95th Congress

An Act

To provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

Aug. 20, 1978
[H.R. 2777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Consumer Cooperative Bank Act".

National Consumer Cooperative Bank Act.
12 USC 3001 note.

STATEMENT OF FINDINGS AND PURPOSE

12 USC 3001.

SEC. 2. The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

CREATION AND CHARTER OF BANK

12 USC 3011.

SEC. 101. There is hereby created and chartered a body corporate, the National Consumer Cooperative Bank, hereinafter referred to as the "Bank", as an instrumentality of the United States, and until otherwise provided, shall be a mixed ownership Government corporation. The Bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the Bank is specifically and exclusively reserved to the Congress. The principal office of the Bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident thereof. It shall make loans and

offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

(1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;

(2) maintain broad-based control of the Bank by its voting stockholders;

(3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;

(4) assist in improving the quality and availability of goods and services to consumers; and

(5) encourage ownership of its equity securities by cooperatives and others as provided in section 104, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

GENERAL CORPORATE POWERS

12 USC 3012.

SEC. 102. The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 107 in such amounts, at such times, and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this Act, and shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) elect by its Board of Directors a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its bylaws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this Act for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held and transferred, its loans, commitments, other financial assistance, guarantees and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3648 of the Revised Statutes;

31 USC 529.

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its

business: *Provided*, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights of the inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this Act;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research, services, funds or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3648 of the Revised Statutes; 31 USC 529.

(11) within the limitations of section 107, borrow money and issue notes, bonds and debentures or other obligations individually or in concert with other financial institutions, agencies or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this Act on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but, except as otherwise provided in this Act, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and Regulations. 5 USC 5101 *et seq.* 5 USC 5331.

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this Act.

The stock or other securities or instruments issued by the Bank shall, to the same extent as securities which are the direct obligations of the United States, be "exempt securities" within the meaning of the laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

12 USC 3013.

SEC. 103. (a) The Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board") which shall consist of thirteen members. Subject to the provisions of subsection (b) of this section, all members of the Board shall be appointed by the President, with the advice and consent of the Senate, for terms of three years or until their successors have been appointed and qualified. The President shall appoint seven members of the Board from among the officers of the agencies and departments of the United States Government: *Provided*, That at any one time no more than one member shall be from any one agency or department. The remaining members shall be from the general public (and not from the officers or employees of the United States Government) but shall have extensive experience in the cooperative field representative of the following classes of cooperatives: (1) housing, (2) consumer goods, (3) low-income cooperatives, (4) consumer services, and (5) all other eligible cooperatives, and for these appointments the President shall consider nominees submitted by national associations of cooperatives. Any member appointed by the President may be removed at any time with or without cause by the President. If a vacancy occurs on the Board for any reason other than a resignation pursuant to subsection (b) of this section, a new member shall be appointed by the President to serve until the next annual meeting of the Bank, at which time the vacancy shall be filled for the remainder of the unexpired term by the President or the holders of class B and class C stock, as provided in this section 104.

(b) At the first annual meeting occurring after the time when the amount of paid-in capital of the Bank attributable to the shares of class B stock and class C stock equals or exceeds $3,000,000, three members of the Board appointed by the President from the general public shall resign. Similarly, when the amount of paid-in capital attributable to the shares of class B and class C stock equals or exceeds $10,000,000 the terms of the other three members appointed by the President from the general public shall terminate. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at each of the annual meetings occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds seven-thirteenths and eight-thirteenths of the total amount of paid-in capital of the Bank. As members of the Board resign in accordance with the foregoing provisions, the directorships vacated shall be deemed shareholder directorships and shall be filled by the holders of class B stock and class C stock in accordance with the provisions of subsection (c) of this section. Five remaining members of the Board appointed by the President shall resign on the Final Government Equity Redemption Date. Thereafter, one member of the Board shall continue to be appointed by the President from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers.

15 USC 632.

(c) At all elections of Directors by holders of class B stock and class C stock, nominations shall be made by the classes of eligible cooperatives specified in subsection (a). Vacant shareholder directorships shall be filled, whether by appointment or election, so that at any time when there are three or more shareholder directors on the board, there shall be at least one director representing each of the classes of housing cooperatives, low-income cooperatives, and consumer goods and services cooperatives. Each nominee for shareholder direc-

torship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented. No one class of cooperatives specified in subsection (a) shall be represented on the Board by more than three directors.

(d) When all five remaining members of the Board appointed by the President have resigned pursuant to subsection (b) of this section, their successors and the successors to shareholder directors shall thereafter be elected pursuant to such rules as the Board may from time to time prescribe in the bylaws of the Bank.

(e) No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person. Rules.

(h) Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. Until the Final Government Equity Redemption Date, members of the Board appointed by the President from among the general public or elected by the holders of the class B and class C stock shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5, United States Code, for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, for each day that they are away from their homes or regular places of business in the performance of their duties on the Board. 5 USC 5332 note.

CAPITALIZATION

SEC. 104. (a) The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such bor- 12 USC 3014.

Appropriation authorization.

rowers, by foundations, trust or charitable funds, by public bodies, and by the United States. Beginning with the fiscal year ending September 30, 1979, the United States shall purchase class A stock and for that fiscal year there are authorized to be appropriated $100,000,000 for such purposes, and there are authorized to be appropriated for the next four succeeding fiscal years an amount not to exceed $200,000,000 in the aggregate. Any amounts so authorized but not appropriated or not utilized to purchase such stock of the Bank in any such fiscal year is authorized to be appropriated or reappropriated and so used in subsequent fiscal years.

(b) The capital stock of the Bank shall include class A, class B, and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A preferred stock held by the United States shall be a preferred stock with first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as any class A stock is outstanding, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A stock. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

(c) Class A stock with a par value of $100 per share shall be issued by the Bank to the Secretary of the Treasury on behalf of the United States in exchange for capital furnished pursuant to subsection (a) of this section. The holder of class A stock shall be entitled to dividends at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity: *Provided*, That until October 1, 1990, such dividends shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such dividends shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative. Any such dividend payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, but any dividend payment so deferred shall bear interest at the same rate as the rate at which dividends accumulate on the class A stock. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any other class of stock at any time when the cumulative dividends on the class A stock shall not have been paid in full (together with any unpaid interest thereon). Upon any liquidation or dissolution of the Bank, the holder of class A stock shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any other class of stock of the Bank, an amount not less than the aggregate par value of all class A stock outstanding, plus all accrued and unpaid dividends accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A stock shall be redeemed and retired as soon as practicable consistent with the purposes of this Act (such redemption to be at a price equal to the

par value of the class A stock so redeemed plus cumulative dividends accrued thereon to the date of redemption): *Provided*, That beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of shares of class A stock having an aggregate par value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year.

(d) Class B stock shall be held only by recipients of loans under section 105 of this Act, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

(e) Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 105 of this Act or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A stock has been retired, the rate of such dividends shall not exceed the rate of the statutory dividend on class A stock.

(f) Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A stock is outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A stock as to dividends or upon liquidation or dissolution.

(g) (1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 103(c) of this Act; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board. For the purpose of accepting such contributions, the Bank will be a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Internal Revenue Code of 1954. 26 USC 170.

(i) After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds

for reserves for losses, for cumulative dividends on class A stock and dividends on class C stock and for any redemption of class A stock in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

ELIGIBILITY

12 USC 3015.

SEC. 105. (a) For the purpose of all titles of this Act, subject to the limitations of subsection (d) of this section, an eligible cooperative is an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity entirely owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

(b) No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

"Net savings."

(c) As used in this section, the term "net savings" means, for any period, the borrower's gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to

allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this Act only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under title II.

ANNUAL MEETING

SEC. 106. The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda. 12 USC 3016.

BORROWING AUTHORITY

SEC. 107. (a) The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine after consultation with the Secretary of the Treasury: *Provided, however*, That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed ten times the paid-in capital and surplus of the Bank. 12 USC 3017.

(b) The Bank is also authorized, but not required, and only so long as any of its class A stock is held by the Secretary of the Treasury, to issue its obligations to the Secretary of the Treasury, in amounts not to exceed in the aggregate such amounts as are provided in appropriations Acts and the Secretary of the Treasury may in his discretion purchase any such obligations. Each purchase of obligations of the Bank under this subsection shall be upon such terms and conditions as to yield a rate of return not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell,

upon such terms and conditions and at such price or prices as he shall determine any of the obligations of the Bank acquired by him under this subsection.

(c) The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(d) Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

LENDING POWERS

12 USC 3018.

SEC. 108. (a) The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 105 of this Act, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions. Commencing on October 1, 1983, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acquisition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

Publication in Federal Register.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

(b) Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and

expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the bylaws or rules of the Bank.

(c) Subject to section 102(13), the Bank may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(d) Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) the liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

TAXATION

SEC. 109. Until the Final Government Equity Redemption Date, but not thereafter, the Bank, including its franchise, capital, reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. 12 USC 3019.

QUARTERS AND SPACE

12 USC 3020. SEC. 110. Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own quarters and provide for the space requirements of its principal and other offices.

REPORTS TO CONGRESS

12 USC 3021. SEC. 111. The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

AUTHORIZATION

12 USC 3022. SEC. 112. In addition to appropriations specifically authorized in this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: *Provided*, That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 107 of this Act. Any sums so appropriated shall remain available until expended.

APPEALS

12 USC 3023. SEC. 113. (a) If an application for assistance under this Act is denied in whole or in part, the applicant shall be informed within thirty days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this Act receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of the Act, the regulations, and the policy of the Board. The Board shall consider the request for review at its next meeting and promptly inform the applicant of its determination and the reasons therefor.

CONFLICT OF INTEREST

12 USC 3024. SEC. 114. The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive
18 USC 201 note. Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with, or be inconsistent with the objectives of any bank created under this Act. These rules shall require—

(1) each nominee for elected membership on the Board established under this Act to make public and file with the election

official before the date of election a statement of his financial interest and position, if any, in such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

The provisions of this section shall remain in effect until the Final Government Equity Redemption Date.

EXAMINATION AND AUDIT

SEC. 115. Until the stock of the Bank held by the United States has been fully retired, the operations of the Bank shall be examined annually under the direction of an agency or instrumentality of the Federal Government designated by the President, including the General Accounting Office, and reports of such examination shall be forwarded to the Congress. The President shall, no later than the date that 66⅔ per centum of the class A stock is held by others than the Secretary of the Treasury, establish an Office of Supervision and Audit which shall be responsible for audits and examinations of the Bank, shall assure that the objectives of this title are carried out, and shall review and comment on the bylaws of the Bank and the general policies of the Bank and shall make an annual report to the Congress. 12 USC 3025. Office of Supervision and Audit. Presidential report to Congress.

TITLE II—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the "Office"). 12 USC 3041.

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office. Publication in Federal Register.

AUTHORIZATION

SEC. 202. There are hereby authorized to be appropriated to the Office $10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the "Account"), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 203(a) and interest supplement advances made pursuant to section 203(b) and payments of interest thereon pursuant to section 203(c) shall also be deposited in the Account. No other funds of the Bank shall be transferred into the Account. The Account shall be used by the Office only as authorized in section 203. 12 USC 3042.

CAPITAL INVESTMENTS AND INTEREST SUPPLEMENTS

12 USC 3043.

SEC. 203. (a) The Office may make a capital investment advance out of the Account to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1) (A) the applicant's initial or supplemental capital requirements exceeds its ability to obtain such capital through a loan under section 108 or from other sources; or

(B) the membership of the applicant is, or will consist, substantially of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 108 or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) The Office may make advances out of the Account to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided*, That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 108.

ORGANIZATIONAL ASSISTANCE

12 USC 3044.

SEC. 204. The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this Act and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreements with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this title. The Office may make or accept grants or transfer of funds for such purposes.

INVESTIGATION AND REVENUES

12 USC 3045.

SEC. 205. The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

FINANCIAL ANALYSIS AND MARKET SURVEYS

SEC. 206. The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities. 12 USC 3046.

DIRECTOR AND MANAGEMENT TRAINING AND ASSISTANCE

SEC. 207. The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding of their responsibilities; the problems of and solutions for effective and efficient operation of their organizations or of cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative. 12 USC 3047.

GOVERNMENT ASSISTANCE PROGRAMS

SEC. 208. The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives. 12 USC 3048.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated to the Office $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this title. Any sums so appropriated shall remain available until expended. 12 USC 3049.

FEES FOR SERVICES

SEC. 210. The Office may make the technical assistance services under this title available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office. 12 USC 3050.

TITLE III—GENERAL PROVISIONS

AMENDMENTS TO EXISTING LAW

SEC. 301. (a) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by redesignating paragraph (6) the second time it appears therein as paragraph (7), by striking out "and" immediately before "(9)" and by inserting ", and (10) the National Consumer Cooperative Bank" immediately before the period at the end thereof.

(b) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended by striking out "or" before "the Federal Land Banks" and inserting immediately after "the Federal Land Banks," the following: "or the National Consumer Cooperative Bank,".

(c) The second sentence of subsection (d) of section 303 of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by inserting "National Consumer Cooperative Bank," immediately before "Rural Telephone Bank".

SEC. 302. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) President, National Consumer Cooperative Bank.

"(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

Approved August 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-311 (Comm. on Banking, Finance, and Urban Affairs) and No. 95-1399 (Comm. of Conference).

SENATE REPORT No. 95-795 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 13, 14, considered and passed House.

Vol. 124 (1978): July 13, considered and passed Senate, amended.

July 24, 25, In the House: objection to request for unanimous consent to Senate amendment; conference requested.

July 27, Senate agreed to conference report.

Aug. 9, House agreed to conference report.

Public Law 95-352
95th Congress

An Act

To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

Aug. 20, 1978
[H.R. 10787]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That pursuant to section 318(b) of the Federal Land Policy and Management Act of 1976 (31 U.S.C. 1301 note), there are hereby authorized to be appropriated the following sums for activities and programs administered through the Bureau of Land Management:

Bureau of Land Management.
Appropriation authorizations.
43 USC 1748.

(a) for management of lands and resources, excluding emergency firefighting and rehabilitation: $312,100,000 for fiscal year 1979, $329,300,000 for fiscal year 1980, $361,300,000 for fiscal year 1981, and $393,300,000 for fiscal year 1982;

(b) for land acquisition, construction, and maintenance: $22,600,000 for fiscal year 1979, $22,000,000 for fiscal year 1980, $25,000,000 for fiscal year 1981, and $27,000,000 for fiscal year 1982;

(c) for implementation of the Act of October 20, 1976 (31 U.S.C. 1601): $105,000,000 and such additional sums as are necessary for payments for fiscal year 1979, $108,000,000 and such additional sums as are necessary for payments for fiscal year 1980, $111,000,000 and such additional sums as are necessary for payments for fiscal year 1981, and $114,000,000 and such additional sums as are necessary for payments for fiscal year 1982;

(d) for implementation of section 317(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1747): $40,000,000 for loans for fiscal year 1979, $50,000,000 for loans for fiscal year 1980, $57,000,000 for loans for fiscal year 1981, and $65,000,000 for loans for fiscal year 1982; and

(e) such additional or supplemental amounts as may be necessary for increases in salary, pay, retirements and other employee benefits authorized by law, and for other nondiscretionary costs.

(f) Paragraph (c) of section 317 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2771; 43 U.S.C. 1701, 1747) is amended to read as follows:

"(c)(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act.

30 USC 181.

30 USC 191.

"(2) The total amount of loans outstanding pursuant to this subsection for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended, for the ten years following.

"(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

"(4) Loans made pursuant to this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this subsection. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this subsection no later than three months after the enactment of this paragraph.

Regulations.

"(5) Loans made pursuant to this subsection shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1,000,000 of tax exempt bonds of such State or any agency thereof within the preceding calendar year.

"(6) Any loan made pursuant to this subsection shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended, and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

30 USC 191.

"(7) Notwithstanding any other provision of law, loans made pursuant to this subsection may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this subsection.

"(8) Nothing in this subsection shall be construed to preclude any forebearance for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this subsection.

"(9) Recipients of loans made pursuant to this subsection shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

"(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this subsection.

"(11) All amounts collected in connection with loans made pursuant to this subsection, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this subsection, shall be deposited in the Treasury as miscellaneous receipts.".

SEC. 2. The Act entitled "An Act to provide for the establishment of the King Range National Conservation Area in the State of California", approved October 21, 1970 (Public Law 91-476), is amended—

16 USC 460y-4.

(1) by adding at the end of subparagraph (B) of section 5(3) the following sentence: "Any such payment made to the Secretary shall be deposited in the Treasury as a miscellaneous receipt.";

16 USC 460y-9.

(2) by inserting "(a)" in section 10 after "SEC. 10."; and

(3) by adding at the end of section 10 the following new subsection:

"(b) In addition to any amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated for fiscal years beginning on or after October 1, 1979, for the acquisition of lands and interests in lands under this Act—

"(1) from the Land and Water Conservation Fund (established under the Land and Water Conservation Fund Act of 1965) not to exceed $5,000,000, and 16 USC 460*l*–4 note.

"(2) from any other sources an amount not to exceed the sum of (A) $5,000,000, and (B) an amount equal to the amount deposited in the Treasury under section 5(3)(B) of this Act after the date of the enactment of this subsection, 16 USC 460*l*–7.

such sums to remain available until expended.".

Approved August 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1121 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-789 accompanying S. 2234 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 11, considered and passed House.
July 27, considered and passed Senate, amended, in lieu of S. 2234.
Aug. 2, House concurred in Senate amendment with an amendment.
Aug. 8, Senate concurred in House amendment.

Public Law 95-353
95th Congress

An Act

Aug. 28, 1978
[H.R. 11579]

To designate the Veterans' Administration center located at 1901 South First Street, Temple, Texas, as the "Olin E. Teague Veterans' Center"; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Olin E. Teague Veterans' Center, Tex. Designation.

TITLE I—NAMING OF THE TEMPLE, TEXAS, VETERANS' ADMINISTRATION CENTER FOR OLIN E. TEAGUE

SEC. 101. The Veterans' Administration center located at 1901 South First Street, Temple, Texas, shall hereafter be known and designated as the "Olin E. Teague Veterans' Center". Any reference to such center in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Olin E. Teague Veterans' Center.

Effective date.

SEC. 102. The provisions of this title shall take effect on January 4, 1979.

TITLE II—NAMING OF CERTAIN VETERANS' ADMINISTRATION HOSPITALS

James A. Haley Veterans' Hospital, Fla.

SEC. 201. The Veterans' Administration hospital in Tampa, Florida, shall hereafter be known and designated as the "James A. Haley Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the James A. Haley Veterans' Hospital.

Edith Nourse Rogers Memorial Veterans' Hospital, Mass.

SEC. 202. The Veterans' Administration hospital in Bedford, Massachusetts, shall hereafter be known and designated as the "Edith Nourse Rogers Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Edith Nourse Rogers Memorial Veterans' Hospital.

Wm. Jennings Bryan Dorn Veterans' Hospital, S.C.

SEC. 203. The Veterans' Administration hospital in Columbia, South Carolina, shall hereafter be known and designed as the "Wm. Jennings Bryan Dorn Veterans' Hospital". Any reference to such hospital in any law, regulation, document, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Veterans' Hospital.

Effective date.

SEC. 204. The provisions of this title shall be effective on the date of enactment of this Act.

Approved August 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1411 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Aug. 11, considered and passed Senate, amended.
Aug. 15, House concurred in Senate amendments.

Public Law 95-354
95th Congress

An Act

To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

Aug. 28, 1978
[H.R. 10732]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 406 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraph:

Fishery Conservation and Management Act of 1976, amendment.

"(5) $30,000,000 for the fiscal year ending September 30, 1979.".

Appropriation authorization.

SEC. 2. (a) Section 2(a)(7) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(a)(7)) is amended by striking out "United States fishermen" and inserting in lieu thereof "the United States fishing industry".

(b) Section 2(b)(6) of such Act (16 U.S.C. 1801(b)(6)) is amended by inserting immediately after "development" the following: "by the United States fishing industry".

Definitions.

SEC. 3. Section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802) is amended by redesignating paragraph (25) as paragraph (27), and by inserting the following new paragraphs immediately after paragraph (24):

"(25) The term 'United States fish processors' means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

"(26) The term 'United States harvested fish' means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented.".

16 USC 1851.
16 USC 1821.

SEC. 4. Title II of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821–1825) is amended as follows:

(1) Section 201(a)(2) is amended by striking "(f)" and inserting in lieu thereof "(g)".

(2) Section 201(c)(3) is amended by striking out "exceed" and inserting in lieu thereof "harvest an amount of fish which exceeds".

(3) Section 201 is amended by redesignating subsections (f) and (g) as (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

Report to Congress and President.

"(f) FOREIGN ALLOCATION REPORT.—The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth—

"(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) and all permits issued pursuant to section 204(b)(6)(B); and

16 USC 1824.

"(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.".

16 USC 1821.

(4) Section 201(h)(1), as redesignated by paragraph (3), is amended to read as follows:

"(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

"(A) the optimum yield from such fishery;

"(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

"(C) the total allowable level of foreign fishing with respect to such fishery;".

16 USC 1824.

(5) Section 204(b)(3) is amended—

(A) by amending subparagraph (D) to read as follows:

"(D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;",

(B) by redesignating subparagraph (E) as subparagraph (F), and

(C) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States; and".

Publication in Federal Register.

(6) Section 204(b)(4) is amended by striking out "such application in the Federal Register and" and inserting in lieu thereof "a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3) and shall be set forth under the name of each Council to which it will be transmitted for comment. The Secretary of State".

(7) Section 204(b)(6) is amended—

(A) by inserting "(A)" before "After" in the first sentence thereof,

(B) by inserting ", subject to subparagraph (B)," immediately after "may approve" in the second sentence thereof, and

(C) by adding at the end thereof the following new subparagraph:

"(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

"(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

"(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.".

(8) Section 204(b)(7) is amended by redesignating subparagraph (D) as subparagraph (F), and inserting immediately after subparagraph (C) the following new subparagraphs: 16 USC 1824.

"(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

"(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.".

SEC. 5. Title III of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851–1861) is amended as follows:

(1) Section 302(h)(5) is amended by inserting "the capacity and extent to which United States fish processors will process United States harvested fish from," immediately after "from,". 16 USC 1852.

(2) Section 303(a)(4) is amended— 16 USC 1853.

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof ", and" and

(C) by adding at the end thereof the following new subparagraph:

"(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States; and".

(3) Section 303(a)(5) is amended by striking out "and number of hauls." and inserting in lieu thereof "number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.".

(4) Section 307 is amended— 16 USC 1857.

(A) by striking out "and" at the end of paragraph (1)(H);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly

or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the fishery conservation zone, unless the foreign fishing vessel has been issued a permit under section 204 which authorizes the receipt by such vessel of United States harvested fish of the species concerned.".

16 USC 1824.

Approved August 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1334 accompanying H.R. 13340 and No. 95-1024 (Comm. on Merchant Marine and Fisheries).

SENATE REPORTS: No. 95-935 accompanying S. 3050 and No. 95-815 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 10, considered and passed House.

June 14, considered and passed Senate, amended.

July 11, H.R. 13340 considered and passed House; passage vacated; House agreed to Senate amendments of H.R. 10732 with an amendment.

Aug. 4, Senate concurred in House amendment with an amendment.

Aug. 10, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 35:

Aug. 28, Presidential statement.

Public Law 95-355
95th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

Sept. 8, 1978
[H.R. 13467]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this act may be cited as the "Second Supplemental Appropriations Act, 1978") for the fiscal year ending September 30, 1978, and for other purposes, namely:

Second Supplemental Appropriations Act, 1978.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for "Animal and Plant Health Inspection Service", $2,000,000.

ECONOMIC RESEARCH SERVICE

For an additional amount for "Economic Research Service", $950,000.

FEDERAL CROP INSURANCE CORPORATION

SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act (7 U.S.C. 1504), $20,000,000.

FARMERS HOME ADMINISTRATION

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $50,000,000 to remain available until expended, pursuant to section 306(d) of the above Act.

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,000,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For an additional amount for "Conservation Operations", $7,700,000, to remain available until expended.

39-194 O—80—pt 1——37 : QL3

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for emergency measures for runoff retardation and soil-erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b–1) in addition to funds provided elsewhere, $80,000,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION MEASURES

For an additional amount for emergency conservation measures, to be used for the same purposes and subject to the same conditions as funds appropriated under this head in the Third Supplemental Appropriations Act, 1957, $20,000,000, with which shall be merged the unexpended balances of funds heretofore appropriated for emergency conservation measures.

71 Stat. 176.

RELATED AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For an additional amount for "Commodity Futures Trading Commission", $121,000.

CHAPTER II

FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC ASSISTANCE

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For an additional amount for "International organizations and programs", $9,000,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $2,770,000.

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For an additional amount for "Operating expenses, international programs", $2,265,000.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $7,480,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for "United States Emergency Refugee and Migration Assistance Fund", $2,500,000, to remain available until expended.

CHAPTER III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

RENT SUPPLEMENT PROGRAM

The limitation otherwise applicable to the maximum payments that may be required by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is increased by $24,300,000: *Provided*, That budget authority obligated under such contracts shall be limited to $24,300,000.

INDEPENDENT AGENCIES

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $1,400,000, to remain available until September 30, 1979.

ABATEMENT AND CONTROL

For an additional amount for "Abatement and control", $8,000,000, to remain available until September 30, 1979.

Executive Office of the President

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The limitation on travel expenses for the Office of Science and Technology Policy for fiscal year 1978 is increased by $27,000.

National Commission on Air Quality

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Air Quality as authorized by the Clean Air Act Amendments of 1977 (42 U.S.C. 7623 and 7626), including services as authorized by 5 U.S.C. 3109, $500,000.

Veterans Administration

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $489,600,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For an additional amount for "Veterans Insurance and Indemnities", $1,000,000, to remain available until expended.

MEDICAL CARE

For an additional amount for "Medical care", $4,000,000.

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $6,800,000.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For an additional amount for "Assistance for health manpower training institutions", $3,953,000, to remain available until September 30, 1984.

CHAPTER IV

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $53,000,000.

PAYMENTS IN LIEU OF TAXES

91 Stat. 285. Appropriations made under this head in Public Law 95-74 may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $1,583,000.

Heritage Conservation and Recreation Service

LAND AND WATER CONSERVATION FUND

For an additional amount, to be derived from the "Land and Water Conservation Fund", $205,000,000, to remain available until expended, to the National Park Service for expenses for the Redwood National Park expansion authorized by Public Law 95-250, including $200,000,000 for compensation to be paid pursuant thereto: *Provided*, That $205,000,000 of the funds appropriated in Public Law 95-74 for the National Park Service, the Forest Service, and the Bureau of Land Management, from the Land and Water Conservation Fund shall be derived from the authorization provided by the 1977 amend-

Ante, p. 163.

91 Stat. 285.

ment (Public Law 95-42) to the Land and Water Conservation Fund Act of 1965, as amended. 16 USC 460*l*-4 note.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $2,750,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", $20,817,000.

CONSTRUCTION

For an additional amount for "Construction", $825,000, to remain available until expended.

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of Territories", $49,000,000, of which $35,000,000 is for grants to Guam and $14,000,000 is for grants to the Virgin Islands, to remain available until expended.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands", $7,009,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For an additional amount for "Forest protection and utilization", $194,000,000.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, $12,000,000, to remain available until expended.

ECONOMIC REGULATORY ADMINISTRATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration, $6,000,000.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

INDIAN HEALTH SERVICES

For an additional amount for "Indian Health Services", $2,241,000.

INDIAN HEALTH FACILITIES

Not to exceed $10,000,000 of the amounts collected, during fiscal years 1977 and 1978, by the Secretary of Health, Education, and Welfare under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1979 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction, or major renovation of Indian Health Service facilities).

90 Stat. 1408.

42 USC 1395, 1396.

Indian Claims Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $200,000.

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $123,000.

Smithsonian Institution

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $580,000.

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For an additional amount for "Salaries and expenses, National Gallery of Art", $500,000.

CHAPTER V

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT AND TRAINING ASSISTANCE

Funds provided under this head shall be available for carrying out sections 210, 211, and 212 of Public Law 95-250: *Provided*, That $120,000,000 appropriated under this heading in the Economic Stimulus Appropriations Act for fiscal year 1977 (P.L. 95-29), shall remain

Ante, p. 181.

91 Stat. 123.

available until September 30, 1979 for employment and training services for veterans.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", $21,300,000, of which $17,040,000 shall be for section 906(a)(1).

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

Funds provided under this head shall be available for the payment of benefits and payments as authorized by title II of Public Law 95-250, and amounts received or recovered pursuant to section 208(e) shall be available for such payments. *Ante*, p. 172, 179.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $165,000.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Of the amount appropriated under this head for fiscal year 1978, the restriction on the amount which shall be available for reimbursement to States under section 7(c)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(c)(1)) for furnishing consultation services to employers under section 21(c) of such Act (29 U.S.C. 670(c)) is increased by $2,000,000.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $8,000,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work: *Provided*, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disasters. 30 USC 962.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,900,000.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CENTER FOR DISEASE CONTROL

For an additional amount for design and engineering for construction of an addition to the Appalachian Laboratory for Occupational Safety and Health, $1,500,000.

For an additional amount for influenza vaccination, $8,200,000, to remain available until September 30, 1978.

HEALTH SERVICES ADMINISTRATION

For an additional amount for the Rural Health Initiative program, authorized under section 330 of the Public Health Service Act, $6,000,000.

42 USC 254c.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

CONSTRUCTION AND RENOVATION, SAINT ELIZABETHS HOSPITAL

For an additional amount for "Construction and renovation, Saint Elizabeths Hospital", $52,200,000 to remain available until expended.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For an additional amount for "Health resources", $500,000.

Funds appropriated under this head in Public Law 94-206, as amended by Public Law 94-303, to carry out Title XVI of the Public Health Service Act shall remain available until September 30, 1979, and shall be available for carrying out section 1625(a) of the Public Health Service Act.

90 Stat. 13.
90 Stat. 610.
42 USC 300o.
42 USC 300r.

HEALTH CARE FINANCING ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For an additional amount for "Limitation on administrative expenses", $8,800,000; *Provided*, That $5,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665) only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

42 USC 1395.

OFFICE OF EDUCATION

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For an additional amount for "School assistance in federally affected areas" to carry out section 7 of the Act of September 30, 1950, $5,000,000.

20 USC 241-1.

EDUCATION FOR THE HANDICAPPED

For an additional amount for "Education for the handicapped" to carry out part B of the Education of the Handicapped Act, $37,800,000, to remain available until September 30, 1979. 20 USC 1411.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,300,000.

STUDENT LOAN INSURANCE FUND

For an additional amount for the "Student Loan Insurance Fund", $223,939,000, to remain available until expended.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT

For an additional amount for "Human development" for Section 301 and Section 304 of the Rehabilitation Act of 1973, $5,300,000, to remain available until expended. 29 USC 771, 774.

SPECIAL INSTITUTIONS

Hereafter, Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration. 20 USC 106, 130, 686.

DEPARTMENTAL MANAGEMENT

OFFICE FOR CIVIL RIGHTS

For an additional amount for "Office for Civil Rights", $6,900,000.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $1,500,000.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", $217,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For an additional amount for "Public Broadcasting Fund", $12,050,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the

benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Federal Mine Safety and Health Review Commission, $193,000.

CHAPTER VI

LEGISLATIVE BRANCH

SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Maryon Pittman Allen, widow of James B. Allen, late a Senator from the State of Alabama, $57,500.

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, THE LEADERS, AND WHIPS OF THE SENATE

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS AND MAJORITY AND MINORITY WHIPS

For an additional amount for "Expense Allowances of the Vice President, President Pro Tempore, Majority and Minority Leaders and Majority and Minority Whips", $10,000 for the President Pro Tempore, $10,000 for the Majority Leader, and $10,000 for the Minority Leader; in all $30,000: *Provided*, That, these funds shall remain available for such respective allowances through September 30, 1979.

2 USC 31a-1. Effective fiscal year 1978 and each fiscal year thereafter, the expense allowances of the Majority and Minority Leaders of the Senate are

2 USC 32b. increased to $10,000 each fiscal year for each leader. Effective with fiscal year 1978 and each fiscal year thereafter, there is hereby authorized an expense allowance for the President Pro Tempore which shall not exceed $10,000 each fiscal year. The President Pro Tempore may receive the expense allowance (1) as reimbursement for actual expenses incurred upon certification and documentation of such expenses by the President Pro Tempore, or (2) in equal monthly payments. Such amounts paid to the President Pro Tempore as reimbursement of actual expenses incurred upon certification and documentation pursuant to this provision, shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under the

26 USC 1 *et seq.* Internal Revenue Code of 1954.

SALARIES, OFFICERS AND EMPLOYEES

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders", $110,000, to remain available for obligation until September 30, 1979: *Provided*, That, the amount authorized for the offices

of the Majority and Minority Leaders is increased by $50,000 each fiscal year for each Leader.

CONTINGENT EXPENSES OF THE SENATE

POSTAGE STAMPS

For an additional amount for "Postage Stamps", $2,000, to remain available for obligation until September 30, 1979: *Provided*, That, effective with the fiscal year ending September 30, 1978, the allocation for air mail and special delivery postage for the Office of the Secretary is increased to $4,625 each fiscal year.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective with the fiscal year ending September 30, 1978, the first sentence of section 101 of the Legislative Branch Appropriation Act, 1976 (2 U.S.C. 61a–9a), as amended, is amended by striking out "$5,500" and inserting in lieu thereof "$7,500".

SEC. 102. Any funds made available for the purposes specified in section 109 of the Supplemental Appropriations Act, 1977, shall be transferred to and merged with the funds appropriated for such purposes for the fiscal year ending September 30, 1978. 91 Stat. 85.

SEC. 103. The seventh paragraph under the heading "Administrative Provisions" in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b), as amended, is amended by striking out "$35 per day;" and inserting in lieu thereof "the rates in effect under section 5702 of title 5, United States Code, for employees of agencies;", and by striking out "$50 per day" and inserting in lieu thereof "the daily rate in effect under section 5702 of title 5, United States Code, for employees of agencies".

SEC. 104. (a) Effective November 1, 1978, in lieu of the seventeen statutory positions designated for the Stationery Room, the Secretary of the Senate may establish such number of positions in the Stationery Room (but not less than fifteen), as he determines necessary for the proper and efficient discharge of its functions, and to designate the titles and fix the compensation of such positions: *Provided*, That, upon implementation of the authority contained in this subsection, the Secretary of the Senate shall transfer to the positions so established those individuals employed in the Stationery Room on October 31, 1978, and may appoint individuals to any remaining positions so established or to any position which is established after November 1, 1978, or becomes vacant after that date.

(b)(1) The aggregate annual gross compensation (other than longevity and merit compensation) paid to employees appointed to the positions established under subsection (a) shall not exceed for any fiscal year $287,474 (A) increased by the percentage specified for positions under the jurisdiction of the Secretary of the Senate in the last Order of the President Pro Tempore of the Senate issued before November 1, 1978, under authority of section 4 of the Federal Pay Comparability Act of 1970, and adjusted to the next higher multiple specified in such Order, and (B) increased and adjusted as provided in Orders of the President Pro Tempore of the Senate issued after November 1, 1978, under authority of such section. 2 USC 60a–1.

(2) The aggregate of payments of gross compensation (other than longevity and merit compensation) paid to employees appointed to positions established under subsection (a) shall not exceed at any time

during each fiscal year one-twelfth of the amount specified in paragraph (1) multiplied by the number of months (counting a fraction of a month as a month) which have elapsed during that fiscal year.

(c) Nothing in this section shall be construed as abolishing the seventeen statutory positions designated for the Stationery Room, but in no event shall such positions be available during a period in which the Secretary is utilizing his authority under subsection (a) of this section.

2 USC 43d.

SEC. 105. (a) Upon the recommendation of a Senator-elect (other than an incumbent Senator or a Senator elected to fill a vacancy), the Secretary of the Senate shall appoint two employees to assist such Senator-elect. Any employee so appointed shall serve through the day before the date on which the Senator-elect recommending his appointment commences his service as a Senator, except that his employment may be terminated before such day upon recommendation of such Senator-elect.

(b)(1) Salaries of employees appointed under subsection (a) shall be paid from the appropriation for "Administrative, Clerical, and Legislative Assistance to Senators".

(2) Salaries paid to employees appointed upon recommendation of a Senator-elect under subsection (a) shall be charged against the amount of compensation which may be paid to employees in his office under section 105(d) of the Legislative Branch Appropriations Act, 1968, as amended and modified (2 U.S.C. 61-1(d)) (hereinafter referred to as the "clerk-hire allowance"), for the fiscal year in which his service as a Senator commences. The total amount of salaries paid to employees so appointed upon recommendation of a Senator-elect shall be charged against his clerk-hire allowance for each month in such fiscal year beginning with the month in which his service as a Senator commences (until the total amount has been charged) by whichever of the following amounts is greater: (1) one-ninth of the amount of salaries so paid, or (2) the amount by which the aggregate amount of his clerk-hire allowance which may be paid as of the close of such month under section 105(d)(1)(B) of such Act exceeds the aggregate amount of his clerk-hire allowance actually paid as of the close of such month.

(c) Each Senator-elect and each employee appointed under subsection (a) is authorized one round trip from the home State of the Senator-elect to Washington, D.C., and return, for the purposes of attending conferences, caucuses, or organizational meetings, or for any other official business connected with the impending Congress. In addition, each Senator-elect and each such employee is authorized per diem for not more than seven days while en route to and from Washington, D.C., and while in Washington, D.C. Such transportation and per diem expenses shall be in the same amounts as are payable to Senators and employees in the office of a Senator under section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), and shall be paid from the contingent fund of the Senate upon itemized vouchers certified by the Senator-elect concerned and approved by the Secretary of the Senate.

(d)(1) Each Senator-elect is authorized to be reimbursed for expenses incurred for telegrams and telephone services related to his position as a Senator-elect in an amount not exceeding one-twelfth of the total amount of expenses authorized to be paid to or on behalf of a Senator from the State which he will represent under section 506 of the Supplemental Appropriations Act, 1973. Reimbursement to a Senator-elect under this subsection shall be paid from the contingent

2 USC 42a and note, 43b and note, 46a and note, 46a-1 note, 46a-3 note, 46d-4 note, 46e note, 52 note, 53 note, 58.

fund of the Senate upon itemized vouchers certified by such Senator-elect and approved by the Secretary of the Senate.

(2) Amounts reimbursed to a Senator-elect under this subsection shall be charged against the amount of expenses which are authorized to be paid to him or on his behalf under section 506 of the Supplemental Appropriations Act, 1973, for each of the twelve months beginning with the month in which his service as a Senator commences (until all of such amounts have been charged) by whichever of the following amounts is greater: (1) one-twelfth of the amounts so reimbursed, or (2) the amount by which the aggregate amount authorized to be so paid under section 506(c) of such Act as of the close of such month exceeds the aggregate amount actually paid under such section 506 as of the close of such month.

2 USC 42a and note, 43b and note, 46a and note, 46a-1 note, 46a-3 note, 46d-4 note, 46e note, 52 note, 53 note, 58.

(e) This section shall take effect on October 1, 1978.

Effective date. 2 USC 43d note.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Nancy Louise Allen, widow of Clifford R. Allen, late a Representative from the State of Tennessee, $57,500.

For payment to Lola H. Ketchum, widow of William M. Ketchum, late a Representative from the State of California, $57,500.

SALARIES, OFFICERS AND EMPLOYEES

(INCLUDING TRANSFER OF FUNDS)

Effective upon enactment of this Act, the unexpended balances of the appropriations granted under the heading "Salaries, Officers and Employees, Official Reporters of Debates and Official Reporters to Committees" for the current fiscal year, shall be transferred to "Salaries, Officers and Employees, Office of the Clerk."

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

For an additional amount for allowances and expenses for equipment (purchase, lease and maintenance), $584,250.

STATIONERY (REVOLVING FUND)

Any amount appropriated in Public Law 94-440, 1978, Legislative Branch Appropriation Act, under the heading "Stationery Revolving Fund," that remains available on September 30, 1978, shall become working capital of the Stationery Revolving Fund.

90 Stat. 1448.

SPECIAL AND SELECT COMMITTEES

For an additional amount for "Special and Select Committees", $5,500,000.

JOINT ITEMS

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For an additional amount for "Joint Committee on Taxation", $252,800.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For the comprehensive evaluation of energy policy alternatives, $1,000,000, to remain available until expended, and for ten staff employees to be available for the life of the project, notwithstanding any limitation currently or hereafter imposed by law.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

CONTINGENT EXPENSES

For an additional amount for "Contingent expenses", $90,000, to remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For an additional amount for "Capitol Buildings", $655,000, of which $635,000 shall remain available until expended.

CAPITOL GROUNDS

For an additional amount for "Capitol Grounds", $415,000, of which $375,000 shall remain available until expended.

MASTER PLAN FOR FUTURE DEVELOPMENT OF THE CAPITOL GROUNDS AND RELATED AREAS

For an additional amount for "Master Plan for future development of the Capitol Grounds and related areas", $100,000, to remain available until expended.

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $1,110,000, to remain available until expended.

HOUSE OFFICE BUILDINGS

For an additional amount for "House Office Buildings", $811,000, to remain available until expended.

CAPITOL POWER PLANT

For an additional amount for "Capitol Power Plant", $600,000.

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

For an additional amount for "Library of Congress James Madison Memorial Building", $7,675,000, to remain available until expended.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $50,000, to remain available for obligation until September 30, 1979.

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SALARIES AND EXPENSES

The proviso in the paragraph under this heading in the Legislative Branch Appropriation Act, 1978 (Public Law 95-94), is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,500,000". 91 Stat. 676.

CHAPTER VII

DEPARTMENT OF ENERGY

ENERGY

For an additional amount for "Energy", $3,000,000, for the Federal Energy Regulatory Commission.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS, CIVIL

GENERAL INVESTIGATIONS

For an additional amount for "General Investigations", $100,000, to remain available until expended.

CONSTRUCTION, GENERAL

For an additional amount for "Construction, general", to remain available until expended, $2,000,000, for the Montgomery to Gadsden Coosa River Channel, Alabama project.

GENERAL PROVISION

The period of July 1, 1976 through September 30, 1976 shall be treated as a fiscal year for the purposes of section 7 of the Flood Control Act of 1941, as amended (33 U.S.C. 701c-3).

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,600,000, to remain available until expended.

CHAPTER VIII

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,450,000.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For an additional amount for "Acquisition, operation, and maintenance of buildings abroad", $10,000,000, to remain available until expended.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service retirement and disability fund", $11,008,000.

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations", $64,127,000.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for international peacekeeping activities", $20,400,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Missions to international organizations", $727,000.

INTERNATIONAL TRADE NEGOTIATIONS

For an additional amount for "International trade negotiations", $412,000.

International Commissions

INTERNATIONAL FISHERIES COMMISSIONS

For an additional amount for "International fisheries commissions", $500,000.

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, general administration", $368,000 of which $98,000 is for the United States Parole Commission.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $400,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For an additional amount for "Salaries and expenses, United States attorneys and marshals", $4,495,000, of which $3,050,000 shall be available for payments to United States Deputy Marshals for overtime duties performed between 1972 and 1978.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,750,000.

DEPARTMENT OF COMMERCE

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", $2,180,000, to remain available until expended.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $111,500,000.

ADMINISTRATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Administration of economic development assistance programs", $40,000.

Industry and Trade Administration

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and Administration", $2,630,000, to remain available until expended, of which $1,565,000 shall be available to liquidate obligations incurred in prior fiscal years.

MINORITY BUSINESS ENTERPRISE

MINORITY BUSINESS DEVELOPMENT

The amount made available in the appropriation under this head in the Department of Commerce Appropriation Act, 1978, for program development and management is increased by $100,000 and the amount to remain available until expended is decreased by $100,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $1,238,000, to remain available until expended.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

FACILITIES

15 USC 2201 *et seq.*

For facilities as authorized by the Act of October 29, 1974 (88 Stat. 1535–1549), $6,150,000, to remain available until September 30, 1980.

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for "Scientific and technical research and services", $900,000, to remain available until expended, of which not to exceed $485,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital: *Provided*, That not to exceed $200,000 shall be available from existing appropriations made under this heading to be used for construction and installation of improvements to existing National Bureau of Standards buildings.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,110,000, to remain available until expended.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the building and grounds", $750,000, to remain available until expended.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SPECIAL RAIL REORGANIZATION COURT

45 USC 701 note.

For salaries and expenses of the special court established by the Rail Reorganization Act of 1973, as amended, $2,000,000, to remain available until expended.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $55,000.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For an additional amount for "Arms control and disarmament activities", $2,370,000, including not to exceed $2,500 for official reception and representation expenses.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Grants and Expenses", $10,000,000 of which $3,500,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended. 22 USC 2877.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,500,000, including $3,000,000 for payments to State and local agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended. 42 USC 2000e.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $150,000, and in addition $750,000 shall be available from existing fiscal year 1978 appropriations made under this heading to liquidate obligations incurred in fiscal year 1976.

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,500,000.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,375,000.

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For an additional amount for the "Disaster Loan Fund", $378,000,000: *Provided*, That $375,000,000 of such amount shall remain available without fiscal year limitation and $3,000,000 shall be transferred to "Salaries and expenses".

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $275,000.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

WORKING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to purchase replacement equipment for the Transportation Computer Center, not to exceed $9,000,000, to remain available until expended, which shall be derived by transfer from unobligated balances available in the appropriation, "Transportation Planning, Research, and Development."

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $12,370,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; $20,000,000 to remain available until expended.

RETIRED PAY

For an additional amount for "Retired pay", $2,000,000.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATE AND COMMUNITY HIGHWAY SAFETY

For necessary expenses for incentive grants, $524,000, to remain available until expended.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For an additional amount for "Office of the Administrator", $150,000.

RAIL SERVICE ASSISTANCE

For an additional amount for "Rail service assistance", $1,500,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for grants to the National Railroad Passenger Corporation $51,500,000, to remain available until expended, of which not more than $29,500,000 shall be available for operating losses and not more than $22,000,000 shall be available for capital improvements.

URBAN MASS TRANSPORTATION ADMINISTRATION

The limitation on commitments for the Urban Mass Transportation Act of 1964, as amended, contained in section 305 of the Department of Transportation and Related Agencies Appropriation Act, 1978, is increased to $2,405,000,000. 49 USC 1601 note. 91 Stat. 416.

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $700,000.

PAYMENTS TO AIR CARRIERS (LIQUIDATION OF CONTRACT AUTHORIZATION)

For an additional amount for "Payments to air carriers", $9,940,000, to remain available until expended.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,300,000.

CHAPTER X

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,750,000.

PAYMENTS TO THE GOVERNMENT OF GUAM

For payment, in accordance with section 407 of the Tax Reduction and Simplification Act of 1977, to the Government of Guam, $3,000,000, to remain available until expended. 26 USC 7651 note.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $400,000.

ACCOUNTS, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Accounts, collection and taxpayer service", $9,900,000.

COMPLIANCE

For an additional amount for "Compliance", $1,600,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund", $91,748,000.

EXECUTIVE OFFICE OF THE PRESIDENT

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $160,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,512,000.

INDEPENDENT AGENCIES

CIVIL SERVICE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $372,000, together with an additional amount of $1,027,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission

in amounts determined by the Commission without regard to other statutes.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service Retirement and Disability Fund", $428,758,000.

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $400,000.

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out Section 201(f) of the Renegotiation Act of 1951, 50 U.S.C. App. 1231(f), for the fiscal year 1978, $1,000,000, to remain available until expended.

GENERAL SERVICES ADMINISTRATION

GENERAL PROVISION

The construction limitation in the Federal Buildings Fund shall be increased by $263,047 for payments in final settlement of claims arising in connection with construction projects specified in Public Law 93-381 under the heading "Federal Buildings Fund, Limitations on Availability of Revenue". 88 Stat. 621.

CHAPTER XI

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military personnel, Army", $17,800,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military personnel, Navy", $16,900,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military personnel, Marine Corps", $4,536,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military personnel, Air Force", $9,300,000.

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For an additional amount for "Retired pay, Defense", $169,600,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $69,487,000, and in addition, $100,000,000 which shall be derived by transfer from "Secretary of Defense Readiness Fund, 1978".

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $66,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $22,798,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $61,800,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $17,445,000.

PROCUREMENT

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $58,700,000, to remain available for obligation until September 30, 1980.

CHAPTER XII

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY

For an additional amount for highways in Washington State under the defense access roads program of the Department of Defense, $8,500,000, to remain available until expended.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1978

For additional amounts for appropriations for the fiscal year 1978 for increased pay costs authorized by or pursuant to law, as follows:

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

"House leadership offices", $90,500;
"Salaries, officers and employees", $1,419,800;
"Committee on Appropriations (studies and investigations)", $8,000;
"Office of the Law Revision Counsel", $15,200;
"Office of the Legislative Counsel", $69,000;
"Members' clerk hire", $5,456,300;
"Allowances and expenses", $814,800;
"Special and select committees", $2,362,600;

JOINT ITEMS

"Joint Economic Committee", $102,900;
"Joint Committee on Printing", $36,000;
"Joint Committee on Taxation", $114,300;
"Capitol Guide Service", $30,300;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $281,000;

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", $126,700;
"Capitol buildings", $297,300;
"Capitol grounds", $100,900;
"Senate office buildings", $484,600;
"Senate garage", $8,400;
"House office buildings", $705,500;
"Capitol Power Plant", $136,600;
"Library buildings and grounds: Structural and mechanical care", $134,000;

BOTANIC GARDEN

"Salaries and expenses", $88,300;

LIBRARY OF CONGRESS

"Salaries and expenses", $3,856,000;
Copyright Office: "Salaries and expenses", $615,000;
Congressional Research Service: "Salaries and expenses", $1,196,000;
Books for the blind and physically handicapped: "Salaries and expenses", $133,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $8,680,000;

GOVERNMENT PRINTING OFFICE

Office of the Superintendent of Documents: "Salaries and expenses", $294,136;

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $300,000;
"Care of the building and grounds", $38,000;

COURT OF CUSTOMS AND PATENT APPEALS

"Salaries and expenses", $46,000;

CUSTOMS COURT

"Salaries and expenses", $78,000;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

"Salaries of supporting personnel", $4,000,000; and in addition, $4,500,000, of which $1,500,000 shall be derived by transfer from "Salaries of Judges", $2,500,000 shall be derived by transfer from "Space and Facilities", and $500,000 shall be derived by transfer from "Furniture and Furnishings";

"Salaries and expenses of referees", $500,000 to be derived from the Referees' salary and expense fund established pursuant to the Act of June 28, 1946, as amended (11 U.S.C. 68, 102) and, to the extent of any deficiency in said fund, from any monies in the Treasury not otherwise appropriated;

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $575,000;

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $144,000;

EXECUTIVE OFFICE OF THE PRESIDENT

EXECUTIVE RESIDENCE

"Operating expenses", $79,000;

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", $23,000;

NATIONAL SECURITY COUNCIL

"Salaries and expenses", $155,000;

OFFICE OF ADMINISTRATION

"Salaries and expenses", $174,000;

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $857,000;

OFFICE OF FEDERAL PROCUREMENT POLICY

"Salaries and expenses", $50,000;

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

"Salaries and expenses", $71,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Departmental Administration", $766,000, of which $229,000 shall be made available for budget, fiscal and management, $133,000 for general operations, $8,000 for ADP systems, $152,000 for personnel administration, $83,000 for equal opportunity and $161,000 for information services;

"Office of the Secretary", $188,000;

"Office of the Inspector General", $957,000 and in addition, $388,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation;

"Office of the General Counsel", $580,000;

"Agricultural Research Service", $13,479,000;

"Animal and Plant Health Inspection Service", $6,906,000;

"Extension Service", $341,000;

"National Agricultural Library", $236,000;

"Economic Management Support Center", $165,000;

"Statistical Reporting Service", $1,859,000;

"Economic Research Service", $1,627,000;

"Farmer Cooperative Service", $215,000;

"Foreign Agricultural Service", $1,141,000;

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

"Salaries and expenses", $9,445,000: *Provided*, That in addition, not to exceed an additional $1,036,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund;

FEDERAL CROP INSURANCE CORPORATION

"Federal Crop Insurance Corporation Fund", $1,005,000 for administrative and operating expenses which may be paid from premium income;

"Rural Development Service", $75,000;

RURAL ELECTRIFICATION ADMINISTRATION

"Salaries and expenses", $1,247,000;

FARMERS HOME ADMINISTRATION

"Salaries and expenses", $9,549,000;

SOIL CONSERVATION SERVICE

"Conservation operations", $13,600,000, to remain available until expended;

"River basin surveys and investigations", $966,000, to remain available until expended;

"Watershed planning", $740,000, to remain available until expended;

"Watershed and flood prevention operations", $2,832,000, to remain available until expended;

"Great plains conservation program", $369,000, to remain available until expended;

"Resource conservation and development", $946,000, to remain available until expended;

ARGICULTURAL MARKETING SERVICE

"Marketing services", $1,799,000;

"Packers and Stockyards Administration", $346,000;

FOOD SAFETY AND QUALITY SERVICE

"Salaries and expenses", $14,000,000;

"Funds for strengthening markets, income, and supply (section 32)", (increase of $235,000 in the limitation, marketing agreements and orders);

FOOD AND NUTRITION SERVICE

"Food Program Administration", $3,317,000;

FOREST SERVICE

"Forest protection and utilization", $25,882,000, of which $2,394,000 for reforestation and stand improvement, $634,000 for forest insect and disease control, and $78,000 for cooperative law enforcement shall remain available until September 30, 1979;

"Construction and land acquisition", $463,000, to remain available until expended;

"Forest roads and trails", $11,391,000 to remain available until expended;

"Assistance to States for tree improvement", $22,000 to remain available until expended;

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

"Salaries and expenses", $1,500,000;

BUREAU OF THE CENSUS

"Salaries and expenses", $2,450,000;

"Periodic censuses and programs", $2,950,000, to remain available until expended;

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $804,000;

ECONOMIC DEVELOPMENT ADMINISTRATION

"Administration of economic development assistance programs", $1,420,000;

REGIONAL ACTION PLANNING COMMISSIONS

"Regional development programs", $150,000, to remain available until expended;

INDUSTRY AND TRADE ADMINISTRATION

"Operations and administration", $3,275,000, to remain available until expended;

MINORITY BUSINESS ENTERPRISE

"Minority business development", $400,000;

UNITED STATES TRAVEL SERVICE

"Salaries and expenses", $224,000;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", $19,600,000, to remain available until expended;

"Coastal zone management", $70,000, to remain available until expended;

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

"Operations, research, and administration", $349,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

"Salaries and expenses", $4,860,000;

SCIENCE AND TECHNICAL RESEARCH

"Scientific and technical research and services", $3,650,000, to remain available until expended, of which not to exceed $56,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital;

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $360,000, to remain available until expended;

MARITIME ADMINISTRATION

"Operations and training", $2,050,000, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

"Military personnel, Army", $407,133,000;

"Military personnel, Navy", $266,551,000;

"Military personnel, Marine Corps", $99,264,000;
"Military personnel, Air Force", $363,890,000;
"Reserve personnel, Navy", $10,625,000;
"Reserve personnel, Marine Corps", $3,724,000;
"Reserve personnel, Air Force", $7,400,000;
"National Guard personnel, Air Force", $7,800,000;

OPERATION AND MAINTENANCE

"Operation and maintenance, Army", $266,100,000;
"Operation and maintenance, Navy", $250,050,000;
"Operation and maintenance, Marine Corps", $15,900,000;
"Operation and maintenance, Air Force", $147,305,000;
"Operation and maintenance, Defense Agencies", $125,600,000;
"Operation and maintenance, Army Reserve", $12,300,000;
"Operation and maintenance, Navy Reserve", $3,000,000;
"Operation and maintenance, Marine Corps Reserve", $85,000;
"Operation and maintenance, Air Force Reserve", $10,500,000;
"Operation and Maintenance, Army National Guard", $26,800,000;
"Operation and Maintenance, Air National Guard", $23,900,000;

CIVIL DEFENSE: DEFENSE CIVIL PREPAREDNESS AGENCY

"Operation and maintenance", $1,300,000;
"Research, shelter survey, and marking", $300,000;

DEPARTMENT OF DEFENSE—CIVIL

CORPS OF ENGINEERS—CIVIL

"General investigations", $3,300,000, to remain available until expended;
"Construction, general", $12,000,000, to remain available until expended;
"General expenses", $3,200,000;
"Operation and maintenance, general", $23,500,000, to remain available until expended;

SOLDIERS' AND AIRMAN'S HOME

"Operation and maintenance", $526,000;

THE PANAMA CANAL

CANAL ZONE GOVERNMENT

"Operating expenses", $567,000;

PANAMA CANAL COMPANY

"Limitation on general administrative expenses" (increase of $500,000 in the limitation on general administrative expenses);

DEPARTMENT OF ENERGY

"Energy", $26,000,000 to remain available until expended;

POWER MARKETING ADMINISTRATIONS

"Operation and maintenance, Alaska Power Administration", $68,000;
"Operation and maintenance, Southeastern Power Administration", $54,000;
"Operation and maintenance, Southwestern Power Administration", $272,000;
"Construction, rehabilitation, operation and maintenance, Western Area Power Administration", $1,438,000;
"Colorado River Basin Power Marketing Fund, Western Area Power Administration", $15,000;

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $10,490,000;

HEALTH SERVICES ADMINISTRATION

"Health services", $8,548,000;
"Indian health services", $10,878,000;

CENTER FOR DISEASE CONTROL

"Preventive health services", $6,236,000;

NATIONAL INSTITUTES OF HEALTH

"National Cancer Institute", $5,252,000;
"National Heart, Lung, and Blood Institute", $2,267,000;
"National Institute of Dental Research", $747,000;
"National Institute of Arthritis, Metabolism, and Digestive Diseases", $1,792,000;
"National Institute of Neurological and Communicative Disorders and Stroke", $1,438,000;
"National Institute of Allergy and Infectious Diseases", $1,299,000;
"National Institute of General Medical Sciences", $400,000;
"National Institute of Child Health and Human Development", $1,129,000;
"National Institute on Aging", $305,000;
"National Eye Institute", $400,000;
"National Institute of Enviromental Health Sciences", $641,000;
"Research resources", $148,000;
"John E. Fogarty International Center for Advanced Study in the Health Sciences", $114,000;
"National Library of Medicine", $873,000;
"Office of the Director", $1,029,000;

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

"Alcohol, drug abuse, and mental health", $2,786,000;
"Saint Elizabeths Hospital", $5,738,000;

HEALTH RESOURCES ADMINISTRATION

"Health resources", $2,102,000;

ASSISTANT SECRETARY FOR HEALTH

"Salaries and expenses", $2,700,000;

HEALTH CARE FINANCING ADMINISTRATION

"Quality care management, research and administration", $2,300,000;
"Limitation on administrative expenses" (increase of $4,000,000 in the limitation on administrative expenses);

OFFICE OF EDUCATION

"Indian education", $72,000;
"Salaries and expenses", $4,500,000;

NATIONAL INSTITUTE OF EDUCATION

"National Institute of Education", $500,000;

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

"Salaries and expenses", $400,000;
"Institute of Museum Services", $10,000;

SOCIAL SECURITY ADMINISTRATION

"Limitation on salaries and expenses" (increase of $83,000,000 in the limitation on salaries and expenses paid from trust funds);
"Assistance payments program", $1,000,000;

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

"Human development", $2,103,000;

DEPARTMENTAL MANAGEMENT

"Office of Consumer Affairs", $50,000;
"Office for Civil Rights", $1,600,000;
"General departmental management", $6,300,000;
"Office of the Inspector General", $1,900,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses, Department of Housing and Urban Development", $20,969,000, including not to exceed $500 for official reception and representation expenses, of which $10,929,000 shall be provided by transfer from the various funds of the Federal Housing Administration and $6,000,000 shall be provided by transfer from the appropriation for "Flood insurance";

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of land and resources", $7,017,000;

BUREAU OF RECLAMATION

"Construction and rehabilitation", $3,900,000, to remain available until expended;

"Operation and maintenance", $2,940,000, to remain available until expended of which $98,000 shall be derived from the Colorado River Dam Fund,

"General administrative expenses", $1,180,000;

HERITAGE CONSERVATION AND RECREATION SERVICE

"Salaries and expenses", $329,000;

"Land and water conservation fund": Of the amount heretofore appropriated under this head, an additional amount of $409,000 shall be available for administrative expenses of the Heritage Conservation and Recreation Service;

"Preservation of historic properties", $213,000;

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", $6,220,000;

NATIONAL PARK SERVICE

"Operation of the National Park System", $15,380,000;

"Planning, development, and operation of recreation facilities", $468,000 to remain available until expended;

"John F. Kennedy Center for the Performing Arts", $105,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $12,352,000;

BUREAU OF MINES

"Mines and minerals", $2,930,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $18,889,000;

OFFICE OF TERRITORIAL AFFAIRS

"Administration of territories", $65,000;

"Trust Territory of the Pacific Islands", $213,000;

OFFICE OF THE SOLICITOR

"Salaries and expenses", $764,000;

OFFICE OF THE SECRETARY

"Salaries and expenses", $1,397,000;

39-194 O—80—pt. 1——39 : QL3

"Departmental operations," $643,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", $1,147,000;

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $3,733,000;
"Salaries and expenses, Antitrust Division", $1,363,000;
"Salaries and expenses, United States Attorneys and Marshals", $7,000,000;

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $24,500,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $12,887,000;

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $6,400,000;

FEDERAL PRISON SYSTEM

"Salaries and expenses, Bureau of Prisons", $10,000,000;
"Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated" (increase of $53,000 in the limitation on administrative expenses and of $167,000 in the limitation on vocational training expenses);

DEPARTMENT OF LABOR

LABOR-MANAGEMENT SERVICES ADMINISTRATION

"Salaries and expenses", $1,100,000;

EMPLOYMENT STANDARDS ADMINISTRATION

"Salaries and expenses", $4,487,000;

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $2,430,000;

BUREAU OF LABOR STATISTICS

"Salaries and expenses", $1,158,000;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", including $73,000 for the President's Committee on Employment of the Handicapped, $2,043,000;

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $15,982,000;
"Acquisition, operation, and maintenance of buildings abroad", $209,000, to remain available until expended;

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"Missions to international organizations", $247,000;
"International trade negotiations", $85,000;

INTERNATIONAL COMMISSIONS

International Boundary and Water Commission, United States and Mexico: "Salaries and expenses", $320,000;
"American sections, international commissions", $56,000;

OTHER

"Migration and refugee assistance", $35,000;

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $1,450,000, and in addition not to exceed $63,331 shall be derived by transfer from the appropriation, "Transportation research activities overseas";
"Limitation on working capital fund" (increase of $501,000 in the limitation on Working Capital Fund);

COAST GUARD

"Operating expenses", $32,800,000;
"Reserve training", $2,000,000;

FEDERAL AVIATION ADMINISTRATION

"Operations", $95,000,000;
"Operation and maintenance, Metropolitan Washington airports", $1,020,000;

FEDERAL HIGHWAY ADMINISTRATION

"Motor carrier safety", $370,000;
"Limitation on general operating expenses" (increase of $5,600,000 in the limitation on general operating expenses);

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Traffic and highway safety", $1,000,000, of which $580,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", $340,000;
"Railroad Safety", $400,000;

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $60,000 in the limitation on administrative expenses);

MATERIALS TRANSPORTATION BUREAU

"Materials transportation program" $190,000;

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

"Salaries and expenses", $914,000;

FEDERAL LAW ENFORCEMENT TRAINING CENTER

"Salaries and expenses", $453,000;

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

"Salaries and expenses", $2,826,000;

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

"Salaries and expenses", $6,032,000;

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", $20,774,000;

BUREAU OF THE PUBLIC DEBT

"Administering the public debt", $2,117,000;

INTERNAL REVENUE SERVICE

"Salaries and expenses", $2,763,000;
"Accounts, Collection and Taxpayer Service", $40,069,000;
"Compliance", $50,312,000;

UNITED STATES SECRET SERVICE

"Salaries and expenses", $5,890,000;

ENVIRONMENTAL PROTECTION AGENCY

"Agency and regional management", $3,200,000;
"Research and development", $1,400,000;
"Abatement and control", $4,600,000;
"Enforcement", $2,000,000;

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

"Limitations on availability of revenue". In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1978, $13,837,000 shall be available for such purposes and the limitation on the amount available for real property operations is increased to $472,804,000 and the limitation on the amount available for program direction and centralized services is increased to $68,343,000: *Provided*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1978, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of $1,346,626,000 shall be deposited in miscellaneous receipts of the Treasury of the United States;

FEDERAL SUPPLY SERVICE

"Operating expenses", $7,080,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

"Operating expenses", $2,340,000;
"Records declassification", $95,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

"Operating expenses", $466,000;

FEDERAL PREPAREDNESS AGENCY

"Salaries and expenses", $1,402,000;

GENERAL MANAGEMENT AND AGENCY OPERATIONS

"Salaries and expenses", $739,000;
"Indian trust accounting", $137,000;

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

"Salaries and expenses", $4,257,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and program management", $45,761,000;

VETERANS ADMINISTRATION

"Medical care", $198,963,000;
"Medical and prosthetic research", $4,053,000, to remain available until expended;
"Medical administration and miscellaneous operating expenses", $1,316,000;
"General operating expenses", $25,050,000;

"Construction, minor projects", $1,128,000, to remain available until expended;

OTHER INDEPENDENT AGENCIES

ACTION

"Operating expenses, international programs", $1,069,000;
"Operating expenses, domestic programs", $900,000;

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Salaries and expenses", $21,000;

ADVISORY COUNCIL ON HISTORIC PRESERVATION

"Salaries and expenses", $57,000;

ARMS CONTROL AND DISARMAMENT AGENCY

"Arms control and disarmament activities", $350,000;

CIVIL AERONAUTICS BOARD

"Salaries and expenses", $1,200,000;

CIVIL SERVICE COMMISSION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $5,780,000 together with an additional amount of $1,290,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission in amounts determined by the Commission without regard to other statutes;

COMMISSION OF FINE ARTS

"Salaries and expenses", $10,000;

COMMISSION ON CIVIL RIGHTS

"Salaries and expenses", $366,000;

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

"Salaries and expenses", $17,000;

COMMODITY FUTURES TRADING COMMISSION

"Salaries and expenses", $633,000;

COMMUNITY SERVICES ADMINISTRATION

"Community services program", $1,500,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $1,317,000;

EXPORT-IMPORT BANK OF THE UNITED STATES

"Limitation on administrative expenses" (increase of $475,000 in the limitation on administrative expenses);

FARM CREDIT ADMINISTRATION

"Limitation on administrative expenses" (increase of $433,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $3,000,000;

FEDERAL ELECTION COMMISSION

"Salaries and expenses", $310,000;

FEDERAL HOME LOAN BANK BOARD

"Limitation on administrative and nonadministrative expenses, Federal Home Loan Bank Board" (increase of $637,000 in the limitation on administrative expenses and an increase of $1,320,000 in the limitation on nonadministrative expenses);

"Limitation on administrative expenses, Federal Savings and Loan Insurance Corporation" (increase of $29,000 in the limitation on administrative expenses);

FEDERAL MARITIME COMMISSION

"Salaries and expenses", $300,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", $533,000;

FEDERAL TRADE COMMISSION

"Salaries and expenses", $2,600,000;

INDIAN CLAIMS COMMISSION

"Salaries and expenses", $64,000;

INTERGOVERNMENTAL AGENCIES

Advisory Commission on Intergovernmental Relations: "Salaries and expenses", $54,000;

Appalachian Regional Commission: "Salaries and expenses", $8,000;

Delaware River Basin Commission: "Salaries and expenses", $11,000;

Susquehanna River Basin Commission: "Salaries and expenses", $11,000;

INTELLIGENCE COMMUNITY OVERSIGHT

"Intelligence community staff", $299,000;

INTERNATIONAL COMMUNICATION AGENCY

"Salaries and expenses", $7,770,000;

INTERNATIONAL TRADE COMMISSION

"Salaries and expenses", $713,000;

INTERSTATE COMMERCE COMMISSION

"Salaries and expenses", $2,750,000;

NATIONAL CAPITAL PLANNING COMMISSION

"Salaries and expenses", $238,000;

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

"Salaries and expenses", $35,000;

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts: "Salaries and expenses", $350,000;

National Endowment for the Humanities: "Salaries and expenses", $275,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", $8,988,000;

NATIONAL MEDIATION BOARD

"Salaries and expenses", $210,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $1,850,000 (and an increase of $3,500,000 in the limitation on program development and management);

NATIONAL TRANSPORTATION SAFETY BOARD

"Salaries and expenses", $540,000;

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $5,000,000, to remain available until expended;

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

"Salaries and expenses", $29,000;

RAILROAD RETIREMENT BOARD

"Limitation on salaries and expenses" (increase in the limitation on salaries and expenses of $1,450,000 to be derived from railroad retirement accounts);

RENEGOTIATION BOARD

"Salaries and expenses", $225,000;

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $3,000,000;

SMALL BUSINESS ADMINISTRATION

"Salaries and expenses", $4,000,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $333,000;

SMITHSONIAN INSTITUTION

"Salaries and expenses", $4,575,000;
"Science Information Exchange", $80,000;
"Salaries and expenses, National Gallery of Art", $670,000;
"Salaries and expenses, Woodrow Wilson International Center for Scholars", $30,000;

TEMPORARY STUDY COMMISSION

National Transportation Policy Study Commission: "Salaries and expenses", $40,000, to remain available until expended.

TITLE III

GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1978, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 303. The Supplemental Treasury and Post Office Departments Appropriation Act, 1949 (62 Stat. 561), also known as the Act of June 19, 1948, is amended by adding at the end thereof the following: 31 USC 725q-1a.

"No disbursement may be made from the appropriation to the Treasury Department entitled 'Bureau of Internal Revenue Refunding Internal-Revenue Collections' except (a) refunds to the limit of liability of an individual tax account, and (b) refunds due from any credit provision of the Internal Revenue Code enacted prior to January 1, 1978.".

26 USC 1 *et seq.*

Approved September 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1350 (Comm. on Appropriations) and No. 95-1475 (Comm. of Conference).

SENATE REPORT No. 95-1061 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 20, considered and passed House.

Aug. 4, 7, considered and passed Senate, amended.

Aug. 17, House agreed to conference report.

Aug. 25, Senate agreed to conference report.

Public Law 95-356
95th Congress

An Act

To authorize certain construction at military installations for fiscal year 1979, and for other purposes.

Sept. 8, 1978
[H.R. 12602]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1979".

Military Construction Authorization Act, 1979.

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $8,836,000.
Fort Carson, Colorado, $25,636,000.
Fort Devens, Massachusetts, $799,000.
Fort Greeley, Alaska, $2,651,000.
Helemano Military Reservation, Hawaii, $1,916,000.
Fort Hood, Texas, $62,086,000.
Fort Sam Houston, Texas, $1,633,000.
Fort Lewis, Washington, $8,933,000.
Fort McCoy, Wisconsin, $991,000.
Fort Meade, Maryland, $10,669,000.
Fort Ord, California, $1,628,000.
Fort Polk, Louisiana, $25,845,000.
Fort Richardson, Alaska, $1,974,000.
Fort Riley, Kansas, $5,915,000.
Schofield Barracks, Hawaii, $12,223,000.
Fort Stewart Hunter Army Air Field, Georgia, $57,129,000.
Fort Wainwright, Alaska, $3,323,000.
Yakima Firing Center, Washington, $1,270,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $5,173,000.
Fort Bliss, Texas, $4,758,000.
Carlisle Barracks, Pennsylvania, $1,601,000.
Fort Eustis, Virginia, $5,353,000.
Fort Gordon, Georgia, $3,247,000.
Fort Benjamin Harrison, Indiana, $2,359,000.
Fort Jackson, South Carolina, $3,300,000.
Fort Knox, Kentucky, $15,058,000.
Fort Leavenworth, Kansas, $2,251,000.

Fort Lee, Virginia, $3,074,000.
Fort Rucker, Alabama, $2,280,000.
Fort Monroe, Virginia, $550,000.
Fort Sill, Oklahoma, $24,756,000.
Fort Leonard Wood, Missouri, $13,947,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $9,412,000.
Anniston Army Depot, Alabama, $10,736,000.
Hawthorne Ammunition Depot, Nevada, $1,547,000.
Holston Army Ammunition Plant, Tennessee, $30,650,000.
Iowa Army Ammunition Plant, Iowa, $1,028,000.
Kansas Army Ammunition Plant, Kansas, $1,124,000.
Longhorn Army Ammunition Plant, Texas, $507,000.
Michigan Army Missile Plant, Michigan, $1,284,000.
Milan Army Ammunition Plant, Tennessee, $1,239,000.
Natick Laboratories, Massachusetts, $3,221,000.
Picatinny Arsenal, New Jersey, $16,381,000.
Pine Bluff Arsenal, Arkansas, $523,000.
Red River Army Depot, Texas, $813,000.
Redstone Arsenal, Alabama, $3,825,000.
Rock Island Arsenal, Illinois, $1,957,000.
Seneca Army Depot, New York, $1,087,000.
Sierra Army Depot, California, $843,000.
Sunflower Army Ammunition Plant, Kansas, $1,281,000.
Tobyhanna Army Depot, Pennsylvania, $1,227,000.
Watervliet Arsenal, New York, $27,021,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $398,000.
Indiana Army Ammunition Plant, Indiana, $771,000.
Iowa Army Ammunition Plant, Iowa, $5,011,000.
Kansas Army Ammunition Plant, Kansas, $394,000.
Lone Star Army Ammunition Plant, Texas, $172,000.
Longhorn Army Ammunition Plant, Texas, $137,000.
Louisiana Army Ammunition Plant, Louisiana, $276,000.
Milan Army Ammunition Plant, Tennessee, $9,370,000.
Radford Army Ammunition Plant, Virginia, $2,960,000.
Scranton Army Ammunition Plant, Pennsylvania, $1,928,000.
Sunflower Army Ammunition Plant, Kansas, $2,251,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $3,811,000.
Fort Ritchie, Maryland, $5,115,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $12,265,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fitzsimons Army Medical Center, Colorado, $1,372,000.
Walter Reed Army Medical Center, District of Columbia, $3,524,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Sunny Point Military Ocean Terminal, North Carolina, $1,228,000.

OUTSIDE THE UNITED STATES

UNITED STATES ARMY, KOREA

Various Locations, $7,580,000.

KWAJALEIN MISSILE RANGE

National Missile Range, $6,571,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $213,875,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Notification to congressional committees.

Authorization expiration.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $35,365,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works,

including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Headquarters Marine Corps, Arlington, Virginia, $12,000,000.
Marine Corps Base, Camp Lejeune, North Carolina, $16,130,000.
Marine Corps Base, Camp Pendleton, California, $19,700,000.
Marine Corps Air Station, Cherry Point, North Carolina, $2,000,000.
Marine Corps Air Station, El Toro, California, $7,150,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $8,500,000.
Marine Corps Air Station, New River, North Carolina, $5,300,000.
Marine Corps Development and Education Command, Quantico, Virginia, $3,300,000.
Marine Corps Air Station, Santa Ana, California, $920,000.
Marine Corps Base, Twentynine Palms, California, $12,000,000.
Marine Corps Air Station, Yuma, Arizona, $930,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $5,400,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $14,240,000.
Naval Station, Annapolis, Maryland, $1,000,000.
Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $39,100,000.
Naval Support Activity, Philadelphia, Pennsylvania, $5,700,000.
Commandant Naval District Washington, District of Columbia, $4,135,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $16,290,000.
Naval Air Station, Cecil Field, Florida, $2,030,000.
Naval Station, Charleston, South Carolina, $10,240,000.
Naval Air Station, Jacksonville, Florida, $1,285,000.
Naval Amphibious Base, Little Creek, Virginia, $4,100,000.
Naval Station, Mayport, Florida, $16,800,000.
Naval Submarine Base, New London, Connecticut, $13,650,000.
Naval Station, Norfolk, Virginia, $12,760,000.
Naval Air Station, Oceana, Virginia, $6,405,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $8,075,000.
Naval Air Station, Alameda, California, $1,380,000.
Naval Air Station, Lemoore, California, $1,450,000.
Naval Air Station, Miramar, California, $9,500,000.
Naval Air Station, Moffett Field, California, $1,000,000.
Naval Air Station, North Island, California, $7,110,000.
Naval Station, Pearl Harbor, Hawaii, $16,790,000.
Naval Station, San Diego, California, $41,000,000.
Naval Air Station, Whidbey Island, Washington, $9,500,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center Atlantic, Dam Neck, Virginia, $6,000,000.
Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $800,000.
Fleet Training Center, Mayport, Florida, $630,000.
Naval Air Station, Memphis, Tennessee, $570,000.
Naval Submarine School, New London, Connecticut, $6,050,000.
Naval Education and Training Center, Newport, Rhode Island, $4,600,000.
Surface Warfare Officers School Command, Newport, Rhode Island, $1,750,000.
Naval Training Center, Orlando, Florida, $5,620,000.
Naval Submarine Training Center, Pearl Harbor, Hawaii, $1,500,000.
Fleet Anti-Submarine Warfare Training Center, San Diego, California, $4,250,000.
Fleet Combat Training Center, Pacific, San Diego, California, $760,000.
Fleet Training Center, San Diego, California, $8,200,000.
Naval Training Center, San Diego, California, $850,000.
Naval Technical Training Center, San Francisco, California, $1,550,000.

BUREAU OF MEDICINE AND SURGERY

National Naval Medical Center, Bethesda, Maryland, $8,430,000.
Naval Regional Medical Center, Camp Lejeune, North Carolina, $51,500,000.
Naval Hospital, Cherry Point, North Carolina, $700,000.
Naval Regional Dental Center, Norfolk, Virginia, $7,400,000.
Naval Hospital, Quantico, Virginia, $1,800,000.

CHIEF OF NAVAL MATERIAL

Naval Ship Research and Development Center, Bethesda, Maryland, $1,290,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $16,650,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $2,700,000.
Charleston Naval Shipyard, Charleston, South Carolina, $20,200,000.
Naval Supply Center, Charleston, South Carolina, $1,100,000.
Naval Weapons Station, Charleston, South Carolina, $3,455,000.
Polaris Missile Facility Atlantic, Charleston, South Carolina, $6,500,000.
Naval Weapons Center, China Lake, California, $5,360,000.
Naval Weapons Station, Concord, California, $2,600,000.
Naval Surface Weapons Center, Dahlgren, Virginia, $10,700,000.
Naval Weapons Station, Earle, New Jersey, $10,050,000.
Navy Public Works Center, Great Lakes, Illinois, $3,300,000.
Naval Avionics Facility, Indianapolis, Indiana, $2,900,000.
Portsmouth Naval Shipyard, Kittery, Maine, $16,150,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $140,000.
Long Beach Naval Shipyard, Long Beach, California, $15,810,000.
Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $700,000.

Naval Air Rework Facility, Norfolk, Virginia, $4,000,000.
Naval Supply Center, Norfolk, Virginia, $4,270,000.
Navy Public Works Center, Norfolk, Virginia, $4,200,000.
Naval Supply Center, Oakland, California, $6,360,000.
Naval Coastal Systems Laboratory, Panama City, Florida, $3,150,000.
Naval Air Test Center, Patuxent River, Maryland, $8,900,000.
Naval Supply Center, Pearl Harbor, Hawaii, $3,750,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $5,390,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $750,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $9,050,000.
Pacific Missile Test Center, Point Mugu, California, $3,810,000.
Naval Construction Battalion Center, Port Hueneme, California, $940,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $13,350,000.
Naval Supply Center, San Diego, California, $15,250,000.
Navy Public Works Center, San Francisco, California, $3,300,000.
Naval Air Development Center, Warminster, Pennsylvania, $3,290,000.
Mare Island Naval Shipyard, Vallejo, California, $19,000,000.
Naval Weapons Station, Yorktown, Virginia, $9,680,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Adak, Alaska, $790,000.
Naval Radio Transmitter Facility, Annapolis, Maryland, $850,000.
Naval Communication Area Master Station Atlantic, Norfolk, Virginia, $830,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Winter Harbor, Maine, $540,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Air Station, Iwakuni, Japan, $4,500,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $4,300,000.
Naval Station, Keflavik, Iceland, $6,230,000.
Naval Station, Roosevelt Roads, Puerto Rico, $4,680,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Magazine, Guam, Mariana Islands, $22,340,000.
Naval Supply Depot, Yokosuka, Japan, $3,700,000.

COMMANDER IN CHIEF, NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $3,350,000.
Naval Air Facility, Sigonella, Italy, $7,150,000.

BUREAU OF MEDICINE AND SURGERY

Naval Medical Research Unit Number 3, Cairo, Arab Republic of Egypt, $960,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Unit, Thurso, Scotland, $890,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Classified Location, $1,663,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interest of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Notification to congressional committees.

Authorization expiration.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $39,662,000.

AMENDMENT TO SAN DIEGO NAVAL ATHLETIC FIELD TRANSFER

SEC. 204. (a) Section 203 of the Military Construction Authorization Act, 1978 (Public Law 95-82, 91 Stat. 365) is amended—

(1) by striking out "the total cost" in subsection (a) and inserting in lieu thereof "a total of $4,500,000 for the cost"; and

(2) by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

"(1) the Secretary, or his designee, determines that the recreational facilities to be constructed under such subsection will be

39-194 O—80—pt. 1——40 : QL3

satisfactory replacements for the facilities on the existing Navy Athletic Field; and".

BIOMEDICAL RESEARCH LABORATORY, CAIRO, EGYPT

SEC. 205. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $6,000,000 for the construction of a biomedical research laboratory at the Naval Medical Research Unit Number 3, Cairo, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Tyndall Air Force Base, Florida, $8,687,000.

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $8,163,000.
Kelly Air Force Base, Texas, $17,219,000.
McClellan Air Force Base, California, $3,700,000.
Newark Air Force Station, Ohio, $1,400,000.
Robins Air Force Base, Georgia, $9,424,000.
Tinker Air Force Base, Oklahoma, $2,354,000.
Wright-Patterson Air Force Base, Ohio, $13,600,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $2,710,000.
Buckley Air National Guard Base, Colorado, $2,628,000.
Cape Canaveral Air Force Station, Florida, $9,624,000.
Edwards Air Force Base, California, $4,423,000.
Eglin Air Force Base, Florida, $3,579,000.
Hanscom Air Force Base, Massachusetts, $3,237,000.
Patrick Air Force Base, Florida, $3,504,000.
Various Locations, $688,000.

AIR TRAINING COMMAND

Columbus Air Force Base, Mississippi, $1,586,000.
Keesler Air Force Base, Mississippi, $7,835,000.
Lackland Air Force Base, Texas, $6,945,000.
Laughlin Air Force Base, Texas, $329,000.
Mather Air Force Base, California, $4,522,000.
Randolph Air Force Base, Texas, $850,000.
Reese Air Force Base, Texas, $742,000.
Vance Air Force Base, Oklahoma, $913,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $1,602,000.
Galena Airport, Alaska, $540,000.
Shemya Air Force Base, Alaska, $546,000.
Various Locations, $3,400,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $1,111,000.
Dover Air Force Base, Delaware, $8,021,000.
Kirtland Air Force Base, New Mexico, $1,450,000.
Little Rock Air Force Base, Arkansas, $504,000.
McChord Air Force Base, Washington, $594,000.
Norton Air Force Base, California, $506,000.
Scott Air Force Base, Illinois, $4,014,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $510,000.
Beale Air Force Base, California, $2,256,000.
Carswell Air Force Base, Texas, $2,910,000.
Castle Air Force Base, California, $13,351,000.
Dyess Air Force Base, Texas, $2,670,000.
Ellsworth Air Force Base, South Dakota, $3,454,000.
Francis E. Warren Air Force Base, Wyoming, $23,143,000.
Fairchild Air Force Base, Washington, $650,000.
Grand Forks Air Force Base, North Dakota, $1,344,000.
Griffiss Air Force Base, New York, $7,499,000.
Grissom Air Force Base, Indiana, $314,000.
Malmstrom Air Force Base, Montana, $5,400,000.
March Air Force Base, California, $357,000.
McConnell Air Force Base, Kansas, $2,200,000.
Minot Air Force Base, North Dakota, $1,182,000.
Plattsburgh Air Force Base, New York, $11,691,000.
Rickenbacker Air Force Base, Ohio, $946,000.
Vandenberg Air Force Base, California, $141,782,000.
Wurtsmith Air Force Base, Michigan, $113,000.

TACTICAL AIR COMMAND

Cannon Air Force Base, New Mexico, $4,129,000.
Davis-Monthan Air Force Base, Arizona, $1,610,000.
England Air Force Base, Louisiana, $1,875,000.
George Air Force Base, California, $2,392,000.
Holloman Air Force Base, New Mexico, $4,135,000.
Langley Air Force Base, Virginia ,$3,539,000.
Luke Air Force Base, Arizona, $3,843,000.
Moody Air Force Base, Georgia, $2,343,000.
Mountain Home Air Force Base, Idaho, $2,644,000.
Myrtle Beach Air Force Base, South Carolina, $2,694,000.
Nellis Air Force Base, Nevada, $16,950,000.
Seymour-Johnson Air Force Base, North Carolina, $2,950,000.
Shaw Air Force Base, South Carolina, $3,790,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $4,635,000.

AIR NATIONAL GUARD

McEntire Air National Guard Base, South Carolina, $230,000.
Selfridge Air National Guard Base, Michigan, $2,578,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, $9,350,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $4,799,000.
Kunsan Air Base, Korea, $6,648,000.
Osan Air Base, Korea, $7,515,000.
Various Locations, $2,800,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $1,120,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $718,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, Various Locations, $7,847,000.
United Kingdom, Various Locations, $1,518,000.
Various Locations, $26,648,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining

Notification to congressional committees.

thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date. Authorization expiration.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $30,721,000.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Construction Supply Center, Columbus, Ohio, $529,000.
Defense Depot, Mechanicsburg, Pennsylvania, $1,096,000.
Defense Depot, Memphis, Tennessee, $3,555,000.
Defense Depot, Ogden, Utah, $1,573,000.
Defense Depot, Tracy, California, $1,927,000.
Defense Fuel Support Point, Charleston, South Carolina, $532,000.
Defense Fuel Support Point, Norwalk, California, $1,488,000.
Defense Property Disposal Office, Fort Belvoir, Virginia, $755,000.
Defense Property Disposal Office, Fort Hood, Texas, $555,000.
Defense Property Disposal Office, Fort Lewis, Washington, $1,033,000.
Defense Property Disposal Office, Fort Meade, Maryland. $546,000.
Defense Property Disposal Office, Indianapolis, Indiana, $1,353,000.
Defense Property Disposal Office, Jacksonville, Florida, $811,000.
Defense Property Disposal Office, Keesler Air Force Base, Mississippi, $611,000.
Defense Property Disposal Office, McClellan Air Force Base, California, $1,533,000.
Defense Property Disposal Office, Pensacola, Florida, $558,000.
Defense Property Disposal Office, Selfridge Air National Guard Base, Michigan, $1,497,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Aerospace Center, St. Louis Air Force Station, Missouri, $1,130,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $6,300,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $2,850,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $9,200,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Nuremberg, Germany, $870,000.
Defense Property Disposal Office, Subic Bay, Philippines, $584,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS

Nuremberg, Germany, $4,545,000.
Pattonville Housing Area, Ludwigsburg, Germany, $6,415,000.
Pioneer Kaserne, Hanau, Germany, $6,297,000.
Ramstein Air Base, Germany, $9,160,000.
Zweibruecken Air Base, Germany, $7,263,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $120,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of the obligations incurred by the United States for the United States share of the cost of such multilateral programs.

Report to congressional committees.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

Notification to congressional committees.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $13,044,000.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

Secretary of HUD, consultation.

Notification to congressional committees.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

Cost limitations.

(c) Family housing units and mobile home facilities:

National Guard Advisory Detachments, Alaska, three units, $137,000.

Naval Facility, Centerville Beach, California, twenty-eight units, $1,509,000.

Marine Corps Air Station, El Toro, California, two hundred sixteen units, $9,396,000.

Fort Ord, California, five hundred sixty units, $24,432,000, and fifty mobile home spaces, $690,000.

Marine Corps Base, Twentynine Palms, California, one hundred units, $4,307,000.

Fort Stewart, Georgia, one hundred and thirty-two units, $4,600,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, two hundred and fifty units, $11,505,000.

Mountain Home Air Force Base, Idaho, fifty mobile home spaces, $445,000.

Fort Polk, Louisiana, one hundred and sixty units, $7,300,000.

Naval Communications Unit, Cutler, Maine, twenty units, $1,355,000.

Naval Air Station, Fallon, Nevada, seventy units, $2,820,000.

Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $5,541,000.

Defense Attaché Office, Brasilia, Brazil, two units, $322,000.

Defense Installations, Cairo, Egypt, twenty-one units, $2,950,000, to be funded by use of excess foreign currency when so provided in Department of Defense Appropriation Acts.

Defense Attaché Office, Helsinki, Finland, six units, $670,000.

Defense Attaché Office, Kuala Lumpur, Malaysia, two units, $170,000.

Defense Attaché Office, Oslo, Norway, five units, $476,000.

Defense Attaché Office, Manila, Philippines, six units, $502,000.

Defense Attaché Office, Stockholm, Sweden, four units, $398,000.

Defense Attaché Office, Kinshasa, Zaire, four units, $350,000.

(d) Any of the amounts specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. (a) The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $18,786,000, of which $1,000,000 shall be available only for energy conservation projects;

(2) for the Department of the Navy, $10,768,000, of which $1,725,000 shall be available only for energy conservation projects;

(3) for the Department of the Air Force, $31,740,000, of which $5,807,000 shall be available only for energy conservation projects; and

(4) for the Defense Mapping Agency, $86,000.

42 USC 1594h-2.

(b) Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), is amended by striking out "$15,000" in the first sentence and inserting in lieu thereof "$20,000".

(c) The Secretary of Defense, or his designee, within the amounts specified in subsection (a) of this section, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of the $20,000 limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as follows:

Elmendorf Air Force Base, Alaska, two hundred and sixty-four units, $2,904,000.

Marine Barracks, Washington, District of Columbia, one unit, $80,000.

Marine Corps Development and Education Command, Quantico, Virginia, forty-eight units, $1,117,400.

Ramstein Air Base (Vogelweh-Landstuhl), Federal Republic of Germany, ninety-six units, $1,680,200.

Ramstein Air Base, Federal Republic of Germany, three hundred and sixty units, $8,151,600.

Rhein-Main Air Base, Federal Republic of Germany, four hundred and twenty-four units, $9,215,000.

Vilseck, Federal Republic of Germany, eight substandard units, $244,500.

LEASING OF FAMILY HOUSING

SEC. 503. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended—

(1) by striking out "$280" and "$450" in paragraph (1) and inserting in lieu thereof "$300" and "$475", respectively; and

(2) by striking out "$350" and "$450" in paragraph (2) and inserting in lieu thereof "$370" and "$475", respectively.

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$435" and "$760" in the first sentence of paragraph (1) and inserting in lieu thereof "$485" and "$850", respectively; and

(2) by striking out "15,000" in paragraph (2) and inserting in lieu thereof "18,000".

SETTLEMENT OF CLAIMS

SEC. 504. (a) Notwithstanding the provisions of any other law, the Secretary of the Air Force is authorized to settle claims regarding construction of public quarters at Wright-Patterson Air Force Base, Ohio, in the amount of $500,000 plus interest from December 6, 1977, at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97).

(b) Notwithstanding the provisions of any other public law, the Secretary of the Navy is authorized to settle claims regarding construction of public quarters at the Naval Complex, South Philadelphia, Pennsylvania, in the amount of $1,750,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 505. There is authorized to be appropriated for fiscal year 1979 in a Military Construction Appropriation Act for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning, an amount not to exceed $139,105,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,562,500,000.

HOUSING FOR NAVAL STATION, ADAK, ALASKA

91 Stat. 369.

SEC. 506. Section 501(c) of the Military Construction Authorization Act, 1978, is amended by striking out "$8,500,000" in the item relating to the Naval Station, Adak, Alaska, and inserting in lieu thereof "$10,500,000".

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1979 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: inside the United States $487,853,000; outside the United States $228,026,000; minor construction $35,365,000; for a total of $751,244,000.

(2) for title II: inside the United States $690,885,000; outside the United States $59,763,000; minor construction $39,662,000; for a total of $790,310,000.

(3) for title III: inside the United States, $423,059,000; outside the United States, $68,963,000; minor construction $30,721,000; for a total of $522,743,000.

(4) for title IV: a total of $217,610,000, including $13,044,000 for minor construction.

(5) for title V: military family housing, $1,701,605,000.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (a), (b), (c), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States

(other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is $400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope

was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

(h) COST VARIATIONS—MINOR CONSTRUCTION.—(1) The first sentence of section 2674(b) of title 10, United States Code, relating to minor construction projects, is amended to read as follows: "This section does not authorize a project costing more than $500,000, except that the cost authorized for a project may be increased above $500,000 by not more than 10 percent of the original approved cost of such project if the Secretary of Defense determines—

"(1) that such an increase is required for the sole purpose of meeting unusual variations in cost, and

"(2) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved.".

Effective date. 10 USC 2674 note.

(2) The amendment made by this subsection shall take effect on October 1, 1978.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a

Report to Congress.

10 USC 2301 *et seq.*

Report to Congress.

competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1979, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358), and all such authorizations contained in Acts approved before August 1, 1977, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1979, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 358), authorizations for the following items shall remain in effect until October 1, 1980:

(1) Medical Facility construction in the amount of $2,014,000 at Fort Drum, New York, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1349).

(2) Barracks Building construction in the amount of $5,100,000 at Fort Drum, New York, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1349).

(3) Effluent Land Irrigation System construction in the amount of $6,933,000 at Fort Ord, California, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1349).

(4) Sulphuric Acid Regenerator construction in the amount of $15,238,000 at the Sunflower Army Ammunition Plant, Kansas, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1350).

(5) Cold Storage Warehouse construction in the amount of $1,215,000 at Fort Dix, New Jersey, authorized in section 101 of the Military Construction Authorization Act, 1973 (Public Law 92-545; 86 Stat. 1135), and extended in section 605(3)(B) of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1762), and in section 605(b)(2) of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1363).

(6) Solid Waste System construction in the amount of $300,000 at the Naval Submarine Base, New London, Connecticut, authorized in section 201 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1352).

(7) Naval Historical Center construction in the amount of $1,300,000 at Headquarters, Naval District of Washington, District of Columbia, authorized in section 201 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1352).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $45 per square foot for permanent barracks; or

(2) $48 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

10 USC 2231 *et seq.*

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $47,300,000; and

(B) for the Army Reserve, $27,400,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $19,350,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $39,350,000; and

(B) for the Air Force Reserve, $11,400,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary

use), by gift, purchase, exchange of Government-owned land, or otherwise.

TITLE VIII—GENERAL PROVISIONS

ADVANCE REPORTS TO CONGRESS OF CERTAIN ADVANCE PLANNING AND CONSTRUCTION DESIGN COSTS

SEC. 801. Section 612 of the Military Construction Authorization Act, 1967 (31 U.S.C. 723a), relating to advance planning and design projects, is amended by striking out "$225,000" and inserting in lieu thereof "$250,000".

TRANSMISSION OF ANNUAL MILITARY CONSTRUCTION AUTHORIZATION REQUEST TO CONGRESS

SEC. 802. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section: 10 USC 2201 *et seq.*

"§ 2212. Transmission of annual military construction authorization request 10 USC 2212.

"The Secretary of Defense shall transmit to the Congress the annual request for military construction authorization for a fiscal year during the first ten days after the President transmits to the Congress the Budget for such fiscal year pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).".

(2) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"2212. Transmission of annual military construction authorization request.".

(b) The amendments made by subsection (a) shall apply with respect to fiscal year 1980 and each fiscal year thereafter. 10 USC 2212 note.

DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

SEC. 803. (a) The Secretary of each military department may develop for the use or benefit of the Department of Defense any geothermal energy resource within lands under his jurisdiction other than public lands administered by the Secretary of the Interior. 30 USC 1002a.

(b)(1) If the Secretary of a military department determines that it is in the interest of the Government to do so, he may contract, for a period not to exceed thirty years, for the provision and operation of energy production facilities on real property under his jurisdiction and for the purchase of energy produced from such facilities, except that no such contract may be made for the development of energy resources derived from nuclear or fossil fuel sources.

(2) Any contract under paragraph (1) may be made only—

(A) after the approval of the Secretary of Defense of the proposed contract; and

(B) after the Committees on Armed Services of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar value of such contract and the amount of energy to be delivered to the Government under such contract. Notification to congressional committees.

(c) This section shall take effect on October 1, 1978. Effective date. 30 USC 1002a note.

REQUIREMENT FOR USE OF SOLAR ENERGY SYSTEMS

SEC. 804. (a) Effective ninety days after the date of the enactment of this Act, the Secretary of Defense shall require that 25 per centum, 42 USC 5504a.

based on the estimated dollar value of the construction cost, of all new facilities except family housing that are placed under design shall include solar energy systems to the extent that engineering analyses demonstrate is cost effective.

(b) Effective on the date of the enactment of this Act, the Secretary of Defense shall require that all family housing authorized for construction shall include solar energy systems to the extent that engineering analyses demonstrate is cost effective.

(c) For the purposes of this section, a solar energy system shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility.

BASE CLOSURE AND REALINEMENT AMENDMENT

SEC. 805. Clause (B) of paragraph (1) of section 2687(d) of title 10, United States Code, is amended by striking out "five hundred" and inserting in lieu thereof "three hundred".

REAL ESTATE, PEASE AIR FORCE BASE

SEC. 806. No official acting on behalf of the Department of Defense or any of the military departments shall purchase, or directly or indirectly negotiate for the purchase of, any of the land contiguous to the existing boundaries of Pease Air Force Base, New Hampshire, without the express authorization of the Congress.

LAND CONVEYANCE, MEMPHIS, TENNESSEE

SEC. 807. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to Plough Inc., a Delaware corporation with principal offices in the city of Memphis, Tennessee, all right, title, and interest of the United States in and to the land and improvements which comprise the Marine Corps Reserve Center, Memphis, Tennessee. Such conveyance shall be made subject to such terms and conditions as the Secretary considers appropriate, but may not be made until a replacement facility for such Reserve Center is available in accordance with subsection (b).

Funds, availability.

(b) (1) In consideration for such conveyance by the Secretary under subsection (a), Plough Inc.—

(A) shall make available to the Secretary funds for the purchase of land and the purchase or making of improvements on such land which are acceptable to the Secretary as a replacement facility for such Marine Corps Reserve Center; or

(B) shall convey to the United States unencumbered fee simple title to land in the area of Memphis, Tennessee, which contains improvements acceptable to the Secretary as a replacement facility for such Marine Corps Reserve Center.

(2) In addition, Plough Inc., as a further condition of the conveyance under subsection (a), shall pay to the Secretary the cost of the relocation of the such Marine Corps Reserve Center from the facility on the land conveyed by the Secretary under subsection (a) to the facility on the land acquired by the Secretary under this subsection.

(c) The replacement facility to be provided under subsection (b) shall be designed to meet the current and foreseeable future requirements of the Marine Corps Reserve in and around Memphis, Tennessee, as determined by the Secretary.

(d) Funds made available under subsections (b) (1) and (2), and land conveyed under subsection (b) (1), shall be subject to terms and conditions which shall be agreed upon by the Secretary and Plough Inc. and which the Secretary considers to be in the public interest. If the cost of the replacement facility is less than the replacement cost or fair market value, whichever is greater, of the existing facility of such Marine Corps Reserve Center, Plough Inc. shall pay the amount of the difference between such costs to the United States, and such amount shall be deposited in the Treasury as miscellaneous receipts.

(e) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary is authorized to accept any land conveyed, or any funds made available, to the United States under subsection (b), and any such land shall be administered by the Secretary and any such funds may be obligated and disbursed by the Secretary. The authority under this section to place improvements on land (including site preparation) may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255).

LAND CONVEYANCE, NICEVILLE, FLORIDA

SEC. 808. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Niceville, Florida (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the land described in subsection (c).

(b) (1) The conveyance authorized in subsection (a) shall be made only if not later than one year after the date of the enactment of this Act, the City—

(A) conveys land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pays the United States an amount of money equal to such fair market value; or

(C) conveys land and pays an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If such land is used for any purpose other than a cemetery which is operated on a nonprofit basis, title to such land shall revert to the United States.

(3) The Secretary shall include in any instrument making such conveyance terms which will carry out the provisions of paragraph (2).

(c) The land referred to in subsection (a) is a portion of Eglin Air Force Base, Florida, containing 48.59 acres, more or less.

(d) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

SEC. 809. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Air Force Enlisted Men's Widows and Dependents Home Foundation, Incorporated (hereinafter in this section referred to as the "Foundation"), of Washington, District of Columbia, all right, title, and interest of the United States in and to the

land described in subsection (c). Such conveyance shall be made subject to such terms and conditions as the Secretary considers appropriate to carry out the provisions of this section.

(b) (1) In consideration for such conveyance made by the Secretary under subsection (a), the Foundation shall—

(A) convey land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pay the United States an amount of money equal to such fair market value; or

(C) convey land and pay an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If the land conveyed under subsection (a) is not used as a permanent location for facilities of the Foundation before the end of the ten-year period beginning on the date on which such land is conveyed, title to such land shall revert to the United States.

(3) If such reversion occurs, the Secretary shall pay to the Foundation an amount of money equal to 50 per centum of the fair market value of the land reverting to the United States. Such fair market value shall be determined as of the date on which such land was conveyed to the Foundation by the Secretary.

(4) No construction shall be started on such land until plans for such construction are approved by the Secretary.

(5) Notwithstanding sections 2733 of title 10, United States Code, sections 1346 and 2672 of title 28, United States Code, and section 715 of title 32, United States Code, the United States shall not be liable to the Foundation for any damage to, or diminution in value of, the land conveyed pursuant to this section or improvements thereon, if such damage or diminution of value is caused by any activity of the United States at Eglin Air Force Base.

(c) The land referred to in subsection (a) is a portion of Eglin Air Force Base, Florida, composed of two parcels containing a total of seventy-nine acres.

(d) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND CONVEYANCE, KANSAS CITY, MISSOURI

SEC. 810. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Central-Wyandotte Development Corp. (hereinafter in this section referred to as the "Corporation") of Kansas City, Missouri, subject to such terms and conditions as the Secretary considers appropriate, all right, title, and interests of the United States in and to the following lots, including all improvements on such lots, located in block 4, J. H. McGee's Addition, Kansas City, Jackson County, Missouri:

(1) The south 37½ feet of lot 47.

(2) Lot 48.

(3) The north 17.34 feet of lot 49.

(b) (1) In consideration for such conveyance by the Secretary under subsection (a), the Corporation shall convey to the United States unencumbered fee simple title to the following lots located in block 4, J. H. McGee's Addition, Kansas City, Jackson County, Missouri:

(A) The south 4.84 feet of lot 50.

(B) Lots 51 and 52.

(2) The Corporation shall make improvements on such lots in accordance with requirements of, and subject to the approval of, the Secretary.

(c) If the combined fair market value of the lots to be conveyed to the United States by the Corporation and the improvements made on such lots by the Corporation (and approved by the Secretary) is less than the fair market value of the lots conveyed by the Secretary to the Corporation, the Corporation shall pay the amount of the difference in such fair market values to the Secretary, and such amount shall be deposited in the Treasury as miscellaneous receipts.

(d) The cost of any survey necessary to complete any conveyance under this section shall be paid by the Corporation.

(e) The Secretary is authorized to accept any land conveyed to the United States under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, LOGAN, UTAH

SEC. 811. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to Utah State University (hereinafter in this section referred to as the "University"), an agency of the State of Utah, all right, title, and interest of the United States in and to improvements located on land which is leased from the University by the United States and which is located on the campus of the University in Logan, Cache County, Utah.

(b) (1) In consideration for such conveyance by the Secretary under subsection (a), the University shall—

(A) make improvements, for use as a United States Army Reserve Center, on land owned by the University at Eighteenth North Street and Second East Street, North Logan, Cache County, Utah; and

(B) lease to the Secretary, for a period of ninety-nine years and at a nominal amount of rent, the land upon which such improvements are made.

(2) Such improvements shall be made in accordance with requirements of, and subject to the approval of, the Secretary, except that the value of such improvements shall not be less than the fair market value of the existing United States Army Reserve Center on the land described in subsection (a).

(3) Funds for such improvements shall be provided as follows:

(A) The University shall contribute not less than $210,000.

(B) The United States shall contribute all additional funds needed to complete such improvements, not to exceed $501,756, from funds available without fiscal year limitation from the military construction appropriation for the Army Reserve for fiscal year 1978.

LAND CONVEYANCE, HAWAII

SEC. 812. (a) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to convey to the State of Hawaii, subject to the terms and conditions stated in this section and to such other terms and conditions as the Secretary of the Navy considers to be in the public interest, all right, title, and interest of the United States in and to certain land, with improvements thereon, referred to as the Navy Drum Storage Area and as described in subsection (c).

(b) In consideration for the conveyance by the United States of the property described in subsection (c), the State of Hawaii shall pay to the United States an amount which is the greater of (1) the total cost of a replacement facility for the improvements on such property, or (2) the fair market value of the property to be conveyed, as determined by the Secretary of the Navy. The money so paid shall be available for site preparation and construction by the Navy of new storage facilities to replace the Navy Drum Storage Facilities (Ewa Junction), and the Secretary is authorized to accept, hold, obligate, and disburse such money to accomplish such replacement.

(c) The land authorized to be conveyed to the State of Hawaii by subsection (a) is an area of land referred to as the Navy Drum Storage Area and comprising approximately 43.813 acres, including an area designated as the "public works center" and the "naval supply center", together with improvements thereon, as generally depicted on the Real Estate Summary Map, Ewa Junction, Oahu, Hawaii, Department of the Navy (revised December 4, 1975). The exact description and acreage of the land to be conveyed shall be determined by a survey as mutually agreed upon between the State of Hawaii and the Secretary of the Navy.

EFFECTIVE DATE FOR CONVEYANCES

SEC. 813. Sections 807 through 812 shall take effect on October 1, 1978.

Approved September 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1147 (Comm. on Armed Services) and No. 95-1448 (Comm. of Conference).

SENATE REPORT No. 95-847 accompanying S. 3079 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 22, considered and passed House.

July 12, considered and passed Senate, amended, in lieu of S. 3079.

Aug. 16, House agreed to conference report.

Aug. 17, Senate agreed to conference report.

Public Law 95-357
95th Congress

An Act

To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers.

Sept. 8, 1978
[H.R. 3532]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7396(a) of title 10, United States Code, is amended by striking the words "in the American Ephemeris and Nautical Almanac".

Naval Observatory publication, change of name.

Approved September 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1379 (Comm. on Armed Services).
SENATE REPORT No. 95-1137 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Aug. 24, considered and passed Senate.

Public Law 95-358
95th Congress

An Act

Sept. 8, 1978
[H.R. 7161]

To amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program.

Junior ROTC program, eligibility.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2031 (b)(1) of title 10, United States Code, is amended by inserting "or nationals" immediately after "citizens".

Approved September 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1390 (Comm. on Armed Services).
SENATE REPORT No. 95-1135 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Aug. 25, considered and passed Senate.

Public Law 95-359
95th Congress

An Act

To authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the United States Ship Wyoming without restriction as to the place of such exhibition.

Sept. 8, 1978
[H.R. 8471]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to provide for the delivery of custody of certain articles of historic interest from the United States Ship Nevada and the United States Ship Wyoming to the State of Nevada and the State of Wyoming, respectively", approved June 8, 1946 (60 Stat. 234), is amended—

U.S.S. *Wyoming*. Silver service and other articles, exhibition.

(1) by striking out the comma after "exhibition" and inserting in lieu thereof "and"; and

(2) by striking out ", and use by the University of Wyoming".

Approved September 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1380 (Comm. on Armed Services).
SENATE REPORT No. 95-1136 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Aug. 25, considered and passed Senate.

Public Law 95-360
95th Congress

An Act

Sept. 9, 1978
[S. 2543]

To amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

Fraudulent solicitations through the mails, prevention.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3005(a) of title 39, United States Code, is amended—

(1) by inserting "including the mailing of matter which is nonmailable under section 3001(d) of this title," after "false representations,"; and

(2) by adding at the end thereof the following: "For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.".

Approved September 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1401 accompanying H.R. 13369 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1077 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 14, considered and passed Senate.
Aug. 17, considered and passed House.

Public Law 95-361
95th Congress

An Act

To provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation.

Sept. 10, 1978
[H.R. 8397]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following described tract of land located in Pinal County, Arizona, and held in trust by the United States for the Papago Indian Tribe, is hereby declared to be an addition to and a part of the Papago Indian Reservation:

Papago Indian Tribe.
Lands in trust.

Beginning at the northeast corner of parcel numbered 1 within section 3, township 5 south, range 9 east, Gila and Salt River meridian, Arizona, described as follows:

line AP 1—AP 2 south 81 degrees 55 minutes west, 2.443 chains,
line AP 2—AP 3 south 20 degrees 35 minutes east, 0.800 chains,
line AP 3—AP 4 south 66 degrees 31 minutes east, 1.434 chains,
line AP 4—AP 5 south 0 degrees 55 minutes east, 3.030 chains,
line AP 5—AP 6 south 89 degrees 05 minutes west, 2.879 chains,
line AP 6—AP 7 north 0 degrees 55 minutes west, 4.212 chains,
line AP 7—AP 8 south 74 degrees 10 minutes west, 3.036 chains (end of course, intersect the north and south centre line of the southeast quarter of section 3),
line AP 8—AP 9 (on the north and south centre line of the southeast quarter) south 0 degrees 39 minutes east, 32.10 chains (end of course, the east 1/16 section corner of sections 3 and 10),
line AP 9—AP 10 (between sections 3 and 10) north 88 degrees 55 minutes east, 6.69 chains,
line AP 10—AP 1 north 0 degrees 42 minutes west, 33.33 chains (end of course, the place of beginning); consisting of 20 acres.

In accordance with applicable Federal law and regulations, these lands, which were conveyed to the United States in trust for the Papago Indian Tribe under the provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), are to be treated as and receive the same benefits and protection as other tribal trust lands within the boundaries of the Papago Indian Reservation.

25 USC 465.

Approved September 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1020 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1133 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 17, considered and passed House.
Aug. 25, considered and passed Senate.

Public Law 95-362
95th Congress

An Act

Sept. 11, 1978
[H.R. 185]

To amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment.

Coast Guard employees, transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2632 of title 10, United States Code, is amended as follows:

(1) In subsection (a)—

(a) by striking the words "of a military department" and inserting in lieu thereof the word "concerned"; and

(b) by striking the word "that" where it precedes the words "department, he may" and inserting in lieu thereof the word "his";

(2) In subsection (b) by striking the words "of the military department";

(3) In subsection (c), clause (A) of paragraph (2)—

(a) by striking the word "or" and inserting in lieu thereof a comma; and

(b) by inserting the words "or the Coast Guard," after the words "Marine Corps,".

Approved September 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1237 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-1122 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 5, considered and passed House.
Aug. 21, considered and passed Senate.

Public Law 95-363
95th Congress

An Act

To amend the Independent Safety Board Act of 1974 to authorize additional appropriations.

Sept. 11, 1978
[H. R. 12106]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Independent Safety Board Act Amendment of 1978".

Independent Safety Board Act Amendment of 1978.
49 U.S.C. 1901 note.

SEC. 2. Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. 1907) is amended by adding at the end thereof the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $16,420,000 for the fiscal year ending September 30, 1979, and $17,650,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

Appropriation authorization.

Approved September 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1169, Pt. 1 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 10, considered and passed House.
Aug. 14, considered and passed Senate, amended.
Aug. 17, House concurred in Senate amendment.

Public Law 95-364
95th Congress

Joint Resolution

Sept. 15, 1978
[H.J. Res. 773]

Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week".

Whereas the United States coastal and inland ports make a direct and significant contribution to our national economic well-being; and

Whereas much of the history of the United States has been shaped by its ports and interconnecting inland waterways and greatly influenced the growth of various communities; and

Whereas ports, in serving United States waterborne commerce, generate significant employment and direct dollar income to the local and regional economies they serve, as well as have a major impact on employment and production in areas far distant from their location; and

Whereas United States ports provide a wide variety of services and activities essential to the smooth and efficient conduct of foreign trade and have a direct impact on our balance of payments; and

Whereas American ports are a vital asset in maintaining a strong posture in national security: Now, therefore, be it

National Port Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the seven-day period beginning September 17, 1978, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1328 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1087 accompanying S.J. Res. 148 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 10, considered and passed House.
Aug. 25, considered and passed Senate.

Public Law 95-365
95th Congress

An Act

To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.

Sept. 15, 1978
[H.R. 8342]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 5520(a) of title 5, United States Code, is amended to read as follows: "The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (ii) is a resident of such city or county.".

Federal employees, local withholding taxes.

(b) The last sentence of section 5520(a) of title 5, United States Code, is amended by striking out "not a resident of the State" and inserting in lieu thereof "not a resident of, or whose regular place of Federal employment is not within, the State".

SEC. 2. The amendments made by the first section of this Act shall take effect on the 90th day after the date of the enactment of this Act.

Effective date. 5 USC 5520 note.

Approved September 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 594 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1083 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 19, considered and passed House.
Vol. 124 (1978): Aug. 18, considered and passed Senate.

Public Law 95-366
95th Congress

An Act

Sept. 15, 1978
[H.R. 8771]

To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8345 of title 5, United States Code, relating to payment of civil service retirement benefits, is amended by redesignating the last two subsections as subsections (h) and (i) and by adding at the end thereof the following new subsection:

Civil Service Commission, annuities to spouses of retired federal employees.

"(j)(1) Payments under this subchapter which would otherwise be made to an employee, Member, or annuitant based upon his service shall be paid (in whole or in part) by the Commission to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall only apply to payments made by the Commission under this subchapter after the date of receipt in the Commission of written notice of such decree, order, or agreement, and such additional information and documentation as the Commission may prescribe.

"Court."

"(3) As used in this subsection, 'court' means any court of any State or the District of Columbia.".

(b) Section 8346(a) of title 5, United States Code, is amended by striking out "section 8345(g)" and inserting in lieu thereof "subsections (h) and (j) of section 8345".

5 USC 8345 note.

SEC. 2. The amendments made by the first section of this Act shall only apply to payments made from the Civil Service Retirement and Disability Fund after the date of the enactment of this Act.

Approved September 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-713 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1084 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 23, considered and passed House.
Aug. 16, considered and passed Senate.

Public Law 95-367
95th Congress

An Act

To establish a comprehensive and coordinated national climate policy and program, and for other purposes.

Sept. 17, 1978
[H.R. 6669]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Climate Program Act".

National Climate Program Act.
15 USC 2901 note.

SEC. 2. FINDINGS.

15 USC 2901.

The Congress finds and declares the following:

(1) Weather and climate change affect food production, energy use, land use, water resources and other factors vital to national security and human welfare.

(2) An ability to anticipate natural and man-induced changes in climate would contribute to the soundness of policy decisions in the public and private sectors.

(3) Significant improvements in the ability to forecast climate on an intermediate and long-term basis are possible.

(4) Information regarding climate is not being fully disseminated or used, and Federal efforts have given insufficent attention to assessing and applying this information.

(5) Climate fluctuation and change occur on a global basis, and deficiencies exist in the system for monitoring global climate changes. International cooperation for the purpose of sharing the benefits and costs of a global effort to understand climate is essential.

(6) The United States lacks a well-defined and coordinated program in climate-related research, monitoring, assessment of effects, and information utilization.

SEC. 3. PURPOSE.

15 USC 2902.

It is the purpose of the Congress in this Act to establish a national climate program that will assist the Nation and the world to understand and respond to natural and man-induced climate processes and their implications.

SEC. 4. DEFINITIONS.

15 USC 2903.

As used in this Act, unless the context otherwise requires:

(1) The term "Office" means the National Climate Program Office.

(2) The term "Program" means the National Climate Program.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 5. NATIONAL CLIMATE PROGRAM.

15 USC 2904.

(a) ESTABLISHMENT.—The President shall establish a National Climate Program in accordance with the provisions, findings and purposes of this Act.

(b) DUTIES.—The President shall—

(1) promulgate the 5-year plans described in subsection (d)(9);

(2) define the roles in the Program of Federal officers, departments, and agencies, including the Departments of Agriculture, Commerce, Defense, Energy, Interior, State, and Transportation; the Environmental Protection Agency; the National Aeronautics

and Space Administration; the Council on Environmental Quality; the National Science Foundation; and the Office of Science and Technology Policy; and

(3) provide for Program coordination.

Establishment.

(c) NATIONAL CLIMATE PROGRAM OFFICE.—The Secretary shall establish within the Department of Commerce a National Climate Program Office not later than 30 days after the date of the enactment of this Act. The Office shall be the lead entity responsible for administering the Program. Each Federal officer, employee, department and agency involved in the Program shall cooperate with the Secretary in carrying out the provisions of this Act.

Administration.

(d) PROGRAM ELEMENTS.—The Program shall include, but not be limited to, the following elements:

(1) assessments of the effect of climate on the natural environment, agricultural production, energy supply and demand, land and water resources, transportation, human health and national security. Such assessments shall be conducted to the maximum extent possible by those Federal agencies having national programs in food, fiber, raw materials, energy, transportation, land and water management, and other such responsibilities, in accordance with existing laws and regulations. Where appropriate such assessments may include recommendations for action;

(2) basic and applied research to improve the understanding of climate processes, natural and man induced, and the social, economic, and political implications of climate change;

(3) methods for improving climate forecasts on a monthly, seasonal, yearly, and longer basis;

(4) global data collection, and monitoring and analysis activities to provide reliable, useful and readily available information on a continuing basis;

(5) systems for the management and active dissemination of climatological data, information and assessments, including mechanisms for consultation with current and potential users;

(6) measures for increasing international cooperation in climate research, monitoring, analysis and data dissemination;

(7) mechanisms for intergovernmental climate-related studies and services including participation by universities, the private sector and others concerned with applied research and advisory services;

(8) experimental climate forecast centers, which shall (A) be responsible for making and routinely updating experimental climate forecasts of a monthly, seasonal, annual, and longer nature, based on a variety of experimental techniques; (B) establish procedures to have forecasts reviewed and their accuracy evaluated; and (C) protect against premature reliance on such experimental forecasts; and

Five-year plan, submittal to Congress.

(9) a preliminary 5-year plan, to be submitted to the Congress for review and comment, not later than 180 days after the enactment of this Act, and a final 5-year plan to be submitted to the Congress not later than 1 year after the enactment of this Act, that shall be revised and extended biennially. Each plan shall establish the goals and priorities for the Program, including the intergovernmental program under section 6, over the subsequent 5-year period, and shall contain details regarding (A) the role of Federal agencies in the programs, (B) Federal funding required to enable the Program to achieve such goals, and (C) Program accomplish-

ments that must be achieved to ensure that Program goals are met within the time frame established by the plan.

(e) ADVISORY COMMITTEE AND INTERAGENCY GROUPS.—(1) The Secretary shall establish and maintain an advisory committee of users and producers of climate data, information and services to advise the Secretary and the Congress on the conduct of the Program. Members of such committee shall not be employed by the Federal Government and may receive compensation at the daily rate for GS-16 of the General Schedule for each day engaged in the actual performance of their duties for the committee and while so serving away from their homes or regular place of business may be allowed travel expenses, including per diem in lieu of subsistence. Establishment. 3 CFR, 1977 Comp., p. 142. 5 USC 5332 note.

(2) The Secretary shall establish and maintain such interagency groups as are necessary and appropriate to assist in carrying out responsibilities under this Act.

(f) COOPERATION.—(1) The Program shall be conducted so as to encourage cooperation with, and participation in the Program by, other organizations or agencies involved in related activities. For this purpose the Secretary shall cooperate and participate with other Federal agencies, and foreign, international, and domestic organizations and agencies involved in international or domestic climate-related programs.

(2) The Secretary and the Secretary of State shall cooperate in (A) providing representation at climate-related international meetings and conferences in which the United States participates, and (B) coordinating the activities of the Program with the climate programs of other nations and international agencies and organizations, including the World Meteorological Organization, the International Council of Scientific Unions, the United Nations Environmental Program, the United Nations Educational, Scientific, and Cultural Organization, the World Health Organization, and Food and Agriculture Organization.

(g) BUDGETING.—(1) Each Federal agency and department participating in the Program, shall prepare and submit to the Office of Management and Budget, on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations for the Program for the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, multiagency request. Annual appropriation request to OMB.

(2) Section 304 of the Act of October 18, 1962 (31 U.S.C. 25) (relating to preparation of horizontal budgets for meteorology), is amended— Horizontal budgets.

(A) by inserting "and of the National Climate Program established under the National Climate Program Act" after "meteorology", and

(B) by striking out "aspects of the program" and inserting in lieu thereof "aspects of the programs".

The amendments made by the preceding sentence shall apply with respect to budgets submitted for fiscal years beginning 6 months or more after the date of the enactment of this Act. Effective date. 31 USC 25 note.

SEC. 6. INTERGOVERNMENTAL CLIMATE PROGRAMS. 15 USC 2905.

(a) ESTABLISHMENT.—The Secretary shall establish a program for Federal and State cooperative activities in climate studies and advisory services. The Secretary is authorized to make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies and to other persons or institutions qualified to conduct climate-related studies or provide Federal and State cooperative activities. Grants.

Limitation.
Restriction.

climate-related services. Such grants may be made for not more than 50 percent of the costs, in any one year, of the research conducted or services provided under the grant. Federal funds received from other sources shall not be used to pay the remaining share of the cost of such research or services. The Secretary shall work with other appropriate mission agencies in conducting this program.

(b) DETAIL OF THE INTERGOVERNMENTAL PROGRAM.—The intergovernmental program shall provide, among others, the following State and regional services and functions:

(1) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy;

(2) atmospheric data collection and monitoring on a statewide and regional basis;

(3) advice to regional, State, and local government agencies regarding climate-related issues;

(4) information to users within the State regarding climate and climatic effects; and

(5) information to the Secretary regarding the needs of persons within the State for climate-related services, information and data.

(c) INTERGOVERNMENTAL PROGRAM REQUIREMENTS.—Prior to making a grant to any State or group of States under this section, the Secretary shall find that—

(1) the State, or each of the States in a group, has adopted a State climate program in accordance with the provisions of this Act and rules and regulations promulgated by the Secretary; and

(2) the State, or each of the States in a group has—

(A) integrated its climate program with the Program; and

(B) established an effective mechanism for consultation and coordination with Federal and local government officials and users within the State.

The Secretary shall insure that grants made to a State or group of States under this section are made on an equitable basis.

15 USC 2906.
Report to President and congressional committees.

SEC. 7. ANNUAL REPORT.

The Secretary shall prepare and submit to the President and the authorizing committees of the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act during the preceding fiscal year, including—

(a) a summary of the achievements of the Program during the previous fiscal year;

(b) an analysis of the progress made toward achieving the goals and objectives of the Program;

(c) a copy of the 5-year plan and any changes made in such plan;

(d) a summary of the multiagency budget request for the Program of subsection 5(g); and

(e) any recommendations for additional legislation which may be required to assist in achieving the purposes of the Act.

15 USC 2907.

SEC. 8. CONTRACT AND GRANT AUTHORITY; RECORDS AND AUDITS.

(a) Functions vested in any Federal officer or agency by this Act or under the Program may be exercised through the facilities and personnel of the agency involved or, to the extent provided or approved in advance in appropriation Acts, by other persons or entities under contracts or grant arrangements entered into by such officer or agency.

(b)(1) Each person or entity to which Federal funds are made available under a contract or grant arrangement as authorized by this Act shall keep such records as the Director of the Office shall prescribe, including records which fully disclose the amount and disposition by such person or entity of such funds, the total cost of the activities for which such funds were so made available, the amount of that portion of such cost supplied from other sources, and such other records as will facilitate an effective audit. Recordkeeping.

(2) The Director of the Office and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of 3 years after the completion of the activities (referred to in paragraph (1)) of any person or entity pursuant to any contract or grant arrangement referred to in subsection (a), have access for the purpose of audit and examination to any books, documents, papers, and records of such person or entity which, in the judgment of the Director or the Comptroller General, may be related or pertinent to such contract or grant arrangement. Accessibility to records.

SEC. 9. AUTHORIZATION FOR APPROPRIATIONS. 15 USC 2908.

(a) GENERAL AUTHORIZATION OF APPROPRIATION.—In addition to any other funds otherwise authorized to be appropriated for the purpose of conducting climate-related programs, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, not to exceed $50,000,000 for the fiscal year ending September 30, 1979, and not to exceed $65,000,000 for the fiscal year ending September 30, 1980.

(b) AUTHORIZATION OF APPROPRIATION FOR GRANTS.—There are authorized to be appropriated to the Secretary sums not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and not to exceed $10,000,000 for the fiscal year ending September 30, 1980, as may be necessary for grants under section 6 of this Act, to remain available until expended.

Approved September 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-266 (Comm. on Science and Technology) and No. 95-1489 (Comm. of Conference).
SENATE REPORT No. 95-740 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 9, considered and passed House.
Vol. 124 (1978): Apr. 24, considered and passed Senate, amended.
Aug. 17, Senate agreed to conference report.
Sept. 6, House agreed to conference report.

Public Law 95-368
95th Congress

An Act

Sept. 17, 1978
[H.R. 2931]

To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes.

Federal employees. Uniformity in health benefits, establishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8902 of title 5, United States Code, relating to contracts for Federal employee health benefits plans, is amended by adding at the end thereof the following new subsection:

"(m)(1) The provisions of any contract under this chapter which relate to the nature or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of health services for the care and treatment of any particular health condition, the carrier shall provide, pay, or reimburse up to the limits of its contract for any such health service properly provided by any person licensed under State law to provide such service if such service is provided to an individual covered by such contract who is a member of a medically underserved population (within the meaning of section 1302(7) of the Public Health Service Act (42 U.S.C. 300e–17)).

"(B) The provisions of subparagraph (A) shall not apply to contracts entered into providing prepayment plans described in section 8903(4) of this title.".

SEC. 2. Section 8901(8) of title 5, United States Code, is amended by striking out "before January 1, 1964" and inserting in lieu thereof "after December 31, 1978, and before January 1, 1980".

Effective date; limitation. 5 USC 8902 note.

SEC. 3. The provisions of section 8902(m)(2) of title 5, United States Code, as added by the first section of this Act, shall apply to services provided under any contract entered into or renewed after December 31, 1979; except that such provisions shall not apply to services provided after December 31, 1984.

Approved September 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-282 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-903 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): June 20, considered and passed House.
Vol. 124 (1978): June 5, considered and passed Senate, amended.
Aug. 10, House concurred in certain Senate amendments, in others with amendments.
Aug. 25, Senate concurred in House amendments.

Public Law 95-369
95th Congress

An Act

To provide for Federal regulation of participation by foreign banks in domestic financial markets.

Sept. 17, 1978
[H.R. 10899]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Banking Act of 1978.
12 USC 3101 note.

SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1978".

12 USC 3101.

(b) For the purposes of this Act—

(1) "agency" means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency" means an agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia;

(11) "State agency" means an agency of a foreign bank established and operating under the laws of any State;

(12) "State branch" means a branch of a foreign bank established and operating under the laws of any State;

(13) the terms "bank", "bank holding company", "company", "control", and "subsidiary" have the same meanings assigned to those terms in the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

12 USC 1841.

(14) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied.

DIRECTORS OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

EDGE ACT CORPORATIONS

12 USC 611a note. 12 USC 611-631.

SEC. 3. (a) It is the purpose of this section to eliminate or modify provisions in section 25(a) of the Federal Reserve Act that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. In furtherance of such purpose, the Congress believes that the Board should review and revise its rules, regulations, and interpretations issued pursuant to section 25(a) of the Federal Reserve Act to eliminate or modify any restrictions, conditions, or limitations not required by section 25(a) of the Federal Reserve Act, as amended, that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad, or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. Rules and regulations pursuant to this subsection and section 25(a) of the Federal Reserve Act shall be issued not later than 150 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued.

Effective date.

(b) Section 25(a) of the Federal Reserve Act is amended by adding after the first paragraph (12 U.S.C. 611), the following new paragraph:

12 USC 611a.

"The Congress hereby declares that it is the purpose of this section to provide for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions in the United States and abroad; to afford to the United States exporter and importer in particular, and to United

States commerce, industry, and agriculture in general, at all times a means of financing international trade, especially United States exports; to foster the participation by regional and smaller banks throughout the United States in the provision of international banking and financing services to all segments of United States agriculture, commerce, and industry, and, in particular small business and farming concerns; to stimulate competition in the provision of international banking and financing services throughout the United States; and, in conjunction with each of the preceding purposes, to facilitate and stimulate the export of United States goods, wares, merchandise, commodities, and services to achieve a sound United States international trade position. The Board of Governors of the Federal Reserve System shall issue rules and regulations under this section consistent with and in furtherance of the purposes described in the preceding sentence, and, in accordance therewith, shall review and revise any such rules and regulations at least once every five years, the first such period commencing with the effective date of rules and regulations issued pursuant to section 3(a) of the International Banking Act of 1978, in order to ensure that such purposes are being served in light of prevailing economic conditions and banking practices.". Regulations.

(c) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(d) The first sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus"; and the first sentence of the twelfth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 618) is amended by inserting a period after "and in section 25 of the Federal Reserve Act as amended", and by striking the remainder of the sentence.

(e) The third sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event less than ten per centum of its deposits" and inserting in lieu thereof "for member banks of the Federal Reserve System".

(f) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, one or more foreign banks, institutions organized under the laws of foreign countries which own or control foreign banks, or banks organized under the laws of the United States, the States of the United States, or the District of Columbia, the controlling interests in which are owned by any such foreign banks or institutions, may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of

any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section, and the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section 2 of the Bank Holding Company Act of 1956. For the purposes of the preceding sentence of this paragraph the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1978.".

Definitions.

12 USC 1841.

Report to Congress.
12 USC 247 note.

(g) The Board shall report to the Congress not later than 270 days after the date of enactment of this Act its recommendations with respect to permitting corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, to become members of Federal Reserve Banks.

12 USC 601–631.

12 USC 247 note.

(h) As part of its annual report pursuant to section 10 of the Federal Reserve Act, the Board shall include its assessment of the effects of the amendments made by this Act on the capitalization and activities of corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, and on commercial banks and the banking system.

12 USC 241–247.

12 USC 601–631.

FEDERAL BRANCHES AND AGENCIES

12 USC 3102.

SEC. 4. (a) Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish one or more Federal branches or agencies in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

Regulations.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. Except as otherwise specifically provided in this Act or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year: (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the foreign bank, and if the foreign bank has more than one Federal branch or agency the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal agency shall not be required to become an insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act.

12 USC 38.

12 USC 221.

12 USC 1813.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not receive deposits or exercise fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g)(1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6 of this Act, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State Bank. Regulations. 12 USC 24.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long

as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

Conditions and requirements.

(4) Subject to such conditions and requirements as may be prescribed by the Comptroller, each foreign bank shall hold in each State in which it has a Federal branch or agency, assets of such types and in such amount as the Comptroller may prescribe by general or specific regulation or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest. In determining compliance with any such prescribed asset requirements, the Comptroller shall give credit to (A) assets required to be maintained pursuant to paragraphs (1) and (2) of this subsection, (B) reserves required to be maintained pursuant to section 7(a) of this Act, and (C) assets pledged, and surety bonds payable, to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits. The Comptroller may prescribe different asset requirements for branches or agencies in different States, in order to ensure competitive equality of Federal branches and agencies with State branches and agencies and domestic banks in those States.

(h) A foreign bank with a Federal branch or agency operating in any State may (1) with the prior approval of the Comptroller establish and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity for hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, deny such opportunity for hearing if he determines such denial to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

Hearing.

(j)(1) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of any such foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of

the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

(2) In any receivership proceeding ordered pursuant to this subsection (j), whenever there has been paid to each and every depositor and creditor of such foreign bank whose claim or claims shall have been proved or allowed, the full amount of such claims arising out of transactions had by them with any branch or agency of such foreign bank located in any State of the United States, except (A) claims that would not represent an enforceable legal obligation against such branch or agency if such branch or agency were a separate legal entity, and (B) amounts due and other liabilities to other offices or branches or agencies of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign bank, and all expenses of the receivership, the Comptroller or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the foreign bank, shall turn over the remainder, if any, of the assets and proceeds of such foreign bank to the head office of such foreign bank, or to the duly appointed domiciliary liquidator or receiver of such foreign bank.

INTERSTATE BANKING OPERATIONS

SEC. 5. (a) Except as provided by subsection (b), (1) no foreign bank may directly or indirectly establish and operate a Federal branch outside of its home State unless (A) its operation is expressly permitted by the State in which it is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such Federal branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (2) no foreign bank may directly or indirectly establish and operate a State branch outside of its home State unless (A) it is approved by the bank regulatory authority of the State in which such branch is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such State branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (3) no foreign bank may directly or indirectly establish and operate a Federal agency outside of its home State unless its operation is expressly permitted by the State in which it is to be operated; (4) no foreign bank may directly or indirectly establish and operate a State agency or commercial lending company subsidiary outside of its home State, unless its establishment and operation is approved by the bank regulatory authority of the State in which it is to be operated; and (5) no foreign bank may directly or indirectly acquire any voting shares of, interest in, or substantially all of the assets of a bank

12 USC 3103.

12 USC 611–631.

located outside of its home State if such acquisition would be prohibited under section 3(d) of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State. Notwithstanding any other provisions of Federal or State law, deposits received by any Federal or State branch subject to the limitations of an agreement or undertaking imposed under this subsection shall not be subject to any requirement of mandatory insurance by the Federal Deposit Insurance Corporation.

12 USC 1842.

(b) Unless its authority to do so is lawfully revoked otherwise than pursuant to this section, a foreign bank, notwithstanding any restriction or limitation imposed under subsection (a) of this section, may establish and operate, outside its home State, any State branch, State agency, or bank or commercial lending company subsidiary which commenced lawful operation or for which an application to commence business had been lawfully filed with the appropriate State or Federal authority, as the case may be, on or before July 27, 1978.

(c) For the purposes of this section, the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than one State, is whichever of such States is so determined by election of the foreign bank, or, in default of such election, by the Board.

INSURANCE OF DEPOSITS

12 USC 3104.

SEC. 6. (a) No foreign bank may establish or operate a Federal branch which receives deposits of less than $100,000 unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

12 USC 1813.

(b) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the branch will not thereafter accept deposits of less than $100,000, or unless the Federal Deposit Insurance Corporation determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(c)(1) The Federal Deposit Insurance Act (12 U.S.C. 1811–1832) is amended as set forth hereinafter in this subsection, in which section numbers not otherwise identified refer to sections of that Act.

(2) Section 3(h) is amended by inserting "(including a foreign bank having an insured branch)" immediately after "(h) The term 'insured bank' means any bank".

(3) Section 3(j) is amended by inserting "or of a branch of a foreign bank" immediately before the period at the end thereof.

(4) Section 3(m) is amended (A) by changing "(m) The" to read "(m)(1) Subject to the provisions of paragraph (2) of this subsection, the", and (B) by adding at the end thereof the following new paragraph:

"(2) In the case of any deposit in a branch of a foreign bank, the ther 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or

"(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act;

and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.".

(5) Section 3(q) is amended to read as follows: 12 USC 1813.

"(q) The term 'appropriate Federal banking agency' shall mean—

"(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank),

"(B) in the case of any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) in the case of any foreign bank which does not operate an insured branch,

"(D) in the case of any agency or commercial lending company other than a Federal agency, and

"(E) in the case of supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act, and

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured Bank (except a District bank) or a foreign bank having an insured branch.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank or any commercial lending company owned or controlled by a foreign bank.". Insured bank.

(6) Section 3 is amended by adding at the end thereof the following new subsections: Definitions.

"(r) The terms 'foreign bank' and 'Federal branch' shall be construed consistently with the usage of such terms in the International Banking Act of 1978.

"(s) The term 'insured branch' means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of this Act.".

12 USC 1815.

(7) Section 5 is amended (A) by changing "SEC. 5." to read "SEC. 5. (a)" and (B) by adding at the end thereof the following new subsections:

"(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and approval by the Board of Directors, may become an insured branch. Before approving any such application, the Board of Directors shall give consideration to—

"(1) the financial history and condition of the bank,

"(2) the adequacy of its capital structure,

"(3) its future earnings prospects,

"(4) the general character of its management, including but not limited to the management of the branch proposed to be insured,

"(5) the convenience and needs of the community to be served by the branch,

"(6) whether or not its corporate powers, insofar as they will be exercised through the proposed insured branch, are consistent with the purposes of this Act, and

"(7) the probable adequacy and reliability of information supplied and to be supplied by the bank to the Corporation to enable it to carry out its functions under this Act.

"(c)(1) Before any branch of a foreign bank becomes an insured branch, the bank shall deliver to the Corporation or as the Corporation may direct a surety bond, a pledge of assets, or both, in such amounts and of such types as the Corporation may require or approve, for the purpose set forth in paragraph (4) of this subsection.

Regulations.

"(2) After any branch of a foreign bank becomes an insured branch, the bank shall maintain on deposit with the Corporation, or as the Corporation may direct, surety bonds or assets or both, in such amounts and of such types as shall be determined from time to time in accordance with such regulations as the Board of Directors may prescribe. Such regulations may impose differing requirements on the basis of any factors which in the judgment of the Board of Directors are reasonably related to the purpose set forth in paragraph (4).

"(3) The Corporation may require of any given bank larger deposits of bonds and assets than required under paragraph (2) of this subsection if, in the judgment of the Corporation, the situation of that bank or any branch thereof is or becomes such that the deposits of bonds and assets otherwise required under this section would not adequately fulfill the purpose set forth in paragraph (4). The imposition of any such additional requirements may be without notice or opportunity for hearing, but the Corporation shall afford an opportunity to any such bank to apply for a reduction or removal of any such additional requirements so imposed.

"(4) The purpose of the surety bonds and pledges of assets required under this subsection is to provide protection to the deposit insurance fund against the risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets, and personnel are in large part outside the jurisdiction of the United States. In the implementation of its authority under this subsection, however, the Corporation shall endeavor to avoid imposing requirements on such banks which would

unnecessarily place them at a competitive disadvantage in relation to domestically incorporated banks.

"(5) In the case of any failure or threatened failure of a foreign bank to comply with any requirement imposed under this subsection (c), the Corporation, in addition to all other administrative and judicial remedies, may apply to any United States district court, or United States court of any territory, within the jurisdiction of which any branch of the bank is located, for an injunction to compel such bank and any officer, employee, or agent thereof, or any other person having custody or control of any of its assets, to deliver to the Corporation such assets as may be necessary to meet such requirement, and to take any other action necessary to vest the Corporation with control of assets so delivered. If the court shall determine that there has been any such failure or threatened failure to comply with any such requirement, it shall be the duty of the court to issue such injunction. The propriety of the requirement may be litigated only as provided in chapter 7 of title 5 of the United States Code, and may not be made an issue in an action for an injunction under this paragraph.". Injunction. 5 USC 701 *et seq.*

(8) The first sentence of section 7(a)(1) is amended by inserting "and each foreign bank having an insured branch which is not a Federal branch" immediately before "shall make to the Corporation". 12 USC 1817.

(9) The first sentence of section 7(a)(3) is amended (A) by inserting "and each foreign bank having an insured branch (other than a Federal branch)" immediately before "shall make to the Corporation" and (B) by inserting ", each foreign bank having an insured branch which is a Federal branch," immediately before "and each insured district".

(10) Section 7(a) is amended by adding at the end thereof the following new paragraph:

"(7) In respect of any report required or authorized to be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.".

(11) Section 7(b) is amended (A) by changing "(4) A bank's assessment base" to read "(4)(A) Except as provided in subparagraph (B) of this paragraph, a bank's assessment base" and (B) by adding at the end thereof the following new subparagraph:

"(B) In determining the assessment base and assessment base additions and deductions of a foreign bank having an insured branch, such adjustments shall be made as the Board of Directors may by regulation prescribe in order to provide equitable treatment for domestic and foreign banks.". Regulations.

(12) Section (7)(j)(1) is amended (A) by changing "(j)(1) Whenever" to read "(j)(1)(A) Except as provided in subparagraph (B) of this paragraph, whenever", and (B) by adding at the end thereof the following new subparagraph:

"(B) The Board of Directors may by regulation exempt from the reporting requirements of subparagraph (A) of this paragraph any transaction in the stock of a foreign bank to the extent that the making of any such report would be prohibited by the laws of the country of domicile of the foreign bank in effect at the time such bank makes its application under section 5(b) of this Act, or rendered impracticable by the customs and usages of such country, but the Board of Directors Regulations. 12 USC 1815.

shall weigh the existence of any such prohibition or impracticability in connection with its consideration of the factors enumerated in sections 5(b)(4) and 5(b)(7).".

12 USC 1815.

12 USC 1817.

(13) Section 7(j)(2) is amended by changing "(2) Whenever" to read "(2)(A) Except as provided in subparagraph (B) of this paragraph, whenever" and by adding at the end thereof the following new subparagraphs:

"(B) The requirements of subparagraph (A) of this paragraph shall not apply in the case of a loan secured by the stock of a foreign bank if the lending bank is a foreign bank under the laws of whose domicile the report otherwise required by subparagraph (A) would be prohibited.

"(C) No foreign bank under the laws of whose domicile a report in compliance with subparagraph (A) of this paragraph would be prohibited in the case of a loan to acquire the stock of an insured bank which is not a foreign bank may make, acquire, or retain any such loan. Each report of condition filed under subsection (a) by any foreign bank to which this subparagraph applies shall contain either a statement of the amount of each loan made, retained, or acquired by the foreign bank in violation of this subparagraph during the period from the date it became an insured bank or the date of its last report of condition, whichever is later, to the date of the report of condition, or a statement that no such loans were made and no such loans were outstanding during such period.".

12 USC 1818.

(14) The first sentence of section 8(a) is amended by inserting ", a foreign bank having an insured branch which is a Federal branch, a foreign bank having an insured branch which is required to be insured under section 6 (a) or (b) of the International Banking Act of 1978," immediately after "(except a national member bank".

(15) Section 8 is amended by adding at the end thereof the following new subsection:

"(r)(1) Except as otherwise specifically provided in this section, the provisions of this section shall be applied to foreign banks in accordance with this subsection.

"(2) An act or practice outside the United States on the part of a foreign bank or any officer, director, employee, or agent therof may not constitute the basis for any action by any officer or agency of the United States under this section, unless—

"(A) such officer or agency alleges a belief that such act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any one or more States which, in and of itself, would constitute an appropriate basis for action by a Federal officer or agency under this section; or

"(B) the alleged act or practice is one which, if proven, would, in the judgment of the Board of Directors, adversely affect the insurance risk assumed by the Corporation.

"(3) In any case in which any action or proceeding is brought pursuant to an allegation under paragraph (2) of this subsection for the suspension or removal of any officer, director, or other person associated with a foreign bank, and such person fails to appear promptly as a party to such action or proceeding and to comply with any effective order or judgment therein, any failure by the foreign bank to secure his removal from any office he holds in such bank and from any further participation in its affairs shall, in and of itself, constitute grounds for termination of the insurance of the deposits in any branch of the bank.

"(4) Where the venue of any judicial or administrative proceeding under this section is to be determined by reference to the location of the home office of a bank, the venue of such a proceeding with respect to a foreign bank having one or more branches or agencies in not more than one judicial district or other relevant jurisdiction shall be within such jurisdiction. Where such a bank has branches or agencies in more than one such jurisdiction, the venue shall be in the jurisdiction within which the branch or branches or agency or agencies involved in the proceeding are located, and if there is more than one such jurisdiction, the venue shall be proper in any such jurisdiction in which the proceeding is brought or to which it may appropriately be transferred.

"(5) Any service required or authorized to be made on a foreign bank may be made on any branch or agency located within any State, but if such service is in connection with an action or proceeding involving one or more branches or one or more agencies located in any State, service shall be made on at least one branch or agency so involved.".

(16)(A) The first sentence of section 10(b) is amended (i) by inserting "any insured State branch of a foreign bank, any State branch of a foreign bank making application to become an insured bank," immediately after "(except a District bank)", and (ii) by inserting "or branch" before the comma after "any closed insured bank". 12 USC 1820.

(B) The second sentence of section 10(b) is amended by inserting ", insured Federal branch of a foreign bank," between the words "national bank" and "or District bank".

(C) The third sentence of section 10(b) is amended by inserting ", and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act shall be required as a condition to the insurance of any deposits" immediately before the period at the end thereof.

(17) Section 11(c) is amended by inserting ", insured Federal branch of a foreign bank," immediately before "or insured District bank,". 12 USC 1821.

(18) The first sentence of section 11(e) is amended by inserting "or any insured branch (other than a Federal branch) of a foreign bank" immediately before "shall have been closed".

(19) The second sentence of section 11(e) is amended by changing "such insured State bank," to read "such insured State bank or insured branch of a foreign bank,".

(20) Section 11(f) is amended by inserting "or insured branch of a foreign bank" immediately before "shall have been closed".

(21) The first sentence of section 11(g) is amended by inserting ", insured branch of a foreign bank," immediately before "or District bank,".

(22) The third sentence of section 11(g) is amended by changing "In the case of any closed insured bank," to read "In the case of any closed insured bank or closed insured branch of a foreign bank,".

(23) Section 12(a) is amended by inserting ", branch of a foreign bank," immediately after "a closed national bank". 12 USC 1822.

(24) Section 13 is amended by adding at the end thereof the following new subsection: 12 USC 1823.

"(g) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen a closed insured bank or to avert the closing of an insured bank may be used with

respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the insurance fund which the exercise of such powers would entail.".

12 USC 1828. (25) Section 18(c) is amended by adding at the end thereof the following new paragraph:

"(11) The provisions of this subsection do not apply to any merger transaction involving a foreign bank if no party to the transaction is principally engaged in business in the United States.".

(26) Section 18(d) is amended by inserting the following new sentence immediately after the first sentence thereof: "No foreign bank may move any insured branch from one location to another without such consent.".

(27) The first sentence of section 18(g) is amended by inserting "and in insured branches of foreign banks" immediately after "in insured nonmember banks".

(28) Section 18(j) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any foreign bank having an insured branch with respect to dealings between such bank and any affiliate thereof.".

12 USC 1829b. (29) Section 21 is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.".

12 USC 1831b. (30) The first sentence of section 25(a) is amended by inserting "insured branch of a foreign bank," immediately after "No insured bank,".

AUTHORITY OF FEDERAL RESERVE SYSTEM

12 USC 3105. SEC. 7. (a)(1)(A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

12 USC 461, 374a, 464–466, 371a, 371b, 371b–1, 374, 463.
12 USC 221.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any State branch or State agency any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks

that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph: 12 USC 347d. 12 USC 82, 342-347, 347c, 372.

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms 'branch', 'agency', and 'foreign bank' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978.". Definitions.

(c)(1) The Board may make examinations of each branch or agency of a foreign bank, and of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, the cost of which shall be assessed against and paid by such foreign bank or company, as the case may be. The Board shall, insofar as possible, use the reports of examinations made by the Comptroller, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority for the purposes of this subsection. 12 USC 3105.

(2) Each branch or agency of a foreign bank, other than a Federal branch or agency, shall be subject to paragraph 20 and the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 335 and 324) to the same extent and in the same manner as if the branch or agency were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) On or before two years after enactment of this Act, the Board after consultation with the appropriate State bank supervisory authorities shall report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate its recommendations with respect to the implementation of this Act, including any recommended requirements such as limitations on loans to affiliates or capital adequacy requirements which should be imposed on foreign banks to carry out the purposes of this Act. Not later than one hundred and eighty days after the enactment of this Act, the Board shall report to such Committees the steps which have been taken to consult and cooperate with State bank supervisory authorities as required by subsection (a)(1)(B). Report to congressional committees.

NONBANKING ACTIVITIES

12 USC 3106.

SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not by reason of this subsection be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.

12 USC 1841 note.

12 USC 1850, 1971–1978.

12 USC 1842.

(b) Until December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date.

(c) After December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on July 26, 1978 (or on a date subsequent to July 26, 1978, in the case of activities carried on as the result of the direct or indirect acquisition, pursuant to a binding written contract entered into on or before July 26, 1978, of another company engaged in such activities at the time of acquisition), and may engage directly or through an affiliate in nonbanking activities in the United States which are covered by an application to engage in such activities which was filed on or before July 26, 1978; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection (c) may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which engages in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States. Except in the case of affiliates described in the preceding sentence, nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after July 26, 1978, of any interest in or the assets of a going concern engaged in such activities. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of con-

12 USC 1841 note.

trol of shares in any company carrying on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company, and the term "domestically-controlled affiliate covered in 1978" shall mean any affiliate the majority of whose voting shares is owned by a company or group of companies organized under the laws of the United States or any State thereof, if it has been under continuous domestic majority-controlling ownership since July 26, 1978, and if a foreign bank or group of foreign banks does not own or control, directly or indirectly, 25 per centum or more of its voting shares. Definitions.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as a "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, or section 105 of the Bank Holding Company Act Amendments of 1970, except that any such branch, agency or commercial lending company subsidiary shall be deemed a "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c)(1), 4(c)(2), 4(c)(3), and 4(c)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(1), (2), (3), and (4)) to any foreign bank or other company to which subsection (a) applies. 12 USC 1841 note. 12 USC 1850. 12 USC 1971-1978.

(e) Section 2(h) of the Bank Holding Company Act of 1956 is amended (1) by striking out "(h) The" and inserting in lieu thereof "(h)(1) Except as provided by paragraph (2), the", (2) by striking out the proviso, and (3) by inserting at the end thereof the following: 12 USC 1841.

"(2) The prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such exempt foreign company (A) may engage in or hold shares of a company engaged in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this Act and under regulations or orders issued by the Board under this Act, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 4(c)(8) or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such exempt company on terms more favorable than those afforded similar borrowers in the United States.". 12 USC 1843.

STUDY OF FOREIGN TREATMENT OF UNITED STATES BANKS

SEC. 9. The Secretary of the Treasury, in conjunction with the Secretary of State, the Board, the Comptroller, and the Federal Deposit Insurance Corporation shall within 90 days after enactment of this 12 USC 601 note.

bill commence a study of the extent to which banks organized under the laws of the United States or any State thereof are denied, whether by law or practice, national treatment in conducting banking operations in foreign countries, and the effects, if any, of such discrimination on United States exports to those countries. On or before one year after enactment of this section, the Secretary of the Treasury shall be required to report his findings, conclusions, and recommendations from such study to the Congress and describe the efforts undertaken by the United States to eliminate any foreign laws or practices that discriminate against banks organized under the laws of the United States or any State thereof, or that serve as a barrier to the financing of United States exports to any foreign country.

Report to Congress.

REPRESENTATIVE OFFICES

Rules.
12 USC 3107.

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraph:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

"Subsidiary."

12 USC 1841.

AMENDMENT TO THE BANKING ACT OF 1933

SEC. 12. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following: "(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or,".

REGULATION AND ENFORCEMENT

12 USC 3108.

SEC. 13. (a) The Comptroller, the Board, and the Federal Deposit Insurance Corporation, are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this Act or any amendment made by this Act may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency as defined in that Act. 12 USC 1818.

(c) In the case of any provision of the Federal Reserve Act to which a foreign bank or branch thereof is subject under this Act, and which is made applicable to nonmember insured banks by the Federal Deposit Insurance Act, whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision, the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports. 12 USC 226. 12 USC 1811 note.

REPORT ON MC FADDEN ACT

SEC. 14. (a) The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board, the Comptroller, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress containing his recommendations concerning the applicability of the McFadden Act to the present financial, banking, and economic environment, including an analysis of the effects of any proposed amendment to such Act on the structure of the banking industry and on the financial and economic environment in general. 12 USC 36 note. 44 Stat. 1224.

(b) The report required by subsection (a) shall be transmitted to the Congress not later than one year after the date of enactment of this Act. Transmittal to Congress, effective date.

Approved September 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-910 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORT No. 95-1073 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 6, considered and passed House.
Aug. 15, considered and passed Senate, amended.
Aug. 17, House concurred in Senate amendment.

Public Law 95-370
95th Congress

An Act

Sept. 17, 1978
[H.R. 12240]

To authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) The classified annex to the joint explanatory statement prepared by the Committee of Conference to accompany the Conference Report on H.R. 12240 of the Ninety-fifth Congress shall be deemed to reflect the final action of the Congress with respect to the authorization of appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the United States Government, including specific amounts for activities specified in subsection (a). Copies of such annex shall be made available to the Committees on Appropriations of the House of Representatives and the Senate and to the appropriate elements of the United States Government for which funds are authorized by this Act under subsection (a).

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is prohibited by the Constitution or laws of the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1979 the sum of $12,700,000 to provide the support necessary to permit the Director of Central Intelligence to fulfill his responsibility for directing the substantive functions and managing the resources for intelligence activities.

(b) For fiscal year 1979 the Intelligence Community Staff is authorized an end strength ceiling of two hundred and sixty-nine full-time

employees. Such personnel may be permanent employees or employees on detail from other elements of the United States Government so long as they are properly counted within the ceiling and there is a mix of positions to allow appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities. Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbursable basis for a period of less than one year for performance of temporary functions as required by the Director of Central Intelligence.

(c) Except as provided in subsection (b) and until otherwise provided by law, the activities of the Intelligence Community Staff shall be governed by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability System for the fiscal year 1979 the sum of $43,500,000.

TITLE IV—ADMISSION OF CERTAIN EXCLUDABLE ALIENS

SEC. 401. By October 30, 1979, the Attorney General shall report to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate regarding those cases during the period beginning on October 1, 1978, and ending on September 30, 1979, in which (1) the Director of the Federal Bureau of Investigation has notified the Attorney General that the Director knows or has reason to believe that an alien applying for admission into the United States is an excludable alien under the terms of section 212(a) (27), (28), or (29) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and (2) such alien is subsequently admitted into the United States.

Report to congressional committees.
8 USC 1182 note.

Approved September 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95–1075, Pt. 1 (Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services) and No. 95–1420 (Comm. of Conference).

SENATE REPORTS: No. 95–744 accompanying S. 2939 (Select Comm. on Intelligence) and No. 95–1028 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 124 (1978):
June 6, considered and passed House.
July 20, considered and passed Senate, amended, in lieu of S. 2939.
Aug. 17, House agreed to conference report.
Aug. 22, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 38:
Sept. 18, Presidential statement.

Public Law 95-371
95th Congress

Joint Resolution

Sept. 18, 1978
[H.J. Res. 1014]

Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust".

Whereas six million Jews and millions of other people were murdered in concentration camps as part of a program of extermination carried out by the Nazi party during World War II;

Whereas the people of the United States should recognize that all acts of bigotry are rooted in the cruelty of spirit and the callousness that led the Nazis to commit atrocities against millions of people, and should dedicate themselves to the principle of human equality;

Whereas the people of the United States should recognize that tyranny creates the political atmosphere in which bigotry flourishes, and should be vigilant to detect, and ready to resist, the tyrannical exercise of power;

Whereas on April 28 and 29 of 1945 the Armed Forces of the United States liberated the surviving victims of Nazi internment in the concentration camp in Dachau, Germany, and revealed to the world evidence of a tragic human holocaust that must never be forgotten; and

Whereas the Nazi concentration camp in Dachau, Germany, is not only a shocking symbol of Nazi brutality and destruction, but also a symbol of the danger inherent in tyranny, the pernicious quality of bigotry, and the human capacity to be cruel: Now, therefore, be it

Days of Remembrance of Victims of the Holocaust. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 28 and 29 of 1979 are designated as "Days of Remembrance of Victims of the Holocaust", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate ceremonies and activities.

Approved September 18, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-980 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 17, considered and passed House.
Aug. 25, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 38:
Sept. 18, Presidential statement.

Public Law 95-372
95th Congress

An Act

To establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

Sept. 18, 1978
[S. 9]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1978".

Outer Continental Shelf Lands Act Amendments of 1978.

TABLE OF CONTENTS

43 USC 1801 note.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

Sec. 101. Findings.
Sec. 102. Purposes.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

Sec. 201. Definitions.
Sec. 202. National policy for the Outer Continental Shelf.
Sec. 203. Laws applicable to the Outer Continental Shelf.
Sec. 204. Outer Continental Shelf exploration and development administration.
Sec. 205. Revision of bidding and lease administration.
Sec. 206. Outer Continental Shelf oil and gas exploration.
Sec. 207. Annual report.
Sec. 208. New sections of the Outer Continental Shelf Lands Act.
"Sec. 18. Outer Continental Shelf leasing program.
"Sec. 19. Coordination and consultation with affected States and local governments.
"Sec. 20. Environmental studies.
"Sec. 21. Safety regulations.
"Sec. 22. Enforcement.
"Sec. 23. Citizen suits, court jurisdiction, and judicial review.
"Sec. 24. Remedies and penalties.
"Sec. 25. Oil and gas development and production.
"Sec. 26. Outer Continental Shelf oil and gas information program.
"Sec. 27. Federal purchase and disposition of oil and gas.
"Sec. 28. Limitation on export.
"Sec. 29. Restrictions on employment.
"Sec. 30. Documentation, registry, and manning requirements.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

Sec. 301. Definitions.
Sec. 302. Fund establishment, administration, and financing.
Sec. 303. Damages and claimants.
Sec. 304. Liability.
Sec. 305. Financial responsibility.
Sec. 306. Notification, designation, and advertisement.
Sec. 307. Claims settlement.
Sec. 308. Subrogation.
Sec. 309. Jurisdiction and venue.
Sec. 310. Relationship to other law.
Sec. 311. Prohibition.
Sec. 312. Penalties.
Sec. 313. Authorization of appropriation.
Sec. 314. Annual report.
Sec. 315. Effective dates.

TITLE IV—FISHERMEN'S CONTINGENCY FUND

Sec. 401. Definitions.
Sec. 402. Establishment of the Fishermen's Contingency Fund; fee collection.
Sec. 403. Duties and powers.
Sec. 404. Burden of proof.
Sec. 405. Claim procedures and subrogation of rights.
Sec. 406. Annual report.
Sec. 407. Survey of obstructions on the Outer Continental Shelf.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Sec. 501. Coastal energy impact program.
Sec. 502. Authorization of appropriations.
Sec. 503. Outer Continental Shelf grants.
Sec. 504. State management program.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Review of shut-in or flaring wells.
Sec. 602. Review and revision of royalty payments.
Sec. 603. Natural gas distribution.
Sec. 604. Antidiscrimination provisions.
Sec. 605. Sunshine in Government.
Sec. 606. Investigation of availability of oil and natural gas from the Outer Continental Shelf.
Sec. 607. Recommendations for training program.
Sec. 608. Relationship to existing law.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

43 USC 1801.

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(11) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States, working in close cooperation with affected local governments, are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation;

(14) the oil and gas resources of the Outer Continental Shelf are limited, nonrenewable resources which must be developed in a manner which takes into consideration the Nation's long-range energy needs and also assures adequate protection of the renewable resources of the Outer Continental Shelf which are a continuing and increasingly important source of food and protein to the Nation and the world; and

(15) funds must be made available to pay for damage to commercial fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production on the Outer Continental Shelf.

PURPOSES

SEC. 102. The purposes of this Act are to— 43 USC 1802.

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas explo-

ration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; and

(10) establish a fishermen's contingency fund to pay for damages to commercial fishing vessels and gear due to Outer Continental Shelf activities.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraphs (b) and (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (b) and (c)) are amended to read as follows:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, minerals;".

43 USC 1337, 1335.

(b) Such section is further amended—

(1) in paragraph (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shore-

lines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act; 43 USC 1333.

"(3) which is receiving, or in accordnace with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geologi-

cal structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'minerals' includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from 'public lands' as defined in section 103 of the Federal Land Policy and Management Act of 1976.".

43 USC 1702.

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas

and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended by redesigning paragraph (2) as (2)(A) and by adding at the end thereof the following new subparagraph:

"(B) Within one year after the date of enactment of this subparagraph, the President shall establish procedures for setting any outstanding international boundary dispute respecting the outer Continental Shelf.".

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43 USC 1333.

(c) Section 4(c) of such Act is amended by striking out "described in subsection (b)" and inserting in lieu thereof "conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf".

(d) Section 4(d) of such Act is amended to read as follows:

29 USC 167.

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

43 USC 1333.

(e) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(f) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(g) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(h) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

Rules and regulations.

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of

the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

Federal Trade Commission, consultation.

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

"(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs

of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before the date of enactment of this subparagraph, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area; and

"(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this Act significantly affect the air quality of any State.

"(b) The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this Act shall be conditioned upon compliance with regulations issued under this Act.

Judicial review.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

Pipeline rights-of-way.
Secretary of Energy, consultation.
Notice and hearing.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in

section 21(b) of this Act) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

Post, p. 654.

Forfeiture of grant.

"(f)(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

"(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

"(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after the date of enactment of this subparagraph. This subparapragh shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

Notice and hearing.

"(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

Regulations.

"(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

Attorney General, consultation.

Federal Trade Commission, consultation.

"(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

"(g)(1) The leasee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates

Presidential rule or order.

consistent with any rule or order issued by the President in accordance with any provision of law.

Regulations.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

Department of Energy, notification.

"(h) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

"(i) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

Regulations.

"(a) (1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

43 USC 1335.

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

"(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold; or

"(H) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this Act, except that no such bidding system or modification shall have more than one bid variable.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

Report to Congress. Resolution of disapproval.

"(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further

consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

"(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

"(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

"(5)(A) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this Act.

"(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

"(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. Rules.

"(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

"(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

"(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and areal extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

"(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

"(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice— Notice, submittal to Congress. Publication in Federal Register.

"(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

"(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(9) Within six months after the end of each fiscal year, the Secretary of Energy, in consultation with the Secretary of the Interior, Report to Congress.

shall report to the Congress with respect to the use of various bidding options provided for in this subsection. Such report shall include—

"(A) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(B) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(C) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(D) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(E) if applicable, the reasons why more than 60 per centum or less than 20 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

43 USC 1334.

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

15 USC 751 note.

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (i) through (o), respectively, and by inserting immediately after subsection (b) the following new subsections:

Review.

"(c) (1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation

with the Federal Trade Commission, may agree to a shorter review period.

"(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection. Antitrust review.

"(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

"(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

"(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

"(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

"(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

"(d) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases. Notice and hearing.

"(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

"(f) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(g)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of such coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary, in consultation with the Governor of the coastal State, shall then, determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalities, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Subsection (c) of section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213(c)) is amended to read as follows:

Exemptions.

"(c) The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

"(1) such lands have extremely high cost exploration or development problems; and

"(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

Sec. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) by inserting "(a)(1)" immediately before "Any"; and

(2) by adding at the end thereof the following:

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Except as otherwise provided in the Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(C) (i) or (ii) of this Act.

Exploration plan.

43 USC 1334.

"(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

16 USC 1456.

"(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

Regulations.

"(A) a schedule of anticipated exploration activities to be understaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

Regulations.

"(4) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a significant revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after the date of enactment of this subsection, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 5(a)(1)(B) of this Act, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.

43 USC 1334.

"(2) The Secretary may require the holder of a lease described in paragraph (1) of this subsection to supply a general statement in accordance with subsection (c)(4) of this section, or to submit other information.

"(3) Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.

Regulations.

"(g) Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—

"(1) the applicant for such permit is qualified;

"(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

"(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

"(h) The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Point Reyes Wilderness as depicted on a map entitled 'Wilderness Plan, Point Reyes National Seashore', numbered 612-90,000-B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters (as such term is defined in section 2 of the Submerged Lands Act) of such State which are adjacent to such Wilderness.".

43 USC 1301.

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

43 USC 1343.

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit

to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain— Attorney General, consultation.

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized; 43 USC 1337.

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures dealing with supplies of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles: 43 USC 1344.

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

Fair market value.

"(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

Appropriations and staff, estimates.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

Environmental studies and impact statement.

"(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the require-

ments of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

Publication in Federal Register.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

Leasing program, submittal to Congress.

Publication in Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

Leasing program, submittal to President and Congress.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

Review.

"(e) The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

Regulations.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

Public notice.

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

State and local governments, consultation.

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

Information, availability to Secretary.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonpriviledged or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

43 USC 1345.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious. *Post*, p. 657.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore. *Post*, p. 664.

"SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region. 43 USC 1346.

"(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment. Effective date. Notice, publication.

"(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling

muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

Regulations.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

Information, submittal to Congress and availability to public.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

Contracts or grants.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

Study.
43 USC 1347.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

Submittal to President and Congress.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies. 43 USC 1333.

"(c) The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify any regulations, interim or final, dealing with hazardous working conditions on the outer Continental Shelf.

"(d) Nothing in this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

"(e) The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institute of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include, but need not be limited to, decompression and excursion table development and improvement and all aspects of diver physiological restraints and protective gear for exposure to hostile environments. Studies.

"(f)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually. Information, availability to public.

"SEC. 22. ENFORCEMENT.—(a) The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this Act. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations. 43 USC 1348.

"(b) It shall be the duty of any holder of a lease or permit under this Act to—

"(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with

occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

"(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

"(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

Regulations.

"(c) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

Investigation and report.

"(d) (1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

Review.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this Act.

Witnesses and other evidence.

"(f) In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process, as in the district courts of the United States. Such Secretary, or his

designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to the Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, any investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations, and the results of the diving studies conducted under section 21(e) of this Act. Report to Congress. 43 USC 1343. *Ante*, p. 654.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act. 43 USC 1349. USC prec. title 1.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropirate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

"(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropirate Federal official, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b)(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and

controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals, or (B) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeal for the District of Columbia.

Ante, p. 649.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a) of this section.

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act. 43 USC 1350.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. Hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to such date of enactment in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no Plan, submittal to Secretary. 43 USC 1351.

oil or gas has been discovered in paying quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development and production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

Plan, availability to public.

"(3) Except for any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and, upon request, to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico, unless such lease requires that development and production activities be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

16 USC 1456.

"(e)(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

42 USC 4321 note.

"(f) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

Environmental impact statement draft, availability to public.

"(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(h)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

Public hearing.

42 USC 4321 note.

16 USC 1456.

Disapproval of plan.

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects

any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

16 USC 1456.

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

16 USC 1451 note.

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

"(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease and the lessee shall be entitled to receive compensation in accordance with section 5(a)(2)(C) of this Act. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

43 USC 1334.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision. Review.

"(i) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

"(j) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with sections 5 (c) and (d). Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation. 43 USC 1334.

"(k) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application. Plan, transmittal to Federal Energy Regulatory Commission. 42 USC 4321 note. Rules.

"(l) The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this Act, which is located in that area of the Gulf of Mexico which is adjacent

to the State of Florida, as determined pursuant to section 4(a)(2) of this Act.

43 USC 1333.

43 USC 1352.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

Regulations.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data and information;

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

"(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

"(iv) by a permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

43 USC 1340.

"(b)(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

Data, submittal to State and local governments.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States, and upon request, to any affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or

gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal. Regulations.

"(d)(1) The Secretary shall transmit to any affected State— Privileged information, transmittal to affected State.

"(A) an index, and upon request copies of, all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this section, unless the Secretary determines that transmittal of such data prepared pursuant to such subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

Civil action.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

43 USC 1353.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of

43 USC 1335, 1336.

sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

"(b)(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

Allocation or lottery sale.

"(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or

reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase. Notice.

"(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations. Regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, many offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission. Natural gas emergency. Allocation or lottery sale. Federal Energy Regulatory Commission, consultation.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price— "Regulated price."

"(A) at which oil many be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act; 15 USC 751 note.

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act, any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or 15 USC 717w.

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which

sets a price (or manner for determining a price) for oil or gas; and

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3-8 (d) and (g), as in effect on the date of enactment of this section or as thereafter revised or amended.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 12(b) of this Act.

43 USC 1341.

43 USC 1354.

"SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

Presidential findings, publication.

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

Presidential report to Congress.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest.

Resolution of disapproval.

If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

43 USC 1355.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule shall—

3 CFR, 1977 Comp., p. 142.
5 USC 5332 note.

"(1) within two years after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

"(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or

other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(2) within one year after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

"SEC. 30. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure— 43 USC 1356. Regulations.

"(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

"(2) which is used for activities pursuant to this Act, comply, except as provided in subsection (b), with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

"(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act, be manned or crewed, except as provided in subsection (c), by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

"(b) The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section, until such time after such date as such vehicle or structure is rebuilt.

"(c) The regulations issued under subsection (a)(3) of this section shall not apply—

"(1) to any vessel, rig, platform, or other vehicle or structure if—

"(A) specific contractual provisions or national registry manning requirements in effect on the date of enactment of this section provide to the contrary;

"(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United

States for permanent residence, qualified and available for such work; or

"(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

"(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

43 USC 1811.

SEC. 301. For the purposes of this title, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302 of this title;

(3) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(4) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes or poses an imminent threat of oil pollution;

(5) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), or which is operating in the waters above submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301 (a)(2))), and which is transporting oil directly from an offshore facility;

(6) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State or political subdivision thereof, or (iii) a foreign government; and

(B) is not engaged in commercial service;

(7) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(8) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf

Lands Act (43 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(9) "oil pollution" means—

(A) the presence of oil either in an unlawful quantity or which has been discharged at an unlawful rate (i) in or on the waters above submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a)(2) of the Submerged Lands Act (43 U.S.C. 1301(a)(2))), or on the adjacent shoreline of such a State, or (ii) on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(B) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(i) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

(ii) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) the presence of oil in or on the territorial sea, navigable or internal waters, or adjacent shoreline of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(10) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim under this title;

(11) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim under this title;

(12) "United States" includes and "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(13) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(14) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident;

(15) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include cleanup costs;

(16) "person in charge" means the individual immediately responsible for the operation of a vessel or offshore facility;

(17) "claim" means a demand in writing for a sum certain;

(18) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(19) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement, or with respect to any offshore facility abandoned without prior approval of the Secretary of the Interior, the person who owned such offshore facility immediately prior to such abandonment, except that such term does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

(20) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of an offshore facility, any person, except the owner, who is responsible for the operation of such facility by agreement with the owner;

(21) "property" means littoral, riparian, or marine property;

(22) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, and section 5 of the Intervention on the High Seas Act; and

33 USC 1321.

33 USC 1474.

(B) cleanup costs, other than the costs described in subparagraph (A);

(23) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(24) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

(25) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

Offshore Oil Pollution Compensation Fund.
43 USC 1812.

SEC. 302. (a) There is hereby established in the Treasury of the United States on Offshore Oil Pollution Compensation Fund in an amount not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) all fees collected pursuant to subsection (d) of this section; and

(2) all other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) removal costs described in section 301(22);

(2) the processing and settlement of claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Gov-

ernment incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes. Regulations.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetieth day following the date such regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than $100,000,000 and not more than $200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation. Regulations. Publication in Federal Register.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount. Civil penalty.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code. Violation, prosecution.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination. Regulations. Audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund. Regulations.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

31 USC 774.

DAMAGES AND CLAIMANTS

43 USC 1813.

SEC. 303. (a) Claims for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs; and

(2) damages, including—

(A) injury to, or destruction of, real or personal property;

(B) loss of use of real or personal property;

(C) injury to, or destruction of, natural resources;

(D) loss of use of natural resources;

(E) loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and

(F) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) of this section may be asserted—

(1) under paragraph (1), by any claimant, except that the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim only if he can show—

(A) that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) of this title; or

(B) if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b), except that if he is not entitled to such a defense to liability but is entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under paragraphs (2) (A), (B), and (D), by any United States claimant if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under paragraph (2)(C), by the President, as trustees for natural resources over which the Federal Government has sovereign rights or exercises exclusive management authority, or by

any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State, and sums recovered under paragraph (2)(C) shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources;

(4) under paragraph (2)(E), by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under paragraph (2)(F), by the Federal Government and any State or political subdivision thereof;

(6) under paragraphs (2) (A) through (E), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred in or on the territorial sea, navigable waters or internal waters, or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from an offshore facility or from a vessel in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants;

(7) under paragraph (1) or (2), by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under paragraph (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 of this title, any member of a group described in such paragraph may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 304. (a) Subject to the provisions of subsections (b) and (c) of this section, the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(22) of this title, shall be jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of this title. 43 USC 1814.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the

owner or operator, or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government, the total of the liability under subsection (a) of this section incurred by, or on behalf of, the owner or operator shall be—

(1) in the case of a vessel, limited to $250,000 or $300 per gross ton, whichever is greater, except when the owner or operator of a vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities; or

(2) in the case of an offshore facility, the total of removal and cleanup costs, and an amount limited to $35,000,000 for all damages.

(c) There shall be no liability under subsection (a) of this section—

(1) if the incident is caused solely by any act of war, hostilities, civil war, or insurrection, or by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistable character, the effect of which could not have been prevented or avoided by the exercise of due care or foresight; or

(2) if the incident is caused solely by the negligent or intentional act of the damaged party or any third party (including any government entity).

(d) Notwithstanding the limitations, exceptions, or defenses of subsection (b) or (c) of this section, all costs of removal incurred by the Federal Government or any State or local official or agency in connection with a discharge of oil from any offshore facility or vessel shall be borne by the owner and operator of the offshore facility or vessel from which the discharge occurred.

Report to Congress.

(e) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b) of this section.

(f)(1) Subject to the provisions of paragraph (2) of this subsection, the Fund shall be liable, without any limitation, for all losses for which a claim may be asserted under section 303 of this title, to the extent that such losses are not otherwise compensated.

(2) Except for the removal costs specified in section 301(22), there shall be no liability under paragraph (1) of this subsection—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the losses for which claims may be asserted under section 303 of this title, and without regard to the limitation of liability provided in subsection (b) of this section, the owner, operator, or guarantor of an offshore facility or vessel shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim is presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which such owner, operator, or guarantor offers the claimant an amount equal to or greater than the amount finally paid in satisfaction of the claim to the date upon which the claimant accepts such amount, inclusive. However, if such owner, operator, or guarantor offers the claimant, within sixty days of the date

upon which the claim is presented, or of the date upon which advertising is commenced pursuant to section 306 of this title, whichever is later, an amount equal to or greater than the amount finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer is accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) of this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (a) of this section, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(i) To the extent that they are in conflict or otherwise inconsistent with any other provision of law relating to liability or the limitation thereof, the provisions of this section shall supersede such other provision of law, including section 4283(a) of the Revised Statutes (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo) which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In any case where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels. Regulations. 43 USC 1815.

(2) The Secretary, in accordance with regulations promulgated by him, shall— Regulations.

(A) deny entry to any port or place in the United States or to the navigable waters to; and

(B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States,

any vessel subject to this subsection which, upon request, does not produce certification furnished by the President that such vessel is in compliance with the financial responsibility provisions of paragraph (1) of this subsection.

(3) The Secretary, in accordance with regulations promulgated by him, shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act, and such facilities and vessels shall, upon request, show certification of financial responsibility. Regulations. 43 USC 1331 note.

Regulations.

(b) The owner or operator of an offshore facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such facility would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

(c) Any claim authorized by section 303(a) may be asserted directly against any guarantor providing evidence of financial responsibility for any owner or operator of an offshore facility or vessel as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to such owner or operator under this title. Such guarantor shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of such owner or operator, but shall not be entitled to invoke any other defense which such guarantor might be entitled to invoke in proceedings brought by such owner or operator against such guarantor.

Study.

(d) The President shall conduct a study to determine—

(1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, onshore facilities, and offshore facilities; and

(2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions, and exclusions.

Report.

The President shall submit the results of his study, together with his recommendation, within one year after the date of enactment of this title, and shall submit an interim report on his study within three months after such date of enactment.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

43 USC 1816.

SEC. 306. (a) The person in charge of a vessel or offshore facility which is involved in an incident shall immediately notify the Secretary of the incident as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information pursuant to subsection (a) of this section or otherwise of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source and the guarantor of such designation.

Regulations.

(2) When a source designated under paragraph (1) of this subsection is a vessel or offshore facility and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not made in accordance with this paragraph, the Secretary shall, as

he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to such owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b) of this section;

(2) the source of the discharge was a public vessel; or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of such subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

(d) Advertisement under subsection (b) of this section shall commence no later than fifteen days after the date of the designation made under such subsection and shall continue for a period of no less than thirty days. Effective date.

CLAIMS SETTLEMENT

SEC. 307. (a) Except as provided in subsection (b) of this section, all claims shall be presented to the owner, operator, or guarantor. 43 USC 1817.

(b) All claims shall be presented to the Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c) of this title; or

(2) where the owner or operator may recover under the provisions of section 303(b)(1) of this title.

(c) In the case of a claim presented in accordance with subsection (a) of this section, and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason; or

(2) the claim is not settled by any person by payment to the claimant within sixty days from the date upon which (A) the claim is presented, or (B) advertising is commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the Fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a) of this section, where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) of this title or because the owner, operator, and guarantor to whom the claim is presented are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Fund.

(e) In the case of a claim which is presented to any person, pursuant to subsection (a) of this section, and which is being presented to the Fund, pursuant to subsection (c) or (d) of this section, such person, at the request of the claimant, shall transmit the claim and supporting documents to the Fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted. Regulations.

(f) In the case of a claim presented to the Fund, pursuant to subsection (b), (c), or (d) of this section, and in which the Fund—

(1) denies all liability for the claim, for any reason; or

(2) does not settle the claim by payment to the claimant within sixty days after the date upon which (A) the claim is presented to the Fund, or (B) advertising is commenced pursuant to section 306(c) of this title, whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the Fund pursuant to such subsection (b) may elect to commence an action in court against the Fund in lieu of submission of the dispute to the Secretary for decision, that election to be irrevocable and exclusive.

Regulations.

(g) (1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the Fund.

Contract.

(2) Except as provided in paragraph (3) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted by or on behalf of such State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

Review and audit.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the Fund.

Panel.

(h) Notwithstanding subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period of not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f) of this section. At least one member of each panel shall be qualified to conduct adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the Fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel.

18 USC 201 *et seq.*

18 USC 201 note.

The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, shall apply to panel members appointed from private life.

(i) (1) Upon receipt of a request for a decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h) of this section.

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things. Subpena.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with regulations which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the Fund. Final order. Regulations.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought pursuant to this title against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Fund at the same time such pleadings are served upon the opposing parties.

(2) The Fund may intervene in any action described in paragraph (1) of this subsection as a matter of right.

(3) In any action described in paragraph (1) of this subsection to which the Fund is a party, if the owner, operator, or guarantor admits liability under this title, the Fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the Fund receives from either the plaintiff or the defendant notice of an action described in paragraph (1) of this subsection, the Fund shall be bound by any judgment entered therein, whether or not the Fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of an action described in paragraph (1) of this subsection to the Fund, the limitation of liability otherwise permitted by section 304(b) of this title shall not be available to the defendant, and the plaintiff shall not recover from the Fund any sums not paid by the defendant.

(k) In any action brought against the Fund under this title, the plaintiff may join any owner, operator, or guarantor, and the Fund may join any person who is or may be liable to the Fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for economic losses recoverable under this title, unless such claim is presented to, or such action is commenced against, the owner, operator, or guarantor, or the Fund, as to their respective liabilities, within three years after the date of discovery of the economic loss for which a claim may be asserted under section 303(a) of this title, or within six years of the date of the incident which resulted in such loss, whichever is earlier.

SUBROGATION

43 USC 1818.

SEC. 308. (a) Any person or governmental entity, including the Fund, who pays compensation to any claimant for an economic loss, compensable under section 303 of this title, shall be subrogated to all rights, claims, and causes of action which such claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the Fund, for the compensation paid by the Fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the Fund, for economic losses for which the compensation was paid.

(c) In any claim or action by the Fund against any owner, operator, or guarantor, pursuant to the provisions of subsection (a) or (b), the Fund shall recover—

(1) for a claim presented to the Fund (where there has been a denial of source designation) pursuant to section 307(b)(1) of this title, or (where there has been a denial of liability) pursuant to section 307(c)(1) of this title—

(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b) of this title, the amount the Fund has paid to the claimant, without reduction;

(B) interest on such amount, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the Fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the Fund offers to the claimant the amount finally paid by the Fund to the claimant in satisfaction of the claim against the Fund to the date upon which the claimant accepts that offer, inclusive; and

(C) all costs incurred by the Fund by reason of the claim, both of the claimant against the Fund and the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the Fund pursuant to section 307(c)(2) of this title—

(A) in which the amount the Fund has paid to the claimant exceeds the largest amount, if any, the defendant offered

to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the Fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, for the period specified in paragraph (1)(B) of this subsection; and

(iii) all costs incurred by the Fund by reason of the claim of the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the Fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount which the Fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subparagraph, except that if the defendant tenders the offer of the largest amount referred to in this subparagraph within sixty days after the date upon which the claim of the claimant is either presented to the defendant or advertising is commenced pursuant to section 306 of this title, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the Fund against the defendant is presented to the defendant to the date upon which the Fund is paid, inclusive, less the period, if any, from the date upon which the defendant offers to the Fund the amount finally paid to the Fund in satisfaction of the claim of the Fund to the date upon which the Fund accepts that offer, inclusive.

(d) The Fund shall pay over to the claimant that portion of any interest the Fund recovers, pursuant to subsection (c) (1) and (2)(A), for the period from the date upon which the claim of the claimant is presented to the defendant to the date upon which the claimant is paid by the Fund, inclusive, less the period from the date upon which the Fund offers to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant accepts such offer, inclusive.

(e) The Fund is entitled to recover for all interest and costs specified in subsection (c) of this section without regard to any limitation of liability to which the defendant may otherwise be entitled under this title.

JURISDICTION AND VENUE

SEC. 309. (a) The United States district courts shall have original and exclusive jurisdiction of all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy. 43 USC 1819.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

RELATIONSHIP TO OTHER LAW

43 USC 1820.

SEC. 310. (a) Any person who receives compensation for damages or removal costs pursuant to this title shall be precluded from recovering compensation for the same damages or removal costs pursuant to any other State or Federal law. Any person who receives compensation for damages or removal costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or removal costs under this title.

(b) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

(c) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or removal costs within the jurisdiction of such State.

PROHIBITION

43 USC 1821.

SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

PENALTIES

43 USC 1822.

SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305 of this title, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not to exceed $10,000.

(2) The civil penalty described in paragraph (1) of this subsection may be assessed and compromised by the President or his designee, in connection with section 305(a)(1) of this title, and by the Secretary, in connection with section 305(a)(3) and section 305(b) of this title. No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

Notice and hearing.

(3) At the request of the official assessing a penalty under this subsection, the Attorney General may bring an action in the name of the Fund to collect the penalty assessed.

(b) Any person in charge who is subject to the jurisdiction of the United States and who fails to give the notification required by section 306(a) of this title shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981. 43 USC 1823.

(b) There are also authorized to be appropriated to the Fund, from time to time, such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issurance of notes or other obligations pursuant to section 302(f) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, to charge and collect fees pursuant to section 302(d) of this title, or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

ANNUAL REPORT

SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the Fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the Fund and the administration of the liability provisions of this title. 43 USC 1824.

EFFECTIVE DATES

SEC. 315. (a) This section, subsection (e) of section 304, subsection (d) of section 305, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this title. 43 USC 1811 note.

(b) All other provisions of this title, and rules and regulations promulgated pursuant to such provisions, shall be effective on the one hundred and eightieth day after the date of enactment of this title.

TITLE IV—FISHERMEN'S CONTINGENCY FUND

DEFINITIONS

SEC. 401. As used in this title, the term— 43 USC 1841.

(1) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(2) "commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(3) "commercial fishing vessel" means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(4) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(5) "fishing gear" means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(6) "Fund" means the Fishermen's Contingency Fund established under section 402 of this title; and

(7) "Secretary" means the Secretary of Commerce or the designee of such Secretary.

ESTABLISHMENT OF THE FISHERMEN'S CONTINGENCY FUND; FEE COLLECTION

43 USC 1842.

SEC. 402. (a) There is hereby established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $1,000,000. Amounts paid pursuant to the provisions of subsections (c) and (d) of this section shall be deposited in the Fund. The Fund may sue or be sued in its own name.

(b) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the Outer Continental Shelf for purposes of providing reasonable compensation for damages to, or loss of, fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

(c) Upon establishment of an area account for any area of the Outer Continental Shelf pursuant to subsection (b) of this section, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act for any tract in such area and any holder of an exploration permit, or of an easement or right-of-way for the con-

43 USC 1331 note.

struction of a pipeline in such area, shall pay an amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. The Secretary of the Interior shall collect such amount and deposit it to the credit of such area account within the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of $5,000 per lease, permit, easement, or right-of-way.

(d) Subject to subsection (a) of this section, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by assessments of holders of leases, permits, easements, and rights-of-way in such area.

(e) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

(1) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which relate to such area account, except that amounts disbursed for such expenses in any fiscal year shall not exceed 15 per centum of the amounts deposited in such revolving account in such fiscal year.

(2) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

(3) Reasonable attorney's fees awarded pursuant to section 405 (e) of this title.

DUTIES AND POWERS

SEC. 403. (a) In carrying out the provisions of this title, the Secretary shall— 43 USC 1843.

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this title, including a time limitation on the filing of such claims; and Regulations.

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

(b) The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use. Regulations.

(c)(1) Payments shall be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area, whether or not such damage occurred in such area.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from any area account established under this title—

(A) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(B) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(C) if the damage set forth in the claim was sustained prior to the date of enactment of this title;

(D) in the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed;

(E) in the case of a claim for loss of profits (i) for any period in excess of 6 months, and (ii) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period; and

(F) for any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance.

BURDEN OF PROOF

43 USC 1844.

SEC. 404. With respect to any claim for damages filed pursuant to this title, there shall be a presumption that such claim is valid if the claimant establishes that—

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by Outer Continental Shelf activities;

(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

CLAIM PROCEDURES AND SUBROGATION OF RIGHTS

43 USC 1845.

SEC. 405. (a) Any commercial fisherman suffering damages compensable under this title may file a claim for compensation with the Secretary, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made.

(b) Upon receipt of any claim under this section, the Secretary shall—

(1) transmit a copy of the claim to the Secretary of the Interior; and

(2) refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code.

(c) The Secretary of the Interior shall make reasonable efforts to notify all persons known to have engaged in activities associated with Outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary and the Secretary of the Interior as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any hearing conducted with respect to such claim.

Hearing.

(d) The hearing examiner shall, within 120 days after such matter is referred to him by the Secretary, adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(e) If the decision of the hearing examiner is in favor of the commercial fisherman filing the claim, such hearing examiner shall include, as part of the amount certified to the Secretary under subsection (h) (1) of this section, reasonable attorneys' fees incurred by such commercial fisherman in pursuing such claim.

(f) (1) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance or testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

(2) In any hearing conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the Outer Continental Shelf, the hearing examiner shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under section 407 of this title.

(g) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

(h) (1) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

(2) Upon payment of a claim by the Secretary pursuant to this subsection, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made.

(3) Any person who denies responsibility for damages with respect to which a claim is made and who is subquently found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

(i) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit. Judicial review.

ANNUAL REPORT

SEC. 406. (a) The Secretary shall submit an annual report to the Congress which shall set forth— 43 USC 1846.

(1) a description of the types of damages set forth in claims filed with the Secretary during the previous year for compensation from the Fund;

(2) the amount of compensation awarded to claimants during the previous year; and

(3) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or

permittee conducting operations on the Outer Continental Shelf, or the contractor or subcontractor of such a lessee or permittee.

(b) In addition to the material described in subsection (a) of this section, the Secretary shall, after consultation with the Secretary of the Interior, include in the first annual report an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear by (1) imposing fines or penalties on lessees or permittees, or contractors or subcontractors of lessees or permittees, who are responsible for such obstructions, or (2) requiring the bonding of such lessees or permittees or such contractors or subcontractors.

SURVEY OF OBSTRUCTIONS ON THE OUTER CONTINENTAL SHELF

43 USC 1847.

SEC. 407. (a) The Secretary, in cooperation with the Secretary of the Interior, shall conduct a two-year survey of obstructions on the Outer Continental Shelf. Such survey shall be conducted for purposes of identifying (1) natural obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear, and (2) in addition, in the case of areas in which oil and gas exploration, development, or production is taking place, manmade obstructions relating to such activities which pose potential hazards to commercial fishing or fishing gear.

Regulations.

(b) The Secretary shall, on the basis of the survey conducted under this section, and regulations promulgated under section 403(a) of this title, develop charts for commercial fishermen identifying obstructions on the Outer Continental Shelf.

(c) During the first six months of the survey conducted under this section, the Secretary shall concentrate on areas of the Outer Continental Shelf where oil and gas production has commenced or is expected to commence prior to the expiration of the two-year period of such survey.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

COASTAL ENERGY IMPACT PROGRAM

Sec. 501. (a) Paragraph (2) of section 308(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts granted" and inserting in lieu thereof "Subject to paragraph (3), the amounts payable";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter"; and

(6) by striking and subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall— Appropriation adjustments.

"(I) with respect to any coastal state which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount appropriated for such fiscal year, increase the amount payable to such coastal state to 2 per centum of such appropriated amount; and

"(II) with respect to any coastal state which, in such fiscal year, would not receive a grant under paragraph (2), make a grant to such coastal state in an amount equal to 2 per centum of the total amount appropriated for making grants to all states under paragraph (2) in such fiscal year if any other coastal state in the same region will receive a grant under such paragraph in such fiscal year, except that a coastal state shall not receive a grant under this subclause unless the Secretary determines that it is being or will be impacted by outer Continental Shelf energy activity and that it will be able to expend or commit the proceeds of such grant in accordance with the purposes set forth in paragraph (5).

"(ii) For purposes of this subparagraph—

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, the Commonwealth of Puerto Rico, and the Virgin Islands (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making grants to coastal states in any fiscal year pursuant to this subsection is less than the total amount of grants payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal state which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of—

"(i) the amount by which the total amount of grants payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of grants payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

"(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount which is greater than 37½ per centum of the amount appropriated for such fiscal year, the Secretary shall reduce the amount payable to such coastal state to 37½ per centum of such appropriated amount.

"(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state receive more than 37½ per centum of such appropriated amount.

"Payable proportionately."

"(iii) For purposes of this subparagraph, the term 'payable proportionately' means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year.".

16 USC 1456a.

(c)(1) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(i) necessary to provide new or improved public facilities and public services which are required as a result of outer Continental Shelf energy activity;".

(2) Paragraph (5)(B) of such section 308(b) (as so renumbered) is amended by adding at the end thereof the following new sentence:

Rules.

"The Secretary may, pursuant to criteria promulgated by rule, describe geographic areas in which public facilities and public services referred to in clause (i) shall be presumed to be required as a result of outer Continental Shelf energy activity for purposes of disbursing the proceeds of grants under this subsection.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. Paragraph (3) of section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)(3)), is amended to read as follows:

"(3) such sums, not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988, as may be necessary for grants under section 308(b);".

OUTER CONTINENTAL SHELF GRANTS

SEC. 503. (a) Section 308(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry and its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities.".

43 USC 1331 note.

(b) Section 308(a)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(a)(1)) is amended—

(1) in subparagraph (B) thereof, by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)"; and

(2) by redesignating subparagraphs (C) through (F), and any references thereto, as subparagraphs (D) through (G), respec-

tively, and inserting immediately after subparagraph (B) the following new subparagraph:

"(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;".

43 USC 1331 note.

(c) Section 308(h) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(h)) is amended by striking out "subsections (c)" each place it appears and inserting in lieu thereof "subsections (c)(1)".

(d) Section 308(k)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(k)(1)) is amended by striking out "and (c)" and inserting in lieu thereof "and (c)(1)".

(e) Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)) is amended—

(1) by redesignating paragraphs (4) through (8), and all references thereto, as paragraphs (5) through (9), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;".

Funds, availability.

(f) Section 318(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(b)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)(2)"; and

(2) by striking out "subsections (c)" and inserting in lieu thereof "subsections (c)(1)".

STATE MANAGEMENT PROGRAM

SEC. 504. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or".

TITLE VI—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 601. (a) In a report submitted within six months after the date of enactment of this Act, and his annual report thereafter, the Secretary of the Interior shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comp-

43 USC 1861.

43 USC 1331 note.

Report to Comptroller General.

troller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

Report to Congress.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

Report to Congress.
30 USC 237.

SEC. 602. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

43 USC 1862.

SEC. 603. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.

Publication in Federal Register.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for, and, as appropriate, issue certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determing—

15 USC 717f.

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy. To the maximum extent practicable, such statement shall be promulgated and published within one year after the date of enactment of this section.

(c) For purposes of this section, the term— Definitions.

(1) "local distribution company" means any person—

(A) engaged in the distribution of natural gas at retail, including any subsidiary or affiliate thereof engaged in the exploration and production of natural gas; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof;

(2) "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act; and 15 USC 717a.

(3) "Commission" means the Federal Energy Regulatory Commission.

ANTIDISCRIMINATION PROVISIONS

SEC. 604. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, whether through agency and department provisions or rules, shall be similar to those established and in effect under title VI and title VII of the Civil Rights Act of 1964. 43 USC 1863. 43 USC 1331 *et seq.* Rules. 42 USC 2000d, 2000e.

SUNSHINE IN GOVERNMENT

SEC. 605. (a) Each officer or employee of the Department of the Interior who— 43 USC 1864.

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and 43 USC 1331 note.

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1979, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceeding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and "Known financial interest."

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year. Report to Congress.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

Penalty.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

43 USC 1865.

SEC. 606. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1)(A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences;

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

Report to Congress.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to the Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after such date of enactment, and every two years thereafter. The Secretary shall make separate reports on the data acquired pursuant to subsection (d)(4) of this section as follows:

Effective dates.

(1) Within six months after the date of enactment of this section, a report on the acquisition and details of trade association data and information.

(2) Within twelve months after submission of the report required by subsection (e)(1) of this section, an evaluation of the trade association materials.

(3) Within twelve months after submission of the report required by paragraph (2) of this subsection, a report on the relationship between trade association data and the new data collected under this section.

Federal Trade Commission, consultation.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

Definitions.

(g) For purposes of this section, the term—

(1) "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas; and

(2) "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act. 43 USC 1331.

RECOMMENDATIONS FOR TRAINING PROGRAM

Report to Congress. 43 USC 1348 note.

SEC. 607. Not later than ninety days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment,

is properly trained to operate, or supervise the operation of, such equipment, as the case may be.

RELATIONSHIP TO EXISTING LAW

43 USC 1866.

SEC. 608. (a) Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

16 USC 1451 note.
42 USC 4321 note.

(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

30 USC 21a note.

Approved September 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 95-590 accompanying H.R. 1614 (Ad Hoc Select Committee on the Outer Continental Shelf) and No. 95-1474 (Comm. of Conference).

SENATE REPORTS No. 95-284 (Comm. on Energy and Natural Resources) and No. 95-1091 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 14, 15, considered and passed Senate.

Vol. 124 (1978): Jan. 25, 26, 31, Feb. 1, 2, H.R. 1614 considered and passed House; proceedings vacated and S. 9, amended, passed in lieu.

Aug. 17, House agreed to conference report.

Aug. 22, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 38 (1978): Sept. 18, Presidential statement.

Public Law 95-373
95th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

Sept. 18, 1978
[H.R. 13468]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1979, and for other purposes, namely:

District of Columbia Appropriation Act, 1979.

TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Act creating the Temporary Commission on Financial Oversight of the District of Columbia (Public Law 94-399), $3,000,000, which shall be available until expended: *Provided*, That the Temporary Commission on Financial Oversight of the District of Columbia shall have the power to appoint, fix the compensation of, and remove an Executive Director and additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to the appointment in the competitive service. For purposes of pay (other than pay of the Executive Director) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as Congressional employees. The Executive Director may be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule.

D.C. Code 47-101 note.

5 USC 5101 *et seq.*, 5331 *et seq.*, 5361 *et seq.*, 7501 *et seq.*

5 USC 5315.

TITLE II—DISTRICT OF COLUMBIA

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1979, $235,000,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and $10,300,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43-1541 and 1611): *Provided*, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended.

D.C. Code 2-1724.

39-194 O—80—pt. 1——48 : QL3

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

GENERAL OPERATING EXPENSES

General operating expenses, $93,765,300, of which $799,300 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed $2,500 for the Mayor and $2,500 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That, for the purpose of assessing and reassessing real property in the District of Columbia, $5,000 of this appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of $100 per diem: *Provided further*, That not to exceed $7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That $5,835,500 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That not to exceed $325,000 of this appropriation shall be available for settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each: *Provided further*, That not to exceed $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That $3,000,000 of this appropriation, to remain available until expended, shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94-399, approved September 4, 1976.

D.C. Code 47-101 note.

For an additional amount for "General operating expenses", fiscal year 1978, $2,719,400, including payments made pursuant to the Water and Sewer Repair and Compensation Act of 1976, D.C. Law 1-98, effective March 29, 1977.

D.C. Code 6-401 note.

PUBLIC SAFETY

Public safety, including purchase of one hundred and thirty-two passenger motor vehicles for replacement only (including one hundred and thirty for police-type use and two for fire-type use without regard to the general purchase price limitation for the current fiscal year); $265,190,200, of which $5,863,400 shall be payable from the revenue sharing trust fund, and $2,591,000 shall be payable from funds to be received under title II, Public Works Employment Act (Public Law 94-369), as amended: *Provided*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further*, That funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93-412) for fiscal year 1979 shall be available for

42 USC 6721.

D.C. Code 11-2601 note.

obligations incurred under that Act in fiscal year 1975, fiscal year 1976, fiscal year 1977, and fiscal year 1978: *Provided further*, That not to exceed $200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime.

For an additional amount for "Public safety", fiscal year 1978, $889,700.

EDUCATION

Education, including the development of national defense education programs, $283,605,400, of which $7,664,800 shall be payable from the revenue sharing trust fund, and $2,591,000 shall be payable from funds to be received under title II, Public Works Employment Act (Public Law 94-369), as amended, to be allocated as follows: 42 USC 6721.
$218,242,800 for the District of Columbia Public Schools, $21,705,000 for the Teachers' Retirement Fund, and $43,657,600 for the University of the District of Columbia: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $1,000 for the Superintendent of Schools and $2,000 for the President of the University of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That the $21,705,000 of this appropriation allocated for the Teachers' Retirement Fund shall be transferred to the Teachers' Retirement Fund, in accordance with the provisions of section 7 of the Act of August 7, 1946 (60 Stat. 879, as amended; D.C. Code, sec. 31-727): *Provided further*, That not less than $7,257,800 of this appropriation shall be used exclusively for maintenance of the public schools.

RECREATION

Recreation, $18,392,700, of which $208,200 shall be payable from the revenue sharing trust fund.

For an additional amount for "Recreation", fiscal year 1978, $58,000.

HUMAN RESOURCES

Human resources, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, $283,321,300, of which $6,520,000 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate under such contracts shall not exceed $76 per diem and the outpatient rate shall not exceed $12 per visit except for services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act, and the inpatient rate (excluding the proportion- 42 USC 1396.
ate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to 24 U.S.C. 168a: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500: *Provided further*, That $15,504,700 of this appropriation shall be available for care and treatment of the mentally retarded at Forest Haven.

For an additional amount for "Human resources", fiscal year 1978, $8,086,000.

TRANSPORTATION

Transportation, including rental of one passenger-carrying vehicle for use by the Mayor and purchase of forty-four passenger-carrying vehicles, of which two shall be for replacement only, $78,735,200, of which $6,262,300 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles: *Provided further*, That $1,263,400 of this appropriation shall be available for the fiscal year 1977 Metrobus operating subsidy.

For an additional amount for "Transportation", fiscal year 1978, $1,082,200: *Provided further*, That authorization is hereby provided to the government of the District of Columbia to fund the additional cost of snow and ice removal out of funds heretofore appropriated to such government for fiscal year 1978 for Washington Metropolitan Area Transit Authority but not to exceed $1,254,700.

ENVIRONMENTAL SERVICES

Environmental services, $72,069,800, of which $1,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

For an additional amount for "Environmental services", fiscal year 1978, $1,030,400.

PERSONAL SERVICES

For pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1979 from which employees are properly payable, $69,300,000.

For an additional amount for "Personal services", fiscal year 1978, $7,000,000.

SETTLEMENT OF CLAIMS AND SUITS

For payment of property damage claims in excess of $1,500 and of personal injury claims in excess of $5,000, approved by the Mayor in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131) and for payment to Robert J. Pierce, not to exceed $250,000, pursuant to provisions of District of Columbia law, $322,800.

D.C. Code 1-904.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with sections 108, 217, and 402 of the Act of May 18, 1954 (68 Stat. 103, 109, and 110), as amended; section 9 of the Act of September 7, 1957 (71 Stat. 619), as amended; section 1 of the Act of June 6, 1958 (72 Stat. 183), as amended; section 4 of the Act of June 12, 1960 (74 Stat. 211), as amended; and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198), as amended, including interest as required thereby, $120,400,000.

D.C. Code 43-1540 note, 43-1616 note, 7-133. D.C. Code 2-1727. D.C. Code 9-220. D.C. Code 43-1623. D.C. Code 9-220 note and 47-241 note.

For an additional amount for "Repayment of loans and interest", for fiscal year 1978, $475,800.

CAPITAL OUTLAY

For reimbursement to the United States of funds loaned in compliance with the Act of August 7, 1946 (60 Stat. 896), as amended, construction projects as authorized by the Acts of April 22, 1904 (33 Stat. 244), May 18, 1954 (68 Stat. 105, 110), July 2, 1954 (68 Stat. 443), June 6, 1958 (72 Stat. 183), August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 321): including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, $77,215,000: *Provided*, That no funds in this Act shall be used for any purpose in connection with the Washington Civic Center until there is full compliance with the provisions of the plan mandated by the District of Columbia Appropriation Act, 1978, Public Law 95-288, approved June 5, 1978: *Provided further*, That $2,855,400 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction Services, Department of General Services": *Provided further*, That the amount appropriated to the Construction Services Fund, Department of General Services, be limited, during the current fiscal year, to ten per centum of appropriations for all construction projects, except for Project Numbered 24-99, Permanent Improvements, for which construction services shall be limited to twenty per centum of the appropriation: *Provided further*, Notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 (Public Law 90-495, approved August 23, 1968), for which funds are provided by this paragraph, shall expire on September 30, 1980, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse.

D.C. Code 43-1510. D.C. Code 43-1604, 7-132, 7-133 note. D.C. Code 9-220. D.C. Code 40-804. D.C. Code 1-1443.

Ante, p. 281.

D.C. Code 7-135 note.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

SEC. 201. Except as otherwise provided in this title, all vouchers covering expenditures of appropriations contained in this title shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 202. Whenever in this title an amount is specified within an appropriation for particular purposes or object of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

Funds, maximum specified amounts.

SEC. 203. Appropriations in this title shall be available, when authorized or approved by the Mayor, for allowances for privately-owned conveyances used for the performance of official duties at 13 cents per mile but not to exceed $45 a month for each automobile and at 8 cents per mile but not to exceed $30 a month for each motorcycle, unless otherwise therein specifically provided, except that one hundred and thirteen (eighteen for venereal disease investigators in the Department of Human Resources) such automobile allowances at not

more than $715 each per annum may be authorized or approved by the Mayor.

SEC. 204. Appropriations in this title shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor.

SEC. 205. Appropriations in this title shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

D.C. Code 7-701 note.

SEC. 206. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of two cents per kilowatt-hour for current consumed.

Refunds and judgments.

SEC. 207. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided*, That no part of any funds so appropriated shall be used for the payment of any judgment entered by any court against the government of the District of Columbia requiring the payment for electric current for street lighting at a rate in excess of two cents per kilowatt-hour for current consumed: *Provided further*, That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, as amended.

D.C. Code 47-1586j.

Public assistance.

D.C. Code 3-204 note.

D.C. Code 3-204.

42 USC 3801 note.

SEC. 208. Appropriations in this title shall be available for the payment of public assistance without reference to the requirement of subsection (b) of section 5 of the District of Columbia Public Assistance Act of 1962 and for the non-Federal share of funds necessary to qualify for Federal assistance under the Act of July 31, 1968 (Public Law 90-445).

Fiscal year limitation.

SEC. 209. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

D.C. Code 40-501a note.

SEC. 210. No part of any funds appropriated by this title shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Mayor, Chief of Police, and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of any such officer or employee (other than the Mayor, Chief of Police, and Fire Chief). No part of any funds appropriated by this title, in excess of $1,000 per month in the aggregate ($12,000 per annum) shall be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Mayor, or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Mayor.

SEC. 211. Not to exceed 4½ per centum of the total of all funds appropriated by this title for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 212. The total expenditure of funds appropriated by this title for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed $225,000.

SEC. 213. Appropriations in this title shall not be available, during the fiscal year ending September 30, 1979, for the compensation of any person appointed— D.C. Code 1-216 note.

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 37,161: *Provided*, That—

(A) positions within this city employment limitation shall be set aside as the maximum number of permanent, authorized employees as follows: Public Schools, 9,703; reimbursable positions, 406; capital outlay positions, 821; District of Columbia General Hospital, 2,275; and

(B) the District of Columbia Public Schools and the District of Columbia General Hospital shall not exceed their respective employment limitations and are hereby required to report monthly to the Mayor, for the purpose of maintaining controls on city-wide employment, regarding the total number of current employees and the total number of separations and filling of positions within their respective employment limitations; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

SEC. 214. No funds appropriated in this title, for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community group during non-school hours.

SEC. 215. Appropriations in this title shall be available for services as authorized by 5 U.S.C. 3109, at rates to be fixed by the Mayor. Experts and consultants.

SEC. 216. The annual budget for the District of Columbia government for fiscal year 1980 shall be transmitted to the Congress by not later than February 1, 1979. Budget, transmittal to Congress.

SEC. 217. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, D.C. Law 2-20, approved September 23, 1977. D.C. Code 47-331 note.

SEC. 218. None of the funds contained in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name and salary are not available for public inspection.

SEC. 219. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 220. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and the annual salary of such employee is in excess of that paid for the position of GS-9, step 1, under the General Schedule, under section 5332 of title 5, United States Code. 29 USC 801 note.

3 CFR, 1977 Comp., p. 142.
5 USC 5332 note.

Effective date.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 221. (a) No funds appropriated by this Act shall be available to pay any part of the salary of an employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employ-
29 USC 801 note. ment and Training Act of 1973 (or successor statute), and has been so paid for an aggregate period of at least twenty-four calendar months.

Effective date.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 222. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the Council of the District of Columbia, or committee or subcommittee thereof, or any employee of any elected official of the government of the District of Columbia, if any part of the salary of any such employee is paid from funds appropriated pursuant to the authority of the Comprehensive
29 USC 801 note. Employment and Training Act of 1973 (or successor statute).

Effective date.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 223. No funds appropriated by this Act shall be available to pay any part of the salary of any individual hereafter employed by any department, agency, office, or other entity of the government of the District of Columbia, having ten or more employees, if, at the time of such employment, any part of the salary of more than ten per centum of the employees of such department, agency, office, or entity is paid partly from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or suc-
29 USC 801 note. cessor statute), and partly from funds of the District of Columbia.

SEC. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes", or similar legislation.

Short title.

This Act may be cited as the "District of Columbia Appropriation Act, 1979".

Approved September 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 95-1351 (Comm. on Appropriations) and No. 95-1500 (Comm. of Conference).

SENATE REPORT No. 95-1076 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 21, considered and passed House.

Aug. 14, considered and passed Senate, amended.

Aug. 17, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 38:

Sept. 18, Presidential statement.

Public Law 95-374
95th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

Sept. 18, 1978
[H.R. 12927]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1979, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military Construction Appropriation Act, 1979.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Army as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $711,509,000, to remain available until September 30, 1983: *Provided*, That of this amount, not to exceed $64,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations for both Houses of Congress of his determination and the reasons therefor.

Notification to congressional committees.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $760,145,000, to remain available until September 30, 1983: *Provided*, That of this amount, not to exceed $46,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Notification to congressional committees.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Air Force as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $483,264,000, to remain available until September 30, 1983: *Provided*, That of this amount, not to exceed $52,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes

Notification to congressional committees.

and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, and facilities for activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $194,880,000, to remain available until September 30, 1983; and, in addition, not to exceed $20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate: *Provided further*, That of the amount appropriated, not to exceed $9,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Notification to congressional committees.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $52,200,000, to remain available until September 30, 1983.

10 USC 2231 *et seq.*

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $44,750,000, to remain available until September 30, 1983.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $37,100,000, to remain available until September 30, 1983.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $21,850,000, to remain available until September 30, 1983.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $13,000,000, to remain available until September 30, 1983. 10 USC 2231 *et seq.*

FAMILY HOUSING, DEFENSE

For expenses of family housing for the Army, Navy, Marine Corps, Air Force, and Defense agencies, for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation, maintenance, and debt payment, including leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $1,679,865,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts: 76 Stat. 236.

For the Army:
Construction, $60,560,000;
For the Navy and Marine Corps:
Construction, $33,446,000;
For the Air Force:
Construction, $35,335,000;
For Defense agencies:
Construction, $3,024,000;
For Department of Defense:
Debt payment, $148,100,000;
Operation, maintenance, $1,399,400,000;

Provided, That the amounts provided under this head for construction, and for debt payment, shall remain available until September 30, 1983: *Provided further*, That of the amounts appropriated for operation and maintenance, not less than $635,000,000 shall be available only for the maintenance of real property facilities.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $1,500,000. 42 USC 3374.

GENERAL PROVISIONS

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Ninety-fifth Congress. Prior appropriations.

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor. Contracts.

SEC. 103. None of the funds appropriated in this Act shall be expended for additional costs involved in expediting construction unless the Secretary of Defense certifies such costs to be necessary to protect the national interest and establishes a reasonable completion Construction costs, expedition.

date for each project, taking into consideration the urgency of the requirement, the type and location of the project, the climatic and seasonal conditions affecting the construction, and the application of economical construction practices.

Service facilities.

SEC. 104. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Motor vehicles, hire. 31 USC 638f.

SEC. 105. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Access roads, construction. 31 USC 700b. New bases.

SEC. 106. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 107. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

Land purchases or easements.

SEC. 108. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

Foreign projects.

SEC. 109. None of the funds appropriated in this Act may be used to make payments under contracts for any project in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Family housing limitations.

SEC. 110. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 111. Appropriations heretofore made available for Military construction, Army; Military construction, Navy; Military construction, Air Force; Military construction, Defense Agencies; Military construction, Army National Guard; Military construction, Air National Guard; Military construction, Army Reserve; Military construction, Naval Reserve; and Military construction, Air Force Reserve, shall not be available for obligation after September 30, 1983. Each such appropriation shall be merged with and shall be available for the same time period as appropriations made in this Act under the same head.

Notification to Committee on Appropriations.

SEC. 112. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations.

SEC. 113. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity. Base realignment or closure activities.

This Act may be cited as the "Military Construction Appropriation Act, 1979". Short title.

Approved September 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 95-1246 (Comm. on Appropriations) and No. 95-1495 (Comm. of Conference).

SENATE REPORT No. 95-1019 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 16, considered and passed House.

Aug. 3, considered and passed Senate, amended.

Aug. 17, House agreed to conference report; receded from its disagreement and concurred in Senate amendment No. 21; concurred in other Senate amendments with amendments.

Aug. 21, Senate agreed to conference report; concurred in House amendments.

Public Law 95-375
95th Congress

An Act

Sept. 18, 1978
[S. 1633]

To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

Pascua Yaqui Indians, Ariz., extension of Federal benefits.
25 USC 1300f.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Pascua Yaqui Indian people who are members of the Pascua Yaqui Association, Incorporated, an Arizona corporation, or who hereafter become members of the Pascua Yaqui Tribe in accordance with section 3 of this Act, are recognized as, and declared to be, eligible, on and after the date of the enactment of this Act, for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States, or under any statute of the United States. For the purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

25 USC 461 *et seq.*

(b) The provisions of the Act of June 18, 1934 (48 Stat. 484), as amended, are extended to such members described in subsection (a).

(c) The Secretary of the Interior is directed, upon request of the Pascua Yaqui Association, Incorporated, and without monetary consideration, to accept on behalf of the United States and in trust for the Pascua Yaqui Tribe, the title to the real property conveyed by the United States to such association under the Act of October 8, 1964 (78 Stat. 1197), and such lands shall be held as Indian lands are held: *Provided*, That the State of Arizona shall exercise criminal and civil jurisdiction over such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79).

25 USC 1323.

Repeal.

(d) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

25 USC 1300f-1.

Publication in Federal Register.

SEC. 2. Within thirty months after the date of enactment of this Act, the Pascua Yaqui Tribe shall adopt a constitution and bylaws or other governing documents and a membership roll. The Secretary of the Interior shall review such documents to insure that they comply with the provisions of this Act and shall publish such documents and membership roll in the Federal Register. Publication of such roll shall not affect or delay the immediate eligibility of the members of the Association under section 1 of this Act.

25 USC 1300f-2.

SEC. 3. For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of—

(A) the members of the Pascua Yaqui Association, Incorporated, as of the date of the enactment of this Act, who apply for enrollment in the Pascua Yaqui Tribe within one year from the date of enactment of this Act pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe;

(B) all those persons of Yaqui blood who are citizens of the United States and who, within two years from the date of enactment of this Act, apply for, and are admitted to, membership in the Association pursuant to article VII of the Articles of Incorporation of the Association; and

(C) direct lineal descendants of such persons, subject to any further qualifications as may be provided by the Tribe in its constitution and bylaws or other governing documents.

Approved September 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 95-1021 accompanying H.R. 6612 (Comm. on Interior and Insular Affairs) and No. 95-1339 (Comm. of Conference).
SENATE REPORT No. 95-719 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 5, considered and passed Senate.
Apr. 17, H.R. 6612 considered and passed House; passage vacated and S. 1633, amended, passed in lieu.
May 2, Senate disagreed to House amendment.
Aug. 16, House agreed to conference report.
Aug. 25, Senate agreed to conference report.

Public Law 95-376
95th Congress

An Act

Sept. 18, 1978
[H.R. 10878]

To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.

Fishermen's Protective Act of 1967, amendments. Voluntary insurance program, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)), is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1981; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts".

Certification to President.

SEC. 2. Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) thereof—

(A) by inserting "(1)" immediately before "When", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

"(3) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade.";

Notification to Congress.

(2) by amending subsection (b)—

(A) by inserting "or the Secretary of the Interior" immediately after "Secretary of Commerce", and

(B) by inserting "or wildlife products" immediately after "fish products" each place it appears therein;

(3) by amending subsection (c) by inserting "or wildlife products" immediately after "fish products";

(4) by amending subsection (d)(2) by inserting "and wildlife products" immediately after "fish products";

(5) by amending subsection (e)—

(A) by inserting "and wildlife products" immediately after "fish products" in paragraph (1) and the first sentence of paragraph (5),

(B) by inserting "or other conveyance" immediately after "vessel" in paragraph (4)(B), and

(C) by striking out "Any fish products" in the second sentence of paragraph (5) and inserting in lieu thereof "Fish products and wildlife products";

Regulations.

(6) by amending subsection (f) by striking out "is" and inserting in lieu thereof ", the Secretary of Commerce, and the Secretary of the Interior are each";

(7) by amending subsection (g)— Definitions.

(A) by striking out "in force" in paragraph (3) and inserting in lieu thereof "in effect",

(B) by striking out "to which the United States is a signatory party," and inserting in lieu thereof "which is in force with respect to the United States,", and

(C) by adding at the end thereof the following:

"(5) The term 'international program for endangered or threatened species' means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

"(6) The term 'wildlife products' means fish (other than those to which paragraph (4) applies) and wild animals, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported into the United States for scientific research.

"(7) The term 'taking' means—

"(A) for purposes of subsection (a)(2)—

"(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

"(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

"(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal.".

SEC. 3. (a) Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended to read as follows:

"SEC. 10. (a) For purposes of this section—

"(1) The terms 'fishery', 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall each have the same respective meaning as is given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(2) The term 'fishing gear' means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

"(3) The term 'fund' means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

"(b) Subject to the provisions of this section, the owner or operator (hereinafter referred to as the 'vessel owner') of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, or destruction of such vessel, or any fishing gear used with such vessel, or both, if the damage, loss, or destruction— Damages to fishing vessels and gear, compensation.

"(1) in the case of such vessel—

"(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Fishery Conservation and Management Act of 1976, and 16 USC 1801 note.

"(B) is attributable to any vessel (or its crew or fishing gear) other than a vessel of the United States; or

"(2) in the case of such fishing gear—

"(A) occurs when such fishing gear is being used for fishing in any fishery subject to such exclusive management authority, and

"(B) is attributable to (i) any other vessel, whether such vessel is a vessel of the United States, or (ii) an act of God.

"(c) A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction unless such owner—

"(1) makes application to the Secretary for compensation under this section within sixty days after the day on which the damage, loss, or destruction occurred or was first noticed by the owner;

"(2) pays upon making such application a reasonable administrative fee which the Secretary shall deposit into the fund;

Regulations.

"(3) has, in such form as the Secretary shall prescribe by regulation, a current inventory or other evidence of possession of the fishery vessel or fishing gear concerned;

"(4) has complied with all applicable regulations, if any, relating to the marking of, and (if appropriate) the notification of the location of, the fishing gear concerned; and

Regulations.

"(5) is in compliance with such other regulations as may be prescribed by the Secretary to carry out this section.

Application for compensation. Regulations.

"(d)(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the cause and extent of the damage, loss, or destruction claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than sixty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) determined on the basis of the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or fishing gear concerned;

"(B) proportionally reduced to the extent that evidence indicates that negligence by the vessel owner contributed to the cause or extent of the damage, loss, or destruction; and

"(C) reduced by the amount of compensation, if any, which the vessel owner has received or will receive with respect to the damage, loss, or destruction through insurance, pursuant to any other provision of law, or otherwise.

"(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall—

"(A) if the application is disapproved, set forth the reasons therefor; or

"(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined.

Review.

"(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on

the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

"(5) If compensation is awarded under the final determination on any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

"(e) In addition to any fee imposed under section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) with respect to any foreign fishing vessel for any year after 1978, the Secretary shall impose a surcharge in an amount not to exceed 20 percent of the amount of the fee imposed under such section for such year. The failure to pay any surcharge imposed under this subsection with respect to any foreign fishing vessel shall be treated by the Secretary as a failure to pay the fee for such vessel under such section 204(b)(10).

"(f)(1) There is established in the Treasury of the United States the Fishing Vessel and Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section. Fishing Vessel and Gear Damage Compensation Fund. Establishment.

"(2) The fund shall consist of—

"(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

"(B) all administrative fees collected under subsection (c)(2);

"(C) all surcharges collected under subsection (e);

"(D) revenues received from deposits or investments made under the last sentence of this paragraph; and

"(E) any revenue acquired through the issuance of obligations under paragraph (3).

Sums may be expended from the fund only to such extent and in such amounts as are provided in advance in appropriation Acts. Sums in the fund which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed $5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary of the Treasury may sell any such notices or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other 31 USC 774.

obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Penalty.

"(g) Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or both.".

Effective date.
22 USC 1980 note.

(b) The amendment made by subsection (a) shall take effect January 1, 1979.

22 USC 1980 note.

(c) Nothing in the amendment made by subsection (a) shall be construed as affecting in any manner or to any extent any loan made under section 10 of the Fishermen's Protective Act of 1967 (as in effect before January 1, 1979), and, for purposes of the consideration by the Secretary of Commerce of any application for a loan under such section which was filed, but not acted on, before January 1, 1979, the amendment made by subsection (a) shall not be deemed to have been enacted.

22 USC 1980.

Approved September 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1029 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-816 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 10, considered and passed House.
May 22, considered and passed Senate, amended.
Aug. 10, House concurred in Senate amendments with amendments.
Aug. 17, Senate concurred in House amendments with an amendment; House concurred in Senate amendments.

Public Law 95-377
95th Congress

An Act

To amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.

Sept. 19, 1978
[S. 3454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1978" and inserting in lieu thereof "through September 30, 1979".

Armed Forces. Air Force grade extension; certain provisions of law, suspension. 10 USC 5707 note.

SEC. 2. (a) For the period beginning on September 15, 1978, and ending on September 30, 1979, the President is authorized to suspend application of the following provisions of title 10, United States Code:

(1) Section 5707(c).

(2) Section 5751 (a), (b), and (e).

(3) Section 5770.

(b) No suspension invoked by the President under authority of subsection (a) shall be effective after September 30, 1979.

SEC. 3. Effective only for the period beginning September 15, 1978, and ending September 30, 1979—

(1) Section 1201(3) of title 10, United States Code, is amended as follows:

(A) striking out the word "or" at the end of subclause (B)(ii);

(B) striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof a semicolon and the word "or"; and

(C) adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended by— Separation.

(A) striking out the word "or" at the end of item (i);

(B) striking out the semicolon at the end of item (ii) and inserting in lieu thereof a comma and the following: "or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1979, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effective".

SEC. 4. (a) Chapter 545 of title 10, United States Code, is amended by inserting after section 5787c a new section as follows:

10 USC 5787d.

"§ 5787d. Navy lieutenants: temporary promotion

"(a) Line officers not restricted in the performance of duty in the grade of lieutenant, possessing skills in a critical shortage and serving in lieutenant commander billets requiring such skills, may be temporarily promoted to lieutenant commander under such regulations as the Secretary of the Navy may prescribe. Temporary appointment under this section shall be made by the President alone.

"(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotions or appointments, or abridge their rights or benefits.

"(c) Temporary promotions under this section may be made only upon the recommendation of a board of officers convened for that purpose. In addition to recommending officers for promotion, a board so convened shall make the report required by section 6384 of this title.

"(d) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date made, and the member so appointed is entitled to the pay and allowances of the grade to which promoted from that date.

"(e) Temporary appointments under this section will terminate upon an officer's detachment from a qualifying billet so designated by the Secretary of the Navy. When an officer, whose name is on a promotion list as a result of selection to lieutenant commander other than under this section, is detached, an appointment will be issued to include the interim period between the subject officer's detachment from the qualifying billet and the date of promotion as a result of selection board action.

"(f) When his temporary appointment under this section is terminated or expires, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment.

"(g) No appointments may be made under this section after September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by inserting

"5787d. Navy lieutenants: temporary promotion."

below

"5787c. Navy and Marine Corps, warrant officers: temporary promotion.".

SEC. 5. Section 5504(d) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 6. (a) Section 5786(c) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

(b) Section 5791(a) of such title is amended by inserting "and 5787d" after "5787".

SEC. 7. Section 6325(b) of title 10, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 8. (a) Section 6384(a) of title 10, United States Code, is amended by inserting "and each board of officers convened under section 5787d" after "under chapter 543".

(b) Section 6385 of such title is amended by striking out "or 5787" and inserting in lieu thereof "5787, or 5787d".

(c) The catchline of such section is amended by striking out **"and 5787"** and inserting in lieu thereof **"5787, or 5787d".**

(d) The table of sections at the beginning of chapter 573 of such title is amended by striking out "and 5787" in the item relating to section 6385 and inserting in lieu thereof "5787, or 5787d".

SEC. 9. Section 905(h) of title 37, United States Code, is amended by inserting "or 5787d" after "5787".

SEC. 10. (a) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers serving in the grade of major general or above.".

(b) The amendment made by subsection (a) shall be effective only for the period beginning on September 15, 1978, and ending on September 30, 1979. 10 USC 5703 note.

SEC. 11. (a) Section 5787c of title 10, United States Code, is amended to read as follows:

"§ 5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion 10 USC 5787c.

"(a) Warrant officers may be temporarily promoted to higher warrant officer grades under such regulations as the Secretary of the Navy may prescribe.

"(b)(1) Officers designated for limited duty may be temporarily promoted to a higher grade under such regulations as the Secretary may prescribe.

"(2) No promotion may be made under this subsection after September 30, 1979.".

(b) The table of sections at the beginning of chapter 545 of such title is amended by striking out the item relating to section 5787c and inserting in lieu thereof

"5787c. Navy and Marine Corps; warrant officers and officers designated for limited duty: temporary promotion.".

Approved September 19, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-1144 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 7, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 95-378
95th Congress

An Act

To repeal chapter 27 of title 44, United States Code.

Sept. 22, 1978
[H.R. 8112]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Records Council is hereby abolished.

Federal Records Council, abolishment. 44 USC 2701 note.

SEC. 2. (a) Chapter 27 of title 44, United States Code, is repealed.

Repeal. 44 USC 2701.

(b) The table of chapters of title 44, United States Code, is amended by striking out the item pertaining to chapter 27.

Approved September 22, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1407 (Comm. on Government Operations).
SENATE REPORT No. 95-1160 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Sept. 11, considered and passed Senate.

Public Law 95-379
95th Congress

An Act

Sept. 22, 1978
[H.R. 12915]

To amend section 2301 of title 44, relating to the National Archives Trust Fund Board.

National Archives Trust Fund Board, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 2301 of title 44, United States Code, is amended to read as follows: "The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the Secretary of the Treasury and the Chairman of the National Endowment for the Humanities.".

Approved September 22, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1408 (Comm. on Government Operations).
SENATE REPORT No. 95-1161 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed House.
Sept. 11, considered and passed Senate.

Public Law 95-380
95th Congress

An Act

To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

Sept. 22, 1978
[H.R. 13087]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 3646 of the Revised Statutes of the United States, as amended (31 U.S.C. 528(a)), is further amended by striking out "upon receipt and approval by the Secretary of the Treasury of an undertaking to indemnify the United States, in such form and amount and with such surety, sureties or security, if any, as the Secretary of the Treasury may require;".

Substitute Treasury checks without indemnity, authorization.

SEC. 2. Subsection (b) of section 3646 of the Revised Statutes of the United States, as amended (31 U.S.C. 528(b)), is further amended to read as follows:

Exceptions.

"(b) The Secretary of the Treasury, may, before issuance of a substitute check, require from the owner or holder of the check an undertaking to indemnify the United States, in the form and amount and with the surety or security the Secretary believes necessary.".

Approved September 22, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1320 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORT No. 95-1176 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 10, considered and passed House.
Sept. 12, considered and passed Senate.

Public Law 95-381
95th Congress

An Act

Sept. 22, 1978
[S. 2928]

To authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

International Investment Survey Act of 1976, amendment.
22 USC 3108.
Appropriation authorization.

"SEC. 9. To carry out this Act, there is authorized to be appropriated $4,000,000 for the fiscal year ending September 30, 1979.".

Report to Congress.
22 USC 3103.

SEC. 2. Section 4(d) of the International Investment Survey Act of 1976 is amended by striking out "his findings and conclusions" and all that follows through the end of the subsection and inserting in lieu thereof the following: "to the Congress an interim report of his findings and conclusions not later than two years after the date of enactment of this Act and a final report of such findings and conclusions not later than three years after such date of enactment.".

22 USC 3107.

SEC. 3. Section 8(b) of the International Investment Survey Act of 1976 is amended—

(1) by striking out "It shall be the responsibility of the Council on International Economic Policy to" and inserting in lieu thereof "The President shall"; and

(2) by striking out "Council's" and inserting in lieu thereof "President's".

Effective date.
22 USC 3108 note.

SEC. 4. The amendment made by the first section of this Act shall take effect on October 1, 1978.

Approved September 22, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1154 accompanying H.R. 12589 (Comm. on International Relations).
SENATE REPORT No. 95-863 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 22, considered and passed Senate.
June 28, considered and passed House, amended, in lieu of H.R. 12589.
Sept. 7, Senate agreed to House amendments.

Public Law 95-382
95th Congress

An Act

To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II interment camps.

Sept. 22, 1978
[H.R. 9471]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8332 of title 5, United States Code, relating to creditable service for civil service retirement purposes, is amended by adding at the end thereof the following new subsection:

Japanese-Americans.
Civil service retirement credit.

"(l) (1) Any employee or Member who—

"(A) is of Japanese ancestry; and

"(B) while a citizen of the United States or an alien lawfully admitted to the United States for permanent residence, was interned or otherwise detained at any time during World War II in any camp, installation, or other facility in the United States, or in any territory or possession of the United States, under any policy or program of the United States respecting individuals of Japanese ancestry which was established during World War II in the interests of national security pursuant to—

"(i) Executive Order Numbered 9066, dated February 19, 1942;

3 CFR, 1938-1943 Comp., p. 1092.

"(ii) section 67 of the Act entitled 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900 (chapter 339, Fifty-sixth Congress; 31 Stat. 153);

"(iii) Executive Order Numbered 9489, dated October 18, 1944;

3 CFR, 1943-1948 Comp., p. 346.

"(iv) sections 4067 through 4070 of the Revised Statutes of the United States; or

50 USC 21-24.

"(v) any other statute, rule, regulation, or order;

shall be allowed credit (as civilian service) for any period during which such employee or Member was so interned or otherwise detained after such employee became 18 years of age.

"(2) For the purpose of this subsection, 'World War II' means the period beginning on December 7, 1941, and ending on December 31, 1946.".

"World War II."

(b) Section 8334(g) of title 5, United States Code, relating to deposits, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) any period for which credit is allowed under section 8332(l) of this title.".

SEC. 2. (a) The amendments made by this Act shall take effect on the later of—

Effective date.
5 USC 8332 note.

(1) the date of the enactment of this Act, or

(2) October 1, 1978.

(b) Subject to subsection (c) of this section, the amendments made by the first section of this Act shall apply with respect to annuities which commence before, on, or after the effective date of this Act, but

no monetary benefit by reason of such amendments shall accrue for any period before such effective date.

(c)(1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in section 8332(l) of title 5, United States Code, as added by the first section of this Act, shall, upon application to the Civil Service Commission, be recomputed in accordance with such section 8332(l).

(2) Any recomputation of an annuity under paragraph (1) shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received in the Commission.

(d)(1) The Civil Service Commission shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited under section 8332(l) of title 5, United States Code, as added by the first section of this Act, or to have any annuity recomputed under subsection (c), of their entitlement to such credit or recomputation.

(2) The Civil Service Commission shall, on request, assist any individual referred to in paragraph (1) in obtaining from any department, agency, or other instrumentality of the United States such information possessed by such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited under such section 8332(l) or to have any annuity recomputed under subsection (c).

(3) Any department, agency, or other instrumentality of the United States which possesses any information with respect to the internment or other detention of any employee or Member as described in such section 8332(l) shall, at the request of the Commission, furnish such information to the Commission.

Approved September 22, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-789 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1085 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 23, considered and passed House.
Aug. 18, considered and passed Senate, amended.
Sept. 11, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 38:
Sept. 22, Presidential statement.

Public Law 95-383
95th Congress

An Act

To amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

Sept. 22, 1978
[S. 3107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (2) and (3) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a) (2) and (3)) are amended to read as follows:

Bankruptcy, employees of referees, uniform supervision and control.

"(2) The actual and necessary office and other expenses of referees shall be authorized and approved by the Director, including compensation of clerical, stenographic, and other assistants of referees at rates fixed by the Director, at rates not less than the rates for comparable services prevailing in the respective offices of the clerks of the several district courts, and the costs of establishing and maintaining their offices with equipment and supplies, adequate for their efficient and economical operation, including mechanical equipment and devices and law libraries. Such expenses may be allowed when authorized by a judge of the judicial district or districts in which a referee serves in cases of emergency where it is not feasible to secure prior authorization of the Director.

"(3) When, in the opinion of the Director, the public interest requires it, he may, on the recommendation of a referee, which recommendation shall state facts showing the necessity for the same, allow the referee to employ necessary clerical, stenographic, and other assistants. All employees of the referee shall be utilized under the direct supervision of the referee exclusively in the processing of bankruptcy cases. The referee may at his pleasure remove any assistant in his employ. The authority of the referee to employ, direct, and remove assistants may not be exercised by anyone other than the referee. The Director may utilize funds collected or appropriated for the referees' salary fund and the referees' expense fund pursuant to section 40c of this Act, to pay the salaries of only such clerical, stenographic, or other assistants as are employed under the direct supervision of the referee in the office of the referee: *Provided*, *however*, That salaries of the employees of the Bankruptcy Division of the Administrative Office of the United States Courts may also be paid out of such funds. If the office of the referee shall become vacant, the employment of his assistants shall not thereupon be terminated: *Provided*, *however*, That during such vacancy the Director may terminate the employment of any assistant, if, in his opinion, the services of such assistant are no longer needed.".

11 USC 68.

Approved September 22, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-984 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 19, considered and passed Senate.
Sept. 8, considered and passed House.

Public Law 95-384
95th Congress

An Act

Sept. 26, 1978
[S. 3075]

To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Security Assistance Act of 1978.

SHORT TITLE

22 USC 2151 note.

SECTION 1. This Act may be cited as the "International Security Assistance Act of 1978".

CONTINGENCY FUND

22 USC 2261.

SEC. 2. Section 451(a) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1978 not to exceed $5,000,000" and inserting in lieu thereof "fiscal year 1979 not to exceed $5,000,000".

INVOLVEMENT OF UNITED STATES PERSONNEL IN NARCOTICS CONTROL ENFORCEMENT ACTIVITIES ABROAD

22 USC 2291.

SEC. 3. Section 481(c)(1) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentences: "No such officer or employee may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person. The provisions of this paragraph shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

USE OF HERBICIDES TO ERADICATE MARIHUANA

22 USC 2291.

SEC. 4. Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(d)(1) Assistance authorized by this chapter may not be made available or used for any program involving the spraying of a herbicide to eradicate marihuana plants if the use of that herbicide is likely to cause serious harm to the health of persons who may use or consume the sprayed marihuana. This prohibition shall not apply if the herbicide is used in conjunction with another substance that will clearly and readily warn potential users and consumers of the sprayed marihuana that a herbicide has been used on it.

"(2) The Secretary of State shall inform the Secretary of Health, Education, and Welfare of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter. The Secretary of Health, Education, and Welfare, on the basis of scientific information and testing and after receiving comments from the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall promptly advise the Secretary of State if the use of that herbicide is likely to cause serious harm to the health of persons

who may use or consume marihuana sprayed with that herbicide. If the Secretary of State is so advised with respect to any herbicide, the prohibition contained in paragraph (1) shall apply with respect to the use of that herbicide.

"(3) The Secretary of State shall submit a comprehensive report to the Congress not later than January 1 of each year explicitly detailing all efforts he has taken to ensure compliance with the requirements of this subsection and to prevent the spraying of marihuana with herbicides that are likely to cause serious harm to human health.". Report to Congress.

INTERNATIONAL NARCOTICS CONTROL

SEC. 5. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$39,000,000 for the fiscal year 1978" and inserting in lieu thereof "$40,000,000 for the fiscal year 1979". 22 USC 2291a.

(b) Such section is further amended—

(1) by inserting "(a)" immediately before "To carry out"; and

(2) by adding at the end of the section the following new subsection:

"(b) Funds authorized to be appropriated by this section shall not be made available for the procurement of weapons or ammunition under this chapter.". Restriction.

HUMAN RIGHTS

SEC. 6. (a) Paragraph (1) of section 502B(a) of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2304.

"(1) The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.".

(b) Paragraph (2) of such section is amended by striking out "It is further the policy of the United States that, except" and inserting in lieu thereof "Except".

(c) Paragraph (3) of such section is amended by striking out "the foregoing policy" and inserting in lieu thereof "paragraphs (1) and (2),".

(d)(1) Paragraph (2) of such section is amended by adding at the end thereof the following new sentence: "Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1969 for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses.". 50 USC app. 2401 note.

(2) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection: 50 USC app. 2403.

"(m)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

"(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand.".

22 USC 2304. (e) Section 502B(a)(2) of the Foreign Assistance Act of 1961, as amended by subsection (d)(1) of this section, is further amended by adding at the end thereof the following new sentence: "Assistance may

22 USC 2347. not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.".

MILITARY ASSISTANCE

SEC. 7. (a) Subsection (a)(1) of section 504 of the Foreign Assist-

22 USC 2312. ance Act of 1961 is amended to read as follows:

Appropriation authorization. Limitation.

"(a)(1) There is authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $133,500,000 for the fiscal year 1979. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1979:

"Portugal	$27,900,000
"Spain	41,000,000
"Jordan	45,000,000
"Philippines	17,100,000
"Greece	35,000,000

The amount specified in this paragraph for military assistance to any such country for the fiscal year 1979 may be increased by not more than 10 percent of such amount if the President deems such increase necessary for the purposes of this chapter.".

22 USC 2321j. (b) Section 516(a) of such Act is amended by inserting immediately before the period at the end thereof ", and until September 30, 1981, to the extent necessary to carry out obligations incurred under this chapter during the fiscal year 1978 with respect to Indonesia and Thailand".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

22 USC 2321h. SEC. 8. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$270,000,000 for the fiscal year 1978" and inserting in lieu thereof "$90,000,000 for the fiscal year 1979".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

22 USC 2321i. SEC. 9. (a) Section 515 of the Foreign Assistance Act of 1961 is amended in the first sentence of subsection (b)(1)—

(1) by striking out "fiscal year 1978" and inserting in lieu thereof "fiscal year 1979"; and

(2) by striking out "Brazil" and inserting in lieu thereof "Turkey, Indonesia, Thailand".

(b) Such section is amended in subsection (d) by striking out "may not exceed 865 for the fiscal year 1978" and inserting in lieu thereof ", including any such members serving on a reimbursable basis pursuant to subsection (b)(3), may not exceed 790 for the fiscal year 1979".

(c) Such section is amended in subsection (f) by striking out "1976" in the last sentence and inserting in lieu thereof "1977, except that the President may assign an aggregate total of not to exceed eight additional defense attachés to such countries in order to perform overseas management functions under this subsection".

(d) Such section is amended in subsection (g) by inserting "for fixed" immediately before "periods of time" in the second sentence.

(e) Such section is amended by adding at the end thereof the following new subsection:

"(h) The President shall continue to instruct United States diplomatic and military personnel in United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.".

ECONOMIC SUPPORT FUND

SEC. 10. (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended to read as follows:

"CHAPTER 4—ECONOMIC SUPPORT FUND

"SEC. 531. AUTHORITY.—(a)(1) The Congress recognizes that under special economic, political, or security conditions the national interests of the United States may require economic support for countries or in amounts which could not be justified solely under chapter 1 of part I. In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. In planning assistance intended for economic development under this chapter, the President shall take into account, to the maximum extent feasible, the policy directions of section 102. 22 USC 2346. 22 USC 2151.

"(2) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering part I. 22 USC 2151.

"(b)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1979, $1,902,000,000. Appropriation authorization.

"(2) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

"(c) Amounts appropriated to carry out this chapter shall be available for economic programs only and may not be used for military or paramilitary purposes.

"SEC. 532. MIDDLE EAST PROGRAM.—(a) The Congress recognizes that a peaceful and lasting resolution of the divisive issues that have contributed to tension and conflict between countries in the Middle 22 USC 2346a.

East is essential to the security of the United States and the cause of world peace. The Congress declares and finds that the United States can and should play a constructive role in securing a just and durable peace in the Middle East by facilitating increased understanding between the Arab countries and Israel and by assisting the countries in the region in their efforts to achieve economic progress and political stability, which are the essential foundations for peace. It is the sense of the Congress that United States assistance programs in the Middle East should be designed to promote mutual respect and security among the countries in the region and to foster a climate conducive to increased economic development, thereby contributing to a community of free, secure, and prospering countries in the Middle East.

Funds available to Middle East.

"(b)(1) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $785,000,000 shall be available only for Israel, not less than $750,000,000 shall be available only for Egypt, and not less than $93,000,000 shall be available only for Jordan.

"(2) The total amount of funds allocated for Israel under this chapter for the fiscal year 1979 may be made available as a cash transfer. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfers made to Israel does not cause an adverse impact on the total amount of nonmilitary exports from the United States to Israel.

"(3) Not less than two-thirds of the assistance furnished to Israel, and not less than two-thirds of the assistance furnished to Egypt, under this chapter for the fiscal year 1979 shall be provided on a grant basis.

"(4) The President is requested to provide that at least $65,000,000 of the funds allocated for Egypt under this chapter for the fiscal year 1979 shall be available for the development and encouragement of private enterprise in Egypt. Programs financed under this paragraph shall be developed in close consultation with the Overseas Private Investment Corporation. It is the intent of the Congress that the funds made available under this paragraph should be used, to the maximum extent feasible, to encourage other donors, especially the Arab countries that are members of the Organization of Petroleum Exporting Countries, to participate in private enterprise development in Egypt. Funds made available under this paragraph may be used, among other things, for lending to Egyptian private business enterprise, to provide necessary surveys, services, and programs to encourage and support private enterprise development, and to contract for personnel to assist such programs.

"(5) It is the sense of the Congress that programs which stress regional development or regional scientific and technical cooperation between Israel and its Arab neighbors can contribute in an important way to the mutual understanding that must serve as the basis for permanent peace in the Middle East. Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $5,000,000 shall be available only to fund regional programs which stress development or scientific and technical cooperation between Israel and its Arab neighbors or programs which would be used for Arab-Israeli cooperation once normalization of relations between Israel and the Arab nations occurs.

"(6)(A) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed potash

production facility in Jordan until the President has determined, and has reported his determination to the Congress, that Jordan has obtained firm commitments from other sources for the financing, in addition to the proposed United States contribution, which will be required for that project.

"(B) Funds appropriated to carry out this chapter for the fiscal year 1979 may not be expended for construction of the proposed Maqarin Dam and Jordan Valley Irrigation System until the President has determined, and has reported his determination to the Congress, that Jordan has obtained firm commitments from other sources for the financing, in addition to the proposed United States contribution, which will be required for that project.

"SEC. 533. SOUTHERN AFRICA PROGRAM.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, $60,000,000 shall be available only for the countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict in that region and for education and job training assistance. Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts, and to provide economic support to countries in the region. 22 USC 2346b.

"(b) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States.

"SEC. 534. TURKEY AND CYPRUS PROGRAMS.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $15,000,000 shall be available only for refugee relief and reconstruction on Cyprus. 22 USC 2346c.

"(b) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, not less than $50,000,000 shall be available only for Turkey.".

(b)(1) Section 502B(d)(2)(A) of the Foreign Assistance Act of 1961 is amended by striking out "security supporting assistance" and inserting in lieu thereof "economic support fund". 22 USC 2304.

(2) The second sentence of section 610(b) of such Act is repealed. Repeal.

(3) Section 653(b) of such Act is amended by striking out "security supporting assistance" each of the three places it appears and inserting in lieu thereof "assistance under chapter 4 of part II of this Act". 22 USC 2360. 22 USC 2413.

(4) Sections 669(a) and 670(a) of such Act are each amended by inserting "(including assistance under chapter 4 of part II)" immediately after "economic assistance" and by striking out "or security supporting". 22 USC 2429, 2429a.

(5) Section 406(a) of the International Security Assistance and Arms Export Control Act of 1976 is amended by striking out "or security supporting assistance" and inserting in lieu thereof "assistance, no assistance under chapter 4 of part II,". 22 USC 2370 note.

(6) After September 30, 1978, any reference in any law to security supporting assistance shall be deemed to be a reference to assistance under chapter 4 of part II of the Foreign Assistance Act of 1961. 22 USC 2346 note. 22 USC 2346.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

22 USC 2347a.

SEC. 11. (a) Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$31,000,000 for the fiscal year 1978" and inserting in lieu thereof "$31,800,000 for th fiscal year 1979".

22 USC 2347b.

(b) Section 543 of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.".

ASSISTANCE FOR PEACEKEEPING OPERATIONS

SEC. 12. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"CHAPTER 6—PEACEKEEPING OPERATIONS

22 USC 2348.

"SEC. 551. GENERAL AUTHORITY.—The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States.

22 USC 2348a.

"SEC. 552. AUTHORIZATION OF APPROPRIATIONS.—(a) There is authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $30,900,000 for the fiscal year 1979.

"(b) Amounts appropriated under this section are authorized to remain available until expended.

22 USC 2348b.

"SEC. 553. MIDDLE EAST SPECIAL REQUIREMENTS FUND.—(a) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1979, $3,500,000 may be used only for special requirements related to international peacekeeping in the Middle East.

"(b) The President may obligate or expend funds under this section for a foreign country or international organization only if—

Report to Speaker of the House and congressional committees.

"(1) he has transmitted to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations and the chairman of the Committee on Appropriations of the Senate a report setting forth—

"(A) the name of such country or organization;

"(B) the amount of such funds to be made available to such country or organization;

"(C) the purpose for which such funds are to be made available to such country or organization; and

"(D) the reasons why it is in the national interest to use funds under this section for such purpose rather than—

"(i) using other available funds; or

"(ii) if no other funds are available for such purpose, awaiting the enactment of legislation making funds specifically available for such purpose;

"(2) a period of 30 calendar days has elapsed since the Congress received such report; and

"(3) the Congress did not adopt, during such 30-day period, a concurrent resolution stating in substance that the Congress does not approve the proposed use of funds described in such report.

"SEC. 554. ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.". 22 USC 2348c. 22 USC 2151. 22 USC 2301.

(b) Section 502B(d)(2)(A) of such Act is amended— *Ante*, p. 735.

(1) by inserting "or chapter 6 (peacekeeping operations)" immediately after "and training)"; and

(2) by striking out "or part VI (assistance to the Middle East) of this Act".

(c)(1) Section 620B of such Act is amended in paragraph (1) by striking out "or 5" and inserting in lieu thereof "5, or 6". 22 USC 2372.

(2) Section 653(b) of such Act is amended— *Ante*, p. 735.

(A) by striking out "part V" both places it appears and inserting in lieu thereof "chapter 6 of part II"; and

(B) by inserting immediately before the comma in paragraph (2) "or assistance under chapter 6 of part II".

(3) Section 669(a) and 670(a) of such Act are each amended by inserting "providing assistance under chapter 6 of part II," immediately after "training,". *Ante*, p. 735.

(4) Part VI of such Act is repealed. Repeal.

(5) Section 406(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 is amended by inserting "no assistance under chapter 6 of part II," immediately before "and no military" in the first sentence. 22 USC 2441–2443. 22 USC 2370 note.

UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN

SEC. 13. (a) Section 620(x) of the Foreign Assistance Act of 1961 shall be of no further force and effect upon the President's determination and certification to the Congress that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement. Cyprus conflict. 22 USC 2370 note. 22 USC 2370.

(b) The Foreign Assistance Act of 1961 is amended by inserting immediately after section 620B the following new section:

"SEC 620C. UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN.—(a) The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 620(x) of this Act shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Tur- 22 USC 2373.

key, and Cyprus and between those countries and the United States. The Congress finds that—

"(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and must guarantee that the human rights of all of the people of Cyprus are fully protected;

"(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

"(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

"(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement on, and implementation of, constitutional and territorial terms within such guidelines; and

"(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

"(b) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

"(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

"(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

"(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Arms Export Control Act, and the agreements under which those defense articles were furnished.

22 USC 2751 note.

"(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

"(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

"(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

"(c) Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

Report to Speaker of the House and Senate committee.

"(d) In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this Act or the Arms Export Control Act for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act, of a proposed sale of defense articles or services to Greece or Turkey.".

Certification to Speaker of the House and Senate committee.
22 USC 2751 note.
22 USC 2776.

ANNUAL MILITARY ASSISTANCE REPORT

SEC. 14. Chapter 3 of part III of the Foreign Assistance Act of 1961, as amended by the International Development and Food Assistance Act of 1978, is amended by inserting immediately after section 654 the following new section:

"SEC. 657. ANNUAL REPORT ON MILITARY ASSISTANCE AND MILITARY EXPORTS.—Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30, showing the aggregate dollar value and quantity of defense articles and defense services, and of military education and training, furnished by the United States to each foreign country and international organization, by category, specifying whether they were furnished by grant under chapter 2 or chapter 5 of part II of this Act, by sale under chapter 2 of the Arms Export Control Act, by commercial sale licensed under section 38 of that Act, or by other authority.".

22 USC 2417.
22 USC 2311, 2347.
22 USC 2761.
22 USC 2778.

ARMS TRANSFER POLICY

SEC. 15. (a) Section 1 of the Arms Export Control Act is amended by adding at the end thereof the following new paragraph:

22 USC 2751.

"It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.".

Report to Congress. 22 USC 2751 note.

(b) Not later than December 31, 1979, the President shall transmit to the Congress a detailed report assessing the results and commenting on the implications of the multilateral discussions referred to in the amendment made by subsection (a).

SALES FROM STOCK

22 USC 2761.

SEC. 16. Section 21(e)(1) of the Arms Export Control Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.".

RENEGOTIATION ACT OF 1951

22 USC 2762.

SEC. 17. Section 22 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(c) The provisions of the Renegotiation Act of 1951 do not apply to contracts for the procurement of defense articles and defense services heretofore or hereafter entered into under this section or predecessor provisions of law.".

50 USC app. 1211 note.

ANNUAL ARMS SALES PROPOSAL

22 USC 2765.

SEC. 18. (a) Section 25 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

Report to congressional committees.

"(d) On or before November 15 of each year, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate the Arms Sales Proposal covering all sales under this Act (other than sales to members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand) of major defense equipment for $7,000,000 or more, or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year.".

(b) Subsection (c) of such section is amended by striking out "this section" and inserting in lieu thereof "subsection (a) or (b)".

DEFENSE REQUIREMENT SURVEYS

SEC. 19. Chapter 2 of the Arms Export Control Act is amended by adding at the end thereof the following new section:

22 USC 2766.

"SEC. 26. DEFENSE REQUIREMENT SURVEYS.—(a) The Congress finds that defense requirement surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of defense requirement surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Fur-

ther, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

"(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all defense requirement surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey. 22 USC 2776.

"(c) Upon a request of the chairman of the Committee on International Relations of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall grant that committee access to defense requirement surveys conducted by United States Government personnel.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 20. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$677,000,000 for the fiscal year 1978" and inserting in lieu thereof "$682,000,000 for the fiscal year 1978 and $674,300,000 for the fiscal year 1979". 22 USC 2771.

(b) Section 31(b) of such Act is amended by striking out "$2,102,350,000 for the fiscal year 1978, of which" and inserting in lieu thereof "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year".

(c) Section 31(c) of such Act is amended by striking out "fiscal year 1978" and inserting in lieu thereof "fiscal year 1979".

(d) Section 31(d) of such Act is amended by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

FULL DISCLOSURE REPORTS

SEC. 21. Section 36(b)(1) of the Arms Export Control Act is amended— 22 USC 2776.

(1) by amending subparagraph (D) to read as follows:

"(D) an evaluation, prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense, of the manner, if any, in which the proposed sale would—

"(i) contribute to an arms race;

"(ii) increase the possibility of an outbreak or escalation of conflict;

"(iii) prejudice the negotiation of any arms controls; or

"(iv) adversely affect the arms control policy of the United States;";

(2) by striking out "and" at the end of subparagraph (L);

(3) by striking out the period at the end of subparagraph (M) and inserting in lieu thereof a semicolon; and

(4) by inserting immediately after subparagraph (M) the following new subparagraphs:

"(N) the projected delivery dates of the defense articles to be offered;

"(O) a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

"(P) an analysis of the relationship of the proposed sale to projected procurements of the same item.".

USE OF FOREIGN CURRENCY

22 USC 1754.

SEC. 22. (a) Section 502(b) of the Mutual Security Act of 1954 is amended to read as follows:

"(b)(1)(A) Notwithstanding section 1415 of the Supplemental
31 USC 724. Appropriation Act, 1953, or any other provision of law—

"(i) local currencies owned by the United States which are in excess of the amounts reserved under section 612(a) of the For-
22 USC 2362. eign Assistance Act of 1961 and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

"(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority
5 USC 5701 *et seq.* of subchapter I of chapter 57 of title 5 of the United States Code for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

"(B) The authorization required for purposes of subparagraph (A) may be provided—

"(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

"(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

"(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

"(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

"(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

"(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

Congressional report.

"(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in the case of a committee of the Senate, each employee of a member of the com-

mittee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

Publication in Congressional Record.

"(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Clerk of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

Congressional report.

"(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.".

Congressional report.

Publication in Congressional Record.

(b) Notwithstanding section 30 of this Act, the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act.

Effective date. 22 USC 1754 note.

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE ARMED FORCES OF THE REPUBLIC OF KOREA

SEC. 23. (a)(1) The President is authorized until December 31, 1982—

22 USC 2428b.

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States

Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

22 USC 2151 note.
22 USC 2311.

(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

(3) a comparable defense capability could be provided by less advanced defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

Report to Congress.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d) The President should also transmit to the Congress, 120 days prior to each phase of troop withdrawal, a report on the viability of the withdrawal. This report should include assessments of the military balance on the Korean peninsula, the impact of withdrawal on the military balance, the adequacy of United States military assistance to the Republic of Korea, the impact of withdrawal on the United Nations and the Republic of Korea command structure, Republic of Korea defensive fortifications and defense industry developments, the United States reinforcement capability, and the progress of diplomatic efforts to reduce tensions in the area.

Congressional consultation.

(e)(1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2) Prior to any further withdrawal, the President shall report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea, the reaction anticipated from North Korea, the effect of the plan on increasing incentives for the Republic of Korea to develop an independent nuclear deterrent, the effect of any withdrawal on our long-term military and economic partnership with Japan, the effect of any proposed withdrawal on the United States-Chinese and United States-Soviet military balance, and the possible implications of any proposed withdrawal on the Soviet-Chinese military situation. Report to Congress.

UNITED STATES RELATIONS WITH THE SOVIET UNION

SEC. 24. (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace. 22 USC 2151 note. 22 USC 2151 note. 22 USC 2751 note.

(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy toward the Soviet Union. This review should cover, but not be limited to— Review.

(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union;

(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

(6) the current status of other arms control negotiations between the United States and the Soviet Union;

(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligations under the North Atlantic Treaty;

(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

(11) the evolution of Soviet domestic politics and the relationship between Soviet domestic politics and its foreign policy behavior, especially towards the United States; and

(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

Report to Congress.

(c) The President should report the results of the review called for by subsection (b) to the Congress not later than December 31, 1978.

REPORT ON REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

22 USC 2751 note.

SEC. 25. The President shall, within 120 days after the enactment of this Act, report in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate the results of the review conducted pursuant to section 27 of the International Security Assistance Act of 1977.

22 USC 2751 note.

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

22 USC 2151 note.

SEC. 26. (a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

6 UST 433.

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

Consultation.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

RHODESIA EMBARGO

22-USC 287c note.

SEC. 27. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines that—

(1) the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and

(2) a government has been installed, chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally-recognized observers.

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT

22 USC 2346a note.

SEC. 28. (a) The Congress finds that—

(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodations;

(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace.

REPORTS TO CONGRESS

SEC. 29. (a) Section 8(d) of the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, is amended in the second sentence by striking out "Additionally, the President shall also submit a quarterly report to the Congress" and inserting in lieu thereof "The annual presentation materials for security assistance programs shall include a table". 22 USC 2321b. 84 Stat. 2054.

(b) Section 408(b) of the International Security Assistance and Arms Export Control Act of 1976 is amended by striking out "(1)" and by repealing paragraph (2). 22 USC 2291 note.

(c)(1) The International Security Assistance and Arms Export Control Act of 1976 is amended— Repeals.

(A) in section 202, by striking out "(a)" immediately after "SEC. 202." and by repealing subsection (b); 90 Stat. 734. 22 USC 2751 note.

(B) by repealing section 217; 22 USC 2751 note.

(C) by repealing section 218; and 22 USC 2751 note.

(D) in section 407, by striking out "(a)" and by repealing subsection (b). 22 USC 2751 note.

(2) The International Security Assistance Act of 1977 is amended— 22 USC 2151 note.

(A) in section 9—

(i) by striking out "REVIEW OF" in the section heading; 22 USC 2346 note.

(ii) by striking out "(a)" immediately after "SEC. 9."; and

(iii) by repealing subsections (b) through (e); and

(B) by repealing section 23. 22 USC 2751 note.

(3) Section 5 of the Emergency Security Assistance Act of 1973 is repealed. 87 Stat. 837.

(4) Section 17 of the Foreign Assistance Act of 1974 is repealed. 22 USC 2311 note.

SAVINGS PROVISION

22 USC 1754 note.

SEC. 30. Enactment of this Act shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31 (a), (b), and (d) of the Arms Export Control Act).

Ante, p. 741.

Approved September 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1141, accompanying H.R. 12514 (Comm. on International Relations) and No. 95-1546 (Comm. of Conference).
SENATE REPORT No. 95-841 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 5, July 25, 26, considered and passed Senate.
July 31, Aug. 1, H.R. 12514 considered in House.
Aug. 2, considered and passed House, amended, in lieu of H.R. 17514.
Sept. 11, Senate agreed to conference report.
Sept. 12, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 39:
Sept. 26, Presidential statement.

Public Law 95-385
95th Congress

An Act

To transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency.

Sept. 26, 1978
[S. 3119]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with the provisions of this Act, the Mayor of the District of Columbia, consistent with the approval by the Council of the District of Columbia of the urban renewal plan requiring such action, is authorized and directed on behalf of the United States to transfer to the Redevelopment Land Agency all right, title, and interest of the United States in and to the following real property in the District of Columbia:

District of Columbia Redevelopment Land Agency. Transfer of U.S. property.

A tract of land known for the purposes of assessment and taxation as lot 803 in square 493 and described as follows:

Beginning for the same at a point in the west line of Fourth Street Southwest, 269.0 feet south of the south line of C Street Southwest, and running thence due south, with said west line of Fourth Street Southwest, 169.34 feet;

thence northwesterly 603.44 feet to the east line of Sixth Street Southwest;

thence, with said east line of Sixth Street Southwest due north 20.75 feet;

thence southeasterly 201.17 feet;

thence due east 374.0 feet to the point of beginning, containing 40,927.75 square feet, all as shown on a plat survey recorded in the Office of the Surveyor for the District of Columbia in survey book 18 at page 91.

SEC. 2. The Redevelopment Land Agency is hereby authorized in accordance with the District of Columbia Redevelopment Act of 1945 (D.C. Code, secs. 5-701 through 5-719), to lease or sell, as an entirety or parts thereof separately, to one or more redevelopment companies or other lessees or purchaser, such real property as may be transferred to such Agency under the authority of this Act.

Leasing or selling of property, authorization.

SEC. 3. No transfer or donation of any interest in real property under the authority of this Act shall constitute a local grant-in-aid in connection with any urban renewal project being undertaken with Federal assistance under title I of the Housing Act of 1949, as amended.

42 USC 1450.

SEC. 4. As used in this Act, the terms "lessee", "purchaser", "real property", and "redevelopment company" shall have the respective meanings provided for such terms by section 3 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5-702).

Definitions.

Approved September 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1325 accompanying H.R. 13224 (Comm. on the District of Columbia).
SENATE REPORT No. 95-1050 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 4, considered and passed Senate.
Sept. 12, considered and passed House, in lieu of H.R. 13224.

Public Law 95-386
95th Congress

An Act

Sept. 26, 1978
[S. 3120]

To enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 2(c) and 3(c) of the Act entitled "An Act to provide for an independent audit of the financial condition of the government of the District of Columbia", approved September 4, 1976 (Public Law 94-399, 90 Stat. 1205), are each amended by striking out "fixed price".

Temporary Commission on Financial Oversight of the District of Columbia, contractual authority, increase.
D.C. Code 47-101 note.

SEC. 2. Section 2 of such Act is amended by adding at the end thereof the following new subsections:

"(h) The Commission may select the government of the District of Columbia as a qualified person under subsection (a), and the chairman of the Commission may enter into contracts with the government of the District of Columbia under subsection (c).

"(i)(1) The Commission is entitled, through an authorized representative, to inspect the facilities and audit the books and records of any contractor performing a contract under this Act, and any subcontractor performing any subcontract under a contract made by the Commission under this Act.

"(2) Each contract entered into under this Act shall provide that the Comptroller General and his representatives are entitled, until the expiration of three years after final payment, to examine any pertinent books, documents, papers, or records of the contractor or any of his subcontractors engaged in the performance of and involving transactions relating to such contract or subcontract.

"(j) Payments made by the Commission to the government of the District of Columbia under contracts entered into pursuant to the authority of this Act shall be available for matching purposes under any federally funded grant program provided that the grant is for a purpose similar to any purpose specified in section 2(a) of this Act.".

D.C. Code 47-120-2.

SEC. 3. Sections 3 and 4 of such Act are amended by striking out "1979" each place it appears therein and inserting in lieu thereof "1982".

Approved September 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1504 (Comm. on the District of Columbia).
SENATE REPORT No. 95-1051 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 4, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 95-387
95th Congress

An Act

To permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State.

Sept. 27, 1978
[S. 1103]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Reciprocal Tax Collection Act".

District of Columbia Reciprocal Tax Collection Act.

SEC. 2. (a) Any State, acting through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it in any case in which such reciprocal right is accorded to the District of Columbia by such State, whether such right is granted by statutory authority or as a matter of comity.

(b) The certificate of the secretary of state, or of any other authorized official, of such State, or any subdivision thereof, to the effect that the official instituting a suit authorized under subsection (a) for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of such authority.

SEC. 3. (a) In any State, or any subdivision thereof, in which the District of Columbia is authorized under the laws of such State to bring suit for the purpose of recovering taxes lawfully due and owing the District of Columbia, the Corporation Council is authorized to bring such suit in the name of the District of Columbia in the courts of such State, or any subdivision thereof.

(b) In connection with any such suit, the Mayor of the District of Columbia is authorized to secure professional and other services at such rates as may be usual and customary for such services in the jurisdiction involved.

SEC. 4. For purposes of this Act:

Definitions.

(1) The term "taxes" means—

(A) any tax assessment lawfully made, whether based upon a return or any other disclosure of the taxpayer or upon the information and belief of the taxing authority involved;

(B) any penalty lawfully imposed pursuant to any law, ordinance, or regulation which imposes a tax; or

(C) any interest charge lawfully added to the tax liability which constitutes the subject of any suit brought under section 2 or 3.

(2) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Approved September 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1366 (Comm. on the District of Columbia).
SENATE REPORT No. 95-228 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 26, considered and passed Senate.
Vol. 124 (1978): Sept. 12, considered and passed House, amended.
Sept. 13, Senate concurred in House amendments.

Public Law 95-388
95th Congress

An Act

To change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

Sept. 27, 1978
[S. 2556]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the text of section 23–1301 of title 23, District of Columbia Code, is amended by striking out "District of Columbia Bail Agency" and inserting in lieu thereof "District of Columbia Pretrial Services Agency".

District of Columbia Bail Agency, change of name.

(b) The heading of such section is amended to read as follows:

"§ 23–1301. District of Columbia Pretrial Services Agency".

SEC. 2. (a) The heading of subchapter I of chapter 13 of title 23, District of Columbia Code, is amended to read as follows:

"SUBCHAPTER I.—DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY".

(b) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter I—District of Columbia Pretrial Services Agency".

(c) The item relating to section 23–1301 in such table is amended to read as follows:

"23–1301. District of Columbia Pretrial Services Agency.".

(d) The heading of such chapter is amended to read as follows:

"CHAPTER 13.—PRETRIAL SERVICES AGENCY AND PRETRIAL DETENTION".

(e) The item relating to chapter 13 in the table of chapters at the beginning of such title is amended to read as follows:

"13. Pretrial Services Agency and Pretrial Detention..... 23–1301".

SEC. 3. Any reference in any law, rule, regulation, document, or record of the United States or the District of Columbia to the District of Columbia Bail Agency shall be deemed to be a reference to the District of Columbia Pretrial Services Agency.

Approved September 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95–1368 (Comm. on the District of Columbia).
SENATE REPORT No. 95–895 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 26, considered and passed Senate.
Sept. 12, considered and passed House, amended.
Sept. 13, Senate concurred in House amendments.

Public Law 95-389
95th Congress

Joint Resolution

Sept. 29, 1978
[S.J. Res. 133]

To authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day".

National Good Neighbor Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Approved September 29, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-942 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 23, considered and passed Senate.
Sept. 20, considered and passed House.

Public Law 95-390
95th Congress

An Act

To authorize Federal agencies to experiment with flexible and compressed employee work schedules.

Sept. 29, 1978
[H.R. 7814]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees Flexible and Compressed Work Schedules Act of 1978.
5 USC 6101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1978".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that new trends in the usage of 4-day workweeks, flexible work hours, and other variations in workday and workweek schedules in the private sector appear to show sufficient promise to warrant carefully designed, controlled, and evaluated experimentation by Federal agencies over a 3-year period to determine whether and in what situations such varied work schedules can be successfully used by Federal agencies on a permanent basis. The Congress also finds that there should be sufficient flexibility in the work schedules of Federal employees to allow such employees to meet the obligations of their faith. 5 USC 6101 note.

DEFINITIONS

SEC. 3. For purposes of this Act (other than title IV)— 5 USC 6101 note.

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in sections 105 and 102, respectively, of title 5, United States Code);

(2) the term "employ" has the meaning given it by section 2105 of title 5, United States Code;

(3) the term "Commission" means the United States Civil Service Commission; and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

EXPERIMENTAL PROGRAMS

SEC. 4. (a)(1) Within 180 days after the effective date of this section, and subject to the requirements of section 302 and the terms of any written agreement referred to in section 302(a), the Commission shall establish a program which provides for the conducting of experiments by the Commission under titles I and II of this Act. Such experimental program shall cover a sufficient number of positions throughout the executive branch, and a sufficient range of worktime alternatives, as to provide an adequate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch. 5 USC 6101 note.

(2) Each agency may conduct one or more experiments under titles I and II of this Act. Such experiments shall be subject to such regulations as the Commission may prescribe under section 305 of this Act.

Master plan.

(b) The Commission shall, not later than 90 days after the effective date of this section, establish a master plan which shall contain guidelines and criteria by which the Commission will study and evaluate

Study.

experiments conducted under titles I and II of this Act. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on—

(1) the efficiency of Government operations;
(2) mass transit facilities and traffic;
(3) levels of energy consumption;
(4) service to the public;
(5) increased opportunities for full-time and part-time employment; and
(6) individuals and families generally.

(c) The Commission shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this Act.

(d) If the head of an agency determines that the implementation of an experimental program referred to in subsection (a) would substantially disrupt the agency in carrying out its functions, such agency head shall request the Commission to exempt such agency from the requirements of any experiment conducted by the Commission under

Report.

subsection (a). Such request shall be accompanied by a report detailing the reasons for such determination. The Commission shall exempt an agency from such requirements only if it finds that including the agency within the experiment would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Commission shall exclude the agency from the experiment until the Commission has made its determination or until 180 days after the date the request is filed, whichever first occurs.

TITLE I—FLEXIBLE SCHEDULING OF WORK HOURS

DEFINITIONS

5 USC 6101 note.

SEC. 101. For purposes of this title—

(1) the term "credit hours" means any hours, within a flexible schedule established under this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

FLEXIBLE SCHEDULING EXPERIMENTS

5 USC 6101 note.

SEC. 102. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agenices to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and

departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a)—

(1) any experiment under subsection (a) of this section may be terminated by the Commission if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

(A) restrict the employees' choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 103. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 102— 5 USC 6101 note.

(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or 29 USC 207.

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 106 or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized; except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which such employee must be present for work, plus

(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and 4107(e)(2) of title 38, United States Code, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule under this title—

(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

HOLIDAYS

5 USC 6101 note.

SEC. 104. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if any employee on a flexible schedule under this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Commission).

TIME-RECORDING DEVICES

5 USC 6101 note.

SEC. 105. Notwithstanding section 6106 of title 5, United States Code, the Commission or an agency may use recording clocks as part of its experiments under this title.

CREDIT HOURS; ACCUMULATION AND COMPENSATION

5 USC 6101 note.

SEC. 106. (a) Subject to any limitation prescribed by the Commission or the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) Any employee who is on a flexible schedule experiment under this title and who is no longer subject to such an experiment shall be paid at such employee's then current rate of basic pay for—

(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

TITLE II—4-DAY WEEK AND OTHER COMPRESSED WORK SCHEDULES

DEFINITIONS

SEC. 201. For purposes of this title— 5 USC 6101 note.

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

COMPRESSED SCHEDULE EXPERIMENTS

SEC. 202. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test a 4-day workweek or other compressed schedule. 5 USC 6101 note.

(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any experiment under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such experiment have voted to be so included.

(2) Upon written request to any agency by an employee, the agency, if it determines that participation in an experiment under subsection (a) would impose a personal hardship on such employee, shall—

(A) except such employee from such experiment; or

(B) reassign such employee to the first position within the agency—

(i) which becomes vacant after such determination,

(ii) which is not included within such experiment,

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

(c) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a), any experiment under subsection (a) may be terminated by the Commission, or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

COMPUTATION OF PREMIUM PAY

SEC. 203. (a) The provisions of sections 5542(a), 5544(a), and 5550(2) of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as 5 USC 6101 note.

29 USC 207.

amended, or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

TITLE III—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF LEAVE AND RETIREMENT PROVISIONS

5 USC 6101 note.

SEC. 301. For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under title I or II, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

APPLICATION OF EXPERIMENTS IN THE CASE OF NEGOTIATED CONTRACTS

5 USC 6101 note.

SEC. 302. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under title I or II of this Act except to the extent expressly provided under a written agreement between the agency and such organization.

(b) The Commission or an agency may not participate in a flexible or compressed schedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 103 or 203 of this Act, as applicable.

PROHIBITION OF COERCION

SEC. 303. (a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with— 5 USC 6101 note.

(1) such employee's rights under title I to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right under section 202(b)(1) to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 202(b)(2).

For the purpose of the preceding sentence, the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation). "Intimidate, threaten, or coerce."

(b) Any employee who violates the provisions of subsection (a) shall, upon a final order of the Commission, be— Penalty.

(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Commission may prescribe;

(2) suspended without pay from such employee's position for such period as the Commission may prescribe; or

(3) disciplined in such other manner as the Commission shall deem appropriate.

The commission shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities. 5 USC 7321 *et seq.*

REPORTS

SEC. 304. Not later than 2½ years after the effective date of titles I and II of this Act, the Commission shall— 5 USC 6101 note.

(1) prepare an interim report containing recommendations as to what, if any, legislative or administrative action shall be taken based upon the results of experiments conducted under this Act, and

(2) submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate. Transmittal to President and Congress.

The Commission shall prepare a final report with regard to experiments conducted under this Act and shall submit copies of such report to the President, the Speaker of the House, and the President pro tempore of the Senate not later than 3 years after such effective date.

REGULATIONS

SEC. 305. The Commission shall prescribe regulations necessary for the administration of the foregoing provisions of this Act. 5 USC 6101 note.

EFFECTIVE DATE

5 USC 6101 note.

SEC. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 180th day after—

(1) the date of the enactment of this Act, or

(2) October 1, 1978,

whichever date is later.

TITLE IV—ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

SEC. 401. (a) Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

5 USC 5550a.

"§ 5550a. Compensatory time off for religious observances

Regulations.

"(a) Not later than 30 days after the date of the enactment of this section, the Civil Service Commission shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

"(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Commission) shall prescribe the regulations referred to in subsection (a) of this section.

"(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.".

(b) The analysis for chapter 55 of title 5, United States Code, is amended by adding after the item relating to section 5550 the following:

"5550a. Compensatory time off for religious observances.".

Approved September 29, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-912 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 95-1143 accompanying S. 517 (Comm. on Governmental Affairs and Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Mar. 13, considered and failed of passage in House.

May 25, considered and passed House.

Sept. 15, considered and passed Senate, in lieu of S. 517.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 39:

Sept. 29, Presidential statement.

Public Law 95-391
95th Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979, and for other purposes.

Sept. 30, 1978
[H.R. 12935]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1979, and for other purposes, namely:

Legislative Branch Appropriation Act, 1979.

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriation Act, 1979.
2 USC 60a note.

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE LEADERS, AND WHIPS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $6,480,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, MAJORITY AND MINORITY LEADERS AND MAJORITY AND MINORITY WHIPS

For expense allowances of the Vice President, $10,000; Majority Leader of the Senate $5,000; Minority Leader of the Senate, $5,000; Majority Whip of the Senate, $2,500; and Minority Whip of the Senate, $2,500; in all, $25,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $767,000.

For an additional amount for "Office of the Vice President", fiscal year 1978, $35,500.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $116,000.

For an additional amount for "Office of the President Pro Tempore", fiscal year 1978, $4,900.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $411,000.

For an additional amount for "Offices of the Majority and Minority Leaders", fiscal year 1978, $27,600.

FLOOR ASSISTANTS TO THE MAJORITY AND MINORITY LEADERS

For Floor Assistants to the Majority and Minority Leaders, $103,000.

For an additional amount for "Floor Assistants to the Majority and Minority Leaders", fiscal year 1978, $100.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $239,000.

For an additional amount for "Offices of the Majority and Minority Whips", fiscal year 1978, $16,800.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $132,000.

For an additional amount for "Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority", fiscal year 1978, $4,700.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $40,000.

For an additional amount for "Office of the Chaplain", fiscal year 1978, $3,200.

OFFICE OF THE SECRETARY

2 USC 61b-1a.

For office of the Secretary, $4,116,000, including $180,253 required for the purpose specified and authorized by section 74(b) of title 2, United States Code: *Provided*, That, effective October 1, 1978, the Secretary may appoint and fix the compensation of a Staff Assistant at not to exceed $27,745 per annum in lieu of not to exceed $25,776 per annum; an Assistant Reporter of Debates at not to exceed $33,115 per annum in lieu of not to exceed $35,084 per annum; an Assistant Keeper of Stationery at not to exceed $30,072 per annum in lieu of not to exceed $27,566 per annum; a Chief Clerk, Stationery Room, at not to exceed $21,480 per annum in lieu of not to exceed $19,332 per annum; a Bookkeeper, Stationery Room, at not to exceed $19,690 per annum in lieu of not to exceed $17,542 per annum; a Senior Counter Clerk, Stationery Room, at not to exceed $15,752 per annum in lieu of a Clerk at not to exceed $14,678 per annum; a Secretary to Parliamentarian at not to exceed $20,585 per annum in lieu of not to exceed $18,258 per annum; an Assistant Journal Clerk at not to exceed $34,368 per annum in lieu of not to exceed $21,480 per annum; a Counter Clerk, Stationery Room, at not to exceed $14,678 per annum in lieu of an Information Clerk, Digest, at not to exceed $11,277 per annum; a Counter Clerk, Stationery Room, at not to exceed $14,678 per annum in lieu of a Clerk at not to exceed $13,962 per annum; an Associate Historian at not to exceed $26,671 per annum in lieu of not to exceed $23,628 per annum; a Photo Historian at not to exceed

$25,955 per annum in lieu of not to exceed $28,998 per annum; a Secretary at not to exceed $20,585 per annum in lieu of not to exceed $21,480 per annum; a Journal Clerk at not to exceed $44,034 per annum in lieu of not to exceed $45,645 per annum; a Secretary at not to exceed $20,585 per annum in lieu of not to exceed $19,332 per annum; a Second Assistant Journal Clerk at not to exceed $27,566 per annum in lieu of a Clerk of Enrolled Bills at not to exceed $25,776 per annum; a Legislative Clerk at not to exceed $44,034 per annum in lieu of not to exceed $45,645 per annum; an Assistant Legislative Clerk at not to exceed $34,368 per annum in lieu of not to exceed $44,034 per annum; a Second Assistant Legislative Clerk at not to exceed $27,566 per annum in lieu of not to exceed $32,578 per annum; a Technical Advisor at not to exceed $32,041 per annum in lieu of not to exceed $35,084 per annum; a Bill Clerk at not to exceed $32,578 per annum in lieu of not to exceed $29,177 per annum; an Assistant Bill Clerk at not to exceed $25,776 per annum in lieu of not to exceed $21,480 per annum; a Terminal Operator at not to exceed $12,351 per annum in lieu of a Clerk, Public Records Office, at not to exceed $16,110 per annum; a Messenger at not to exceed $12,172 per annum in lieu of a Reference Assistant at not to exceed $14,678 per annum; a Technical Services Specialist in the Library at not to exceed $20,406 per annum; and in the Office of Classified National Security Information: a Director at not to exceed $50,478 per annum; a Professional Staff Member at not to exceed $40,096 per annum; a Classified Documents Specialist at not to exceed $27,566 per annum; and two Secretaries at not to exceed $20,585 per annum each: *Provided further*, That the provisions of the preceding proviso shall not apply to the position of Legislative Clerk or Assistant Legislative Clerk so long as the position is held by an individual who has held the position continuously since December 31, 1977.

For an additional amount for "Office of the Secretary", fiscal year 1978, $220,800.

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $10,528,000.

For an additional amount for "committee employees", fiscal year 1978, $243,300.

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $375,000 for each such committee; in all, $750,000.

For an additional amount for "conference committees", fiscal year 1978, $52,300.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $70,881,000.

For an additional amount for "administrative and clerical assistants to Senators", fiscal year 1978, $4,464,100.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $19,803,000: *Provided*, That, effective October 1, 1978, the Sergeant at Arms and

Doorkeeper may appoint and fix the compensation of an Auditor at not to exceed $15,752 per annum; two Teletype Operators at not to exceed $12,530 per annum each; two Assistant Cabinetmakers at not to exceed $15,573 per annum each; six Parking Attendants at not to exceed $4,475 per annum each; a Secretary at not to exceed $15,036 per annum; a Layout Technician at not to exceed $13,962 per annum; a Manager, Computer Operations at not to exceed $34,368 per annum in lieu of an Operations Manager at not to exceed $31,862 per annum; a Manager, Planning, Budget and Administration at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum; a Manager, Data Network at not to exceed $34,368 per annum in lieu of a Network Supervisor at not to exceed $34,368 per annum; a Manager, Systems Programming at not to exceed $34,368 per annum in lieu of a Senior Programmer Supervisor at not to exceed $34,368 per annum; a Manager, Administrative Applications Development at not to exceed $34,368 per annum in lieu of a Senior Programmer Supervisor at not to exceed $34,368 per annum; a Manager, Legislative Applications Development at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum; a Manager, User Training and Liaison at not to exceed $34,368 per annum in lieu of a Systems Supervisor at not to exceed $34,368 per annum; an Office Manager at not to exceed $20,048 per annum in lieu of an Office Supervisor at not to exceed $19,332 per annum; two Senior Applications Analysts at not to exceed $32,220 per annum each in lieu of two Senior Computer Specialists at not to exceed $31,146 per annum each; two Senior Applications Analysts at not to exceed $31,146 per annum each in lieu of two Senior Programmer Analysts at not to exceed $28,819 per annum each; four Senior Computer Specialists at not to exceed $31,146 per annum each in lieu of four Senior Programmer Analysts at not to exceed $28,819 per annum each; a Senior Computer Specialist at not to exceed $32,220 per annum in lieu of a Lead Analyst at not to exceed $29,535 per annum; two Applications Analysts at not to exceed $28,819 per annum each in lieu of a Senior Programmer Analyst at not to exceed $28,819 per annum; four Computer Specialists at not to exceed $28,819 per annum each in lieu of two Programmer Analysts at not to exceed $26,492 per annum each and a Programmer Analyst at not to exceed $26,134 per annum; ten Senior Programmer Analysts at not to exceed $26,492 per annum each in lieu of two Systems Programmers at not to exceed $26,492 per annum each, a Programmer Analyst at not to exceed $26,492 per annum, a Systems Analyst at not to exceed $26,492 per annum and a Computer Specialist at not to exceed $24,344 per annum; thirteen Senior Programmer Analysts at not to exceed $24,344 per annum each in lieu of seven Programmer Analysts at not to exceed $26,492 per annum each, a Systems Analyst at not to exceed $26,492 per annum, a Systems Programmer at not to exceed $26,492 per annum, two Computer Specialists at not to exceed $24,344 per annum each, a Computer Specialist at not to exceed $23,270 per annum and a Programmer Analyst at not to exceed $21,838 per annum; six Programmer Analysts at not to exceed $21,838 per annum each in lieu of a Programmer Analyst at not to exceed $26,492 per annum, a Computer Specialist at not to exceed $24,344 per annum and a Computer Specialist at not to exceed $23,270 per annum; four Programmer Analysts at not to exceed $18,974 per annum each in lieu of a Programmer Analyst at not to exceed $26,492 per annum and two Program Analysts at not to exceed $21,838 per annum each; a Text

Processing Specialist at not to exceed $19,332 per annum in lieu of an Office Systems Specialist at not to exceed $17,542 per annum; two Text Processing Specialists at not to exceed $17,542 per annum each in lieu of an Office Systems Specialist at not to exceed $17,542 per annum and a Liaison and Documentation Specialist at not to exceed $17,542 per annum; three Senior Systems Programmers at not to exceed $28,819 per annum each in lieu of three Senior Programmer Analysts at not to exceed $28,819 per annum each; a Junior Systems Programmer at not to exceed $23,270 per annum in lieu of a Computer Specialist at not to exceed $23,270 per annum; a Data Base Systems Programmer at not to exceed $26,492 per annum in lieu of a Systems Analyst at not to exceed $26,492 per annum; a Network Technical Control Supervisor at not to exceed $32,220 per annum in lieu of a Senior Computer Specialist at not to exceed $31,146 per annum; a Communications Software Specialist at not to exceed $32,220 per annum in lieu of a Senior Computer Specialist at not to exceed $31,146 per annum; a Communications System Specialist at not to exceed $29,535 per annum in lieu of a Programmer Analyst at not to exceed $26,492 per annum; a Communications Software Programmer Analyst at not to exceed $26,492 per annum in lieu of a Systems Programmer at not to exceed $26,492 per annum; a Network Equipment Supervisor at not to exceed $26,492 per annum in lieu of a Systems Analyst at not to exceed $26,492 per annum; two Network Technicians at not to exceed $19,153 per annum each in lieu of not to exceed $23,270 per annum each; two Junior Network Technicians at not to exceed $15,215 per annum each in lieu of two Computer Terminal Installers at not to exceed $10,382 per annum each; three Computer Terminal Installers at not to exceed $12,888 per annum each in lieu of a Keypunch Operator at not to exceed $12,351 per annum, a Data Conversion Operator at not to exceed $11,277 per annum and a Computer Terminal Installer at not to exceed $10,382 per annum; an Office Systems Supervisor at not to exceed $28,819 per annum in lieu of a Training Specialist at not to exceed $26,492 per annum; a Technical Training Specialist at not to exceed $26,492 per annum in lieu of a Systems Programmer at not to exceed $26,492 per annum; an Office Systems Training Supervisor at not to exceed $26,492 per annum in lieu of a Training Specialist at not to exceed $26,492 per annum; seven Senior Office Systems Specialists at not to exceed $22,912 per annum each in lieu of two Training Specialists at not to exceed $22,912 per annum each and three Office Systems Specialists at not to exceed $17,542 per annum each; eight Office Systems Specialists at not to exceed $18,258 per annum each in lieu of a Training Specialist at not to exceed $22,912 per annum, four Office Systems Specialists at not to exceed $17,542 per annum each and a Printing Operator at not to exceed $16,826 per annum; nine Office Systems Specialists at not to exceed $16,647 per annum each in lieu of five Office Systems Specialists at not to exceed $17,542 per annum each, two Printing Operators at not to exceed $16,826 per annum each and a Quality Controller at not to exceed $16,826 per annum; two Office Systems Specialists at not to exceed $15,036 per annum each in lieu of an Office Systems Specialist at not to exceed $17,542 per annum; a Senior Training Specialist at not to exceed $22,912 per annum in lieu of a Training Specialist at not to exceed $22,912 per annum; three Training Specialists at not to exceed $18,258 per annum each in lieu of three Office Systems Specialists at not to exceed $17,542 per annum each; four Training Specialists at not to exceed $16,647 per annum each in lieu of an Office Systems

Specialist at not to exceed $17,542 per annum and two Printing Operators at not to exceed $16,826 per annum each; a Production Manager at not to exceed $25,060 per annum in lieu of not to exceed $23,986 per annum; a Hardware Manager at not to exceed $25,060 per annum in lieu of an Operations Supervisor at not to exceed $23,986 per annum; two Computer Resource and Performance Analysts at not to exceed $22,912 per annum each in lieu of two Data Standards Specialists at not to exceed $22,912 per annum each; a Documentation Specialist at not to exceed $22,017 per annum in lieu of a Computer Performance Analyst at not to exceed $22,017 per annum; six Job Controllers at not to exceed $16,826 per annum each in lieu of six Lead Operators at not to exceed $16,468 per annum each; six Lead Operators at not to exceed $16,110 per annum each in lieu of not to exceed $16,468 per annum each; a Data Conversion Operator at not to exceed $11,277 per annum in lieu of a Computer Terminal Installer at not to exceed $10,382 per annum; a Secretary at not to exceed $21,122 per annum in lieu of a Technical Writer at not to exceed $21,122 per annum; a Secretary at not to exceed $14,857 per annum in lieu of a Secretary Typist at not to exceed $13,962 per annum; a Secretary at not to exceed $14,141 per annum in lieu of a Junior Operator at not to exceed $14,678 per annum; three Secretaries at not to exceed $13,962 per annum each in lieu of a Secretary Receptionist at not to exceed $13,962 per annum, a Secretary Typist at not to exceed $13,962 per annum and a Secretary at not to exceed $12,888 per annum; a Secretary/Receptionist at not to exceed $13,604 per annum in lieu of a Quality Controller at not to exceed $16,826 per annum; a Secretary Typist at not to exceed $13,067 per annum in lieu of a Quality Controller at not to exceed $16,826 per annum; a Receptionist at not to exceed $12,172 per annum in lieu of an Operations Clerk at not to exceed $13,246 per annum; an Office Systems Supervisor at not to exceed $26,492 per annum; a Text Processing Specialist at not to exceed $14,678 per annum; two Senior Systems Programmers at not to exceed $31,146 per annum each; a Data Resources Manager at not to exceed $25,060 per annum; a Secretary at not to exceed $14,320 per annum; two Senior Network Technicians at not to exceed $26,492 per annum each; a Technical User Liaison at not to exceed $16,468 per annum; a Special Projects Officer at not to exceed $32,220 per annum; a Receptionist at not to exceed $13,246 per annum; two Captains, Police Force at not to exceed $25,776 per annum each; two Sergeants, Police Force at not to exceed $17,900 per annum each; three Detectives, Police Force at not to exceed $16,826 per annum each; two Plainclothes Officers, Police Force at not to exceed $15,752 per annum each; a Clerk at not to exceed $13,962 per annum in lieu of not to exceed $12,888 per annum; a Clerk at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; an Auditor at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; a Purchasing Clerk at not to exceed $15,036 per annum in lieu of not to exceed $13,962 per annum; a Clerk at not to exceed $12,530 per annum in lieu of not to exceed $11,456 per annum; a Supervisor of Door Attendants at not to exceed $19,153 per annum in lieu of a Messenger Acting as Assistant Doorkeeper at not to exceed $15,752 per annum; an Assistant Supervisor of Door Attendants at not to exceed $17,184 per annum in lieu of a Messenger Acting as Assistant Doorkeeper at not to exceed $15,036 per annum; a Director, Service Department at not to exceed $41,170 per annum in lieu of a Superintendent, Service Department at not to exceed $41,170 per annum; an Assistant Director, Service

Department at not to exceed $28,640 per annum in lieu of an Assistant Superintendent, Service Department at not to exceed $25,776 per annum; a Technical Clerk at not to exceed $13,962 per annum in lieu of a Photostat Operator at not to exceed $13,962 per annum; a Secretary to the Director, Service Department at not to exceed $16,468 per annum in lieu of a Secretary to Superintendent, Service Department at not to exceed $16,468 per annum; ten Inserting Machine Operators at not to exceed $12,888 per annum each, in lieu of not to exceed $11,814 per annum each; three Senior Press Operators at not to exceed $17,542 per annum each, in lieu of three Printing Press Operators at not to exceed $16,468 per annum each; eleven Printing Press Operators at not to exceed $16,468 per annum each, in lieu of eleven Offset Press Operators at not to exceed $15,394 per annum each; a Senior Pressman/Repairman at not to exceed $17,900 per annum in lieu of not to exceed $17,363 per annum; an Assistant Night Supervisor, Duplicating Section at not to exceed $18,079 per annum in lieu of not to exceed $17,363 per annum; eleven Addressograph Operators at not to exceed $13,425 per annum each, in lieu of not to exceed $12,530 per annum each; a Secretary at not to exceed $13,425 per annum in lieu of not to exceed $12,530 per annum; a Secretary-Receptionist at not to exceed $14,857 per annum in lieu of not to exceed $13,962 per annum; a Supervisor, Supply Section at not to exceed $16,289 per annum in lieu of not to exceed $15,394 per annum; a Technical Clerk at not to exceed $13,425 per annum in lieu of not to exceed $12,530 per annum; six Automatic Typewriter Repairmen at not to exceed $17,542 per annum each, in lieu of not to exceed $16,468 per annum each; three Repairmen at not to exceed $16,110 per annum each, in lieu of not to exceed $15,036 per annum each; a Film and Video Cameraman at not to exceed $25,597 per annum in lieu of not to exceed $23,270 per annum; a Laboratory Supervisor at not to exceed $25,597 per annum in lieu of not to exceed $23,270 per annum; an Audio Engineer at not to exceed $21,122 per annum in lieu of not to exceed $19,332 per annum; an Audio Engineer at not to exceed $16,468 per annum in lieu of not to exceed $15,036 per annum; a Skilled Laborer at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; a Skilled Laborer at not to exceed $12,530 per annum in lieu of not to exceed $11,456 per annum; a Laborer at not to exceed $12,888 per annum in lieu of not to exceed $11,814 per annum; two Senior Door Attendants at not to exceed $15,036 per annum each, in lieu of two Messengers Acting as Assistant Doorkeeper at not to exceed $15,036 per annum each; twenty-five Door Attendants at not to exceed $12,530 per annum each, in lieu of twenty-five Messengers at not to exceed $12,530 per annum each; six Door Attendants at not to exceed $11,814 per annum each, in lieu of six Messengers at not to exceed $11,814 per annum each; a Door Attendant at not to exceed $10,740 per annum in lieu of a Messenger at not to exceed $10,740 per annum; a Door attendant at not to exceed $10,382 per annum in lieu of a Messenger at not to exceed $10,382 per annum; a Chief Door Attendant for the Minority at not to exceed $13,962 per annum in lieu of a Chief Messenger for the Minority at not to exceed $13,962 per annum; three Door Attendants for the Minority at not to exceed $12,530 per annum each, in lieu of three Messengers for the Minority at not to exceed $12,530 per annum each; a Secretary/Receptionist at not to exceed $15,394 per annum in lieu of a Receptionist at not to exceed $13,067 per annum: *Provided further*, That, effective April 1, 1978, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of

an Executive Assistant at not to exceed $42,065 per annum in lieu of a Special Assistant at not to exceed $30,788 per annum.

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", fiscal year 1978, $1,219,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $411,000.

For an additional amount for "Offices of the Secretaries for the Majority and Minority", fiscal year 1978, $20,700.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $7,785,000.

For an additional amount for "agency contributions and longevity compensation", fiscal year 1978, $785,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $815,000.

For an additional amount for "Office of the Legislative Counsel of the Senate", fiscal year 1978, $33,300.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $694,000 for each such committee; in all $1,388,000.

For an additional amount for "Senate Policy Committees", fiscal year 1978, $93,500.

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, $58,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including $740,881 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, $30,625,000.

2 USC 190b.

For an additional amount for "Inquiries and Investigations", fiscal year 1978, $1,553,800.

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $4.57 per hour per person, $103,000.

For an additional amount for "Folding Documents", fiscal year 1978, $7,600.

MISCELLANEOUS ITEMS

For miscellaneous items, $29,443,000.

For an additional amount for "Miscellaneous Items", fiscal year 1978, $4,015,500.

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $420; Chaplain, $200; and for air mail and special delivery postage for the office of the Secretary, $3,925; office of the Sergeant at Arms and Doorkeeper, $240; and the President of the Senate, as authorized by law, $1,215; in all, $6,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, and for committees and officers of the Senate, $34,500; in all, $39,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. Any funds appropriated under the heading "Senate" in any appropriation Act for the fiscal year ending September 30, 1978, and any funds made available for obligation through September 30, 1978, by section 109 of the Supplemental Appropriations Act, 1977, shall remain available for obligation through September 30, 1979, for the same purposes for which appropriated or made available. 91 Stat. 85.

SEC. 102. Effective October 1, 1978, the number of employees in the Office of the Legislative Counsel of the Senate who may be designated as, and receive the compensation of, a Senior Counsel is increased to five. Effective date. 2 USC 274 note.

SEC. 103. Effective on the first day of the first month following the date of the enactment of this Act, the Secretary of the Senate may appoint and fix the compensation of two Senior Assistants, Document Room at not to exceed $14,678 per annum each in lieu of two Assistants in Document Room at not to exceed $14,678 per annum each; a Senior Assistant, Document Room at not to exceed $14,678 per annum in lieu of an Assistant at not to exceed $13,246 per annum; a Senior Assistant, Document Room at not to exceed $14,678 per annum in lieu of an Assistant at not to exceed $12,530 per annum; two Senior Assistants, Document Room at not to exceed $14,678 per annum each in lieu of two Assistants at not to exceed $12,172 per annum each; an Assistant, Document Room at not to exceed $12,530 per annum in lieu of a Reference Assistant at not to exceed $14,678 per annum; three Assistants, Document Room at not to exceed $12,530 per annum each in lieu of three Assistants in Document Room at not to exceed $14,678 per annum each; a Chief Messenger, Library at not to exceed $13,962 per annum in lieu of a Chief Messenger in Library at not to exceed $13,246 per annum; a Messenger, Library at not to exceed $13,246 per annum in lieu of a Messenger at not to exceed $13,962 per annum; and three Counter Clerks, Stationery Room at not to exceed $14,678 per annum each in lieu of three Clerks at not to exceed $14,678 per annum each:

Provided, That an employee serving as an Assistant in Document Room at not to exceed $14,678 per annum on the last day of the month in which this Act is enacted and who continues to serve as an Assistant, Document Room, after such last day may be paid compensation at not to exceed $14,678 per annum so long as such employee continuously serves in such position.

Clerk-hire allowance of Georgia Senators. 2 USC 61-1 note.

SEC. 104. (a) Effective April 1, 1978, the clerk-hire allowance of each Senator from the State of Georgia is increased to that allowed Senators from States having a population of five million but less than seven million, the population of said State having exceeded five million inhabitants.

(b) Effective April 1, 1978, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(d)(1)), is amended by striking out

"$644,937 if such population is 7,000,000 but less than 9,000,000;"

and inserting in lieu thereof

"$644,937 if such population is 7,000,000 but less than 8,000,000;

"$664,627 if such population is 8,000,000 but less than 9,000,000;".

Office of Classified National Security Information. Establishment. 2 USC 72a note.

SEC. 105 (a) For the period beginning on October 1, 1978, and ending on December 31, 1980, there is established within the Office of the Secretary of the Senate an office to be known as the "Office of Classified National Security Information" (hereafter in this section referred to as the "Office"). The Office shall be under the policy direction of the Majority Leader, the Minority Leader, and the chairman of the committee on Rules and Administration of the Senate, and shall be under the administrative direction and supervision of the Secretary of the Senate. The Office shall have the responsibility for safeguarding such restricted data and such other classified information as any committee of the Senate may from time to time assign to it.

(b) The Office shall have authority—

(1) upon application of any committee of the Senate, to perform the administrative functions necessary to classify and declassify information relating to the national security considerations of nuclear technology in accordance with guidelines developed for restricted data by the responsible executive agencies;

(2) to provide appropriate facilities for hearings of committees of the Senate at which restricted data or other classified information is to be presented or discussed; and

(3) to establish and operate a central repository in the United States Capitol for the safeguarding of restricted data and other classified information for which such Office is responsible.

Transfer of records.

(c) All records, documents, and data in the custody of the Office of Classified National Security Information established by section 2 of Senate Resolution Numbered 252, Ninety-fifth Congress, are transferred to the Office established by subsection (a).

Repeal.

(d) As an exercise of the rulemaking power of the Senate, section 2 of Senate Resolution Numbered 252, Ninety-fifth Congress, is repealed effective October 1, 1978.

Travel expenses of Sergeant of Arms and Doorkeeper of the Senate.

SEC. 106. Section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a), is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

SEC. 107. During the fiscal year ending September 30, 1979, amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate (including an employee in the office of a

Senator) shall be paid from the contingent fund of the Senate. Effective October 1, 1979, amounts required to be so deposited with respect to any individual who is an officer or employee of the Senate (including an employee in the office of a Senator) on September 30, 1979, shall be paid from the contingent fund of the Senate so long as the individual serves continuously as an officer or employee of the Senate.

SEC. 108. (a) Section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (h) through (j) as subsections (i) through (k), respectively, and by inserting after subsection (g) the following new subsection:

Travel and official expenses, reimbursement.

"(h)(1) For purposes of subsections (a) and (e), an individual who is selected by a Senator to serve on a panel or other body to make recommendations for nominees to one or more Federal judgeships or to one or more service academies shall be considered to be an employee in the office of that Senator with respect to travel and official expenses incurred in performing duties as a member of such panel or other body, and shall be reimbursed (A) for actual transportation expenses and per diem expenses (but not exceeding actual travel expenses) incurred while traveling in performing such duties within the Senator's home State or between that State and Washington, District of Columbia, and each of the service academies, (B) for official expenses incurred in performing such duties. For purposes of this subsection and subsection (a), 'official expenses' means expenses of the type for which reimbursement may be made under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator, and, for accounting purposes, such expenses shall be treated as expenses for which reimbursement may be made under subsection (a)(5).

"Official expenses."

"(2) The amount of official expenses incurred by individuals selected by a Senator for which reimbursement may be made under this subsection shall not exceed $500 each calendar year, and the total amount of expenses incurred by such individuals for which reimbursement may be made under this subsection shall not exceed $3,000 each calendar year.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1978.

Effective date. 2 USC 58 note.

SEC. 109. (a) Effective with the fiscal year beginning October 1, 1978, and each fiscal year thereafter, the appropriations for "OFFICE OF THE SECRETARY" and "OFFICE OF SERGEANT AT ARMS AND DOORKEEPER" under the heading "SALARIES, OFFICERS, and EMPLOYEES" shall be available for the payment of additional annual compensation (hereinafter referred to as "merit compensation") to employees rated as outstanding and exceptional by the Secretary of the Senate and Sergeant at Arms and Doorkeeper, respectively.

Merit compensation. 2 USC 60j-3.

(b) Subject to the provisions of subsections (c) and (d), each fiscal year, the Secretary of the Senate may authorize merit compensation for not to exceed 8 employees of his Office and the Sergeant at Arms and Doorkeeper may authorize merit compensation for not to exceed 18 employees of his Office. Each such authorization shall continue in effect until it is terminated or changed by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case may be.

(c) No employee shall be eligible to receive merit compensation unless such employee has occupied the same position for at least two years and is being compensated at the maximum annual salary for the position so occupied, except that, in the discretion of the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case

may be, an employee who is receiving merit compensation and is transferred to another position in which he is compensated at the maximum annual salary shall be eligible to receive merit compensation while occupying such other position.

(d) (1) The amount of merit compensation which may be paid to an employee (as authorized by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, as the case may be) shall not exceed an amount equal to ten percent of the maximum annual rate of compensation of the position occupied by such employee rounded to the next highest multiple contained in section 1(a) of the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970.

2 USC 60a-1.

(2) The amount of merit compensation which may be paid to an employee, when added to his regular annual compensation and his longevity compensation, shall not exceed the maximum annual compensation which may be paid to Senate employees generally as prescribed by law or orders of the President pro tempore issued under authority of section 4 of the Federal Pay Comparability Act of 1970.

Reports to Senate Committee on Appropriations.

(e) Within thirty days following the end of each fiscal year, the Secretary of the Senate and the Sergeant at Arms and Doorkeeper shall file reports with the Senate Committee on Appropriations detailing the use and implementation of the authority contained in this section. Such reports shall include the names of all employees receiving merit compensation under authority of this section at the end of the fiscal year, the positions occupied by them, and the date when each such employee first began to receive merit compensation.

Longevity compensation.

SEC. 110. (a) Subsection (a) and (b) of section 106 of the Legislative Branch Appropriations Act, 1963 (2 U.S.C. 60j), are amended to read as follows:

"SEC. 106. (a) This section shall apply to—

"(1) each employee of the Senate whose compensation is paid from the appropriation for Salaries, Officers and Employees under the following headings:

"(A) Office of the Secretary, including individuals employed under authority of section 244 of the Legislative Reorganization Act of 1946 (2 U.S.C. 74b);

"(B) Office of the Sergeant at Arms and Doorkeeper, except employees designated as 'special employees'; and

"(C) Offices of the Secretaries for the Majority and the Minority;

"(2) each employee of the Senate authorized by Senate resolution to be appointed by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, except employees designated as 'special employees'; and

"(3) each employee of the Capitol Guide Service established under section 441 of the Legislative Reorganization Act of 1970.

40 USC 851.

"(b) (1) Except as provided in paragraph (2), an employee to whom this section applies shall be paid, during any period of continuous creditable service, additional annual compensation (hereinafter referred to as 'longevity compensation') at the rate of two times the multiple contained in section 1(a) of the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970 for (A) each year of creditable service performed for the first five years and (B) each two years of creditable service performed during the twenty-year period following the first five years.

2 USC 60a-1.

"(2) The amount of longevity compensation which may be paid to an employee, when added to his regular annual compensation, shall not exceed the maximum annual compensation which may be paid to Senate employees generally as prescribed by law or orders of the President pro tempore issued under authority of section 4 of the Federal Pay Comparability Act of 1970. 2 USC 60a-1.

"(3) For purposes of this section—

"(A) creditable service includes (i) service performed as an employee described in subsection (a), (ii) service performed as a member of the Capitol Police or as an employee of the United States Capitol Telephone Exchange while compensation therefor is disbursed by the Clerk of the House of Representatives, and (iii) service which is creditable for purposes of this section as in effect on the last day of the month in which the Legislative Branch Appropriation Act, 1979, is enacted;

"(B) in computing length of continuous creditable service, only creditable service performed subsequent to August 31, 1957, shall be taken into account, except that, in the case of service as an employee employed under authority of section 244 of the Legislative Reorganization Act of 1946, only creditable service performed subsequent to January 2, 1971, shall be taken into account; and 2 USC 74b.

"(C) continuity of creditable service shall not be deemed to be broken by separations from service of not more than thirty days, by the performance of service as an employee (other than an employee subject to the provisions of this section) whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, or by the performance of active military service in the armed forces of the United States, but periods of such separations and service shall not be creditable service.

"(4) Longevity compensation shall be payable on and after the first day of the first month following completion of each period of creditable service upon which such compensation is based.".

(b) The amendment made by subsection (a) shall take effect on the first day of the first month which begins after the date of the enactment of this Act. The gross compensation of employees entitled to longevity compensation on such first day under section 106 of the Legislative Branch Appropriation Act, 1963, shall be adjusted in accordance with the provisions of such section as amended by subsection (a). No increase in compensation by reason of such amendment shall take effect for any pay period beginning before such first day, and no monetary benefit by reason of such amendment shall accrue for any period before such first day. Effective date. 2 USC 60j note. *Ante*, p. 774.

HOUSE OF REPRESENTATIVES

Compensation and Mileage for the Members

COMPENSATION OF MEMBERS

For compensation of Members, as authorized by law (wherever used herein the term "Member" shall include Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands), $27,699,300. "Member."

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $2,147,100, including: Office of the Speaker, $545,300, including $10,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $384,100, including $5,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $479,100, including $5,000 for official expenses of the Minority Leader; Office of the Majority Whip, $416,800, including not to exceed $100,655 for the Chief Deputy Majority Whip; Office of the Minority Whip, $321,800, including not to exceed $53,155 for the Chief Deputy Minority Whip.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $26,407,700, including: Office of the Clerk, $7,541,600; Office of the Sergeant at Arms, including overtime, as authorized by law, $10,889,900; Office of the Doorkeeper, including overtime, as authorized by law, $4,343,000; Office of the Postmaster, $1,177,100, including $20,954 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $11,266 per annum each; Office of the Chaplain, $23,700; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of the Rules, $250,000; for compiling the precedents of the House of Representatives, $295,000; a technical assistant in the Office of the Attending Physician, to be appointed by the Attending Physician subject to the approval of the Speaker, $30,700; the House Democratic Steering Committee, $308,900; the House Democratic Caucus, $83,600; the House Republican Conference, $542,500; six minority employees, $272,500; and L.B.J. Interns and Former Speakers' staff, $649,200.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $24,705,000.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $2,895,000.

2 USC 72a.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e), of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $261,000.

88 Stat. 300.
31 USC 11b.
31 USC 1303.
88 Stat. 330.

OFFICE OF THE LAW REVISION COUNSEL

For salaries and expenses of the Office of the Law Revision Counsel of the House, $435,000.

OFFICE OF THE LEGISLATIVE COUNSEL

For salaries and expenses of the Office of the Legislative Counsel of the House, $1,879,000.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $112,648,300.

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $59,967,000, including: Official Expenses of Members, $38,367,989; supplies, materials and administrative costs, $2,578,511; furniture and furnishings, $1,085,000; reporting hearings for stenographic reports of hearings of committees, including special and select committees, $1,501,000; reemployed annuitants reimbursement, $2,099,700; Government contributions to employees' life insurance fund, retirement fund, and health benefits fund, $14,000,000; and miscellaneous items including, but not limited to, purchase, exchange, hire, driving, maintenance, repair and operation of House motor vehicles, and not to exceed $55,000 for the purposes authorized by section 1 of House Resolution 348, approved June 29, 1961, as amended by House Resolutions 434 and 1047, Ninety-fifth Congress, $334,800.

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

SPECIAL AND SELECT COMMITTEES

For salaries and expenses of special and select committees authorized by the House, $46,762,000.

ADMINISTRATIVE PROVISIONS

SEC. 111. The provisions of House Resolution 12, approved August 5, 1977, relating to employees contributions to certain charitable organizations; the first section and section 4 of House Resolution 315, approved November 1, 1977, relating to House Beauty Shop employees compensation classification system; House Resolution 661, approved July 29, 1977, providing two additional positions for the

2 USC 60e-1c, 60e-1d.

40 USC 206a-4, 206a-5.

2 USC 84-2.
2 USC 122, 122 note, 122b-122g.
2 USC 130, 130 note, 130-1.

Capitol Police Force and section 3 relating to the compensation of the Chaplain of the House of Representatives; House Resolution 687, approved September 20, 1977, relating to district office space for Members; and House Resolution 1047, approved April 4, 1978, which increases available funds for interparliamentary receptions, shall be the permanent law with respect thereto.

SEC. 112. None of the funds appropriated on pages 2 through 6 of the House passed version of this Act shall be made available for obligation unless such funds are subject to audit by the Comptroller General of the United States in accordance with the provisions of title 31, section 67 of the U.S.C.A.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $1,800,000.

To enable the Joint Economic Committee to carry out the investigation of past and prospective changes in the United States and world economies and the impact of such changes on the economies of the United States and other nations, pursuant to House Concurrent Resolution 248, Ninety-fifth Congress, $553,000, such sum to become available for obligation on January 1, 1979, and to remain available for obligation through December 31, 1980.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $656,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $2,375,200, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to not to exceed eight assistants on the basis heretofore provided for such assistance; and (4) $253,475 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $465,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $40 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $750,100, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

To enable the Capitol Police Board to provide additional protection for the Capitol Buildings and Grounds, including the Senate and House Office Buildings and the Capitol Power Plant, $1,421,000, to be disbursed by the Clerk of the House. Such sum shall be expended only for payment of salaries and other expenses of personnel detailed from the Metropolitan Police of the District of Columbia, and the Mayor of the District of Columbia is authorized and directed to make such details upon the request of the Board. Personnel so detailed shall, during the period of such detail, serve under the direction and instructions of the Board and are authorized to exercise the same authority as members of such Metropolitan Police and members of the Capitol Police and to perform such other duties as may be assigned by the Board. Reimbursement for salaries and other expenses of such detail personnel shall be made to the Government of the District of Columbia, and any sums so reimbursed shall be credited to the appropriation or appropriations from which such salaries and expenses are payable and shall be available for all the purposes thereof: *Provided*, That any person detailed under the authority of this paragraph or under similar authority in the Legislative Branch Appropriation Act, 1942, and the Second Deficiency Appropriation Act, 1940, from the Metropolitan Police of the District of Columbia shall be deemed a member of such Metropolitan Police during the period or periods of any such detail for all purposes of rank, pay, allowances, privileges, and benefits to the same extent as though such detail had not been made, and at the termination thereof any such person shall have a status with respect to rank, pay, allowances, privileges, and benefits which is not less than the status of such person in such police at the end of such detail: *Provided further*, That the Mayor of the District of Columbia is directed (1) to pay the assistant chief detailed under the authority of this paragraph and serving as Chief of the Capitol Police, the salary of assistant chief plus $2,000 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (2) to pay the inspector detailed under the authority of this paragraph the salary of inspector and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (3) to pay the two lieutenants detailed under the authority of this paragraph the salary of lieutenant and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, (4) to pay the two detective sergeants detailed under the authority of

Detailed personnel. D.C. Code 9-126a.

55 Stat. 456. 54 Stat. 629.

this paragraph the salary of detective sergeant and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, and (5) to pay the three sergeants of the uniform force detailed under the authority of this paragraph the salary of sergeant and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents.

No part of any appropriation contained in this Act shall be paid as compensation to any person appointed after June 30, 1935, as an officer or member of the Capitol Police who does not meet the standards to be prescribed for such appointees by the Capitol Police Board: *Provided*, That the Capitol Police Board is hereby authorized to detail police from the House Office, Senate Office, and Capitol Buildings for police duty on the Capital Grounds and on the Library of Congress Grounds.

EDUCATION OF PAGES

For education of congressional pages and pages of the Supreme Court, pursuant to part 9 of title IV of the Legislative Reorganization Act, 1970, and section 243 of the Legislative Reorganization Act, 1946, $205,800, to be disbursed by the Clerk of the House, which amount shall be advanced and credited to the applicable appropriation of the District of Columbia, and the Board of Education of the District of Columbia is hereby authorized to employ such personnel for the education of pages as may be required and to pay compensation for such services in accordance with such rates of compensation as the Board of Education may prescribe.

2 USC 88b-1 and note, 40 USC 184a, 2 USC 88a.

D.C. Code 31-121.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs pursuant to title 39, U.S.C., section 3216, $64,944,000, to be disbursed by the Clerk of the House, to be available immediately on enactment of this Act.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $544,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than twenty-eight individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Limitation.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the Ninety-fifth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills as required by law, $13,000, to be paid to the persons designated by the chairman of such committees to supervise the work.

Contracts.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including rental of space in the District of Columbia, $9,700,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 130 staff employees, except that any reduction in total employment necessary to meet this limitation on employment is to be accomplished by attrition: *Provided further*, That this limitation shall not prevent staff appointments necessary to maintain an operating balance between professional staff skills and support staff or prevent the position of Director or Deputy Director from being filled should it become vacant. 2 USC 471 note.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $11,368,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 218 staff employees. 31 USC 1301 note.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $2,382,000.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000. 40 USC 166a.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, to incur expenses authorized by the Act of December 13, 1973 (87 Stat. 704), and to meet unforeseen expenses in connection with activities under his care, $210,000, which shall remain available until expended. Studies. 40 USC 166d.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; furnishings and office equipment; special and pro-

tective clothing for workmen; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); personal and other services; cleaning and repairing works of art and prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes, as amended; preservation of historic drawings through use of document conservation laboratory facilities of the Library of Congress on a reimbursable basis; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase of necessary reference books and periodicals; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $6,157,000, of which $125,000 shall remain available until expended.

41 USC 5.

CAPITOL GROUNDS

For care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant; personal and other services; care of trees; planting; fertilizer; repairs to pavements, walks, and roadways; waterproof wearing apparel; maintenance of signal lights; and for snow removal by hire of men and equipment or under contract without regard to section 3709 of the Revised Statutes, as amended, $2,565,000.

SENATE OFFICE BUILDINGS

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol in all $10,328,600, of which $210,000 shall remain available until expended.

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $164,000.

HOUSE OFFICE BUILDINGS

For maintenance, including equipment; waterproof wearing apparel; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes, as amended; miscellaneous items; and for all necessary services, including the position of Superintendent of Garages as authorized by law, $21,065,000, of which $6,813,000 shall remain available until expended.

CAPITOL POWER PLANT

For lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same,

Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; personal and other services, fuel, oil, materials, waterproof wearing apparel, and all other necessary expenses in connection with the maintenance and operation of the plant, $13,635,000, of which $730,000 shall remain available until expended: *Provided*, That not to exceed $1,750,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1979.

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

The appropriation "Modifications and Enlargement, Capitol Power Plant" shall be available for necessary furniture and furnishings in addition to the purposes heretofore authorized for such project under Public Law 93-50 (87 Stat. 109-110).

LIBRARY OF CONGRESS

Congressional Research Service

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $25,553,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); and printing and binding of Government publications authorized by law to be distributed to Members of Congress, $73,961,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

Hereafter, notwithstanding any other provision of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner

from Puerto Rico) of the bound and biweekly Congressional Records shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he or she receive copies of such Records.

Citation of title.

This title may be cited as the "Congressional Operations Appropriation Act, 1979".

TITLE II—RELATED AGENCIES

BOTANIC GARDEN

Salaries and Expenses

For all necessary expenses incident to maintaining, operating, repairing, and improving the Botanic Garden and the nurseries, buildings, grounds, collections, and equipment pertaining thereto, including personal services; waterproof wearing apparel; emergency medical supplies; traveling expenses, including bus fares, not to exceed $275; the prevention and eradication of insect and other pests and plant diseases by purchase of materials and procurement of personal services by contract without regard to the provisions of any other Act; purchase and exchange of motor trucks; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; purchase of botanical books, periodicals, and books of reference; all under the direction of the Joint Committee on the Library, $1,392,000.

LIBRARY OF CONGRESS

Salaries and Expenses

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody, care, and maintenance of the Library Buildings; special clothing; cleaning, laundering, and repair of uniforms; preservation of motion pictures in the custody of the Library; for the National Program for Acquisition and Cataloging of library material; operation and maintenance of the American Folklife Center and the American Television and Radio Archives in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $92,249,000, of which $4,474,000, including $345,275 for the law library, is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other material including subscriptions for bibliographic services for the Library and the law library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided,* That not to exceed $6,500,000 of the funds credited to this appropriation during fiscal year 1979 under the Act of June 28, 1902 (2 U.S.C. 150) shall be available for obligation during such fiscal year.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $8,560,500: *Provided*, That not to exceed $4,600,000 of the funds credited to this appropriation during fiscal year 1979 under section 708(c) of Title 17, United States Code, shall be available for obligation during such fiscal year. 17 USC app. 708.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931 (2 U.S.C. 135a), as amended, $36,729,700.

COLLECTION AND DISTRIBUTION OF LIBRARY MATERIALS (SPECIAL FOREIGN CURRENCY PROGRAM)

For necessary expenses for carrying out the provisions of section 104(b)(5) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), to remain available until expended, $3,860,100, of which $3,603,500 shall be available only for payments in any foreign currencies owed to or owned by the United States which the Treasury Department shall determine to be excess to the normal requirements of the United States.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $7,694,000, of which $6,354,000 shall be available until expended only for the purchase and supply of furniture, book stacks, shelving, furnishings, and related costs necessary for the initial outfitting of the James Madison Memorial Library Building.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress for salaries shall be available for expenses of personnel security and suitability investigations of Library employees; special and temporary services (including employees engaged by day or hour or in piecework); and services as authorized by 5 U.S.C. 3109. Library of Congress.

SEC. 202. Not to exceed fifteen positions in the Library of Congress may be exempt from the provisions of appropriation acts concerning the employment of aliens during the current fiscal year, but the Librarian shall not make any appointment to any such position until he has ascertained that he cannot secure for such appointments a person in any of the categories specified in such provisions who possesses the special qualifications for the particular position and also otherwise meets the general requirements for employment in the Library of Congress. Aliens, employment. 2 USC 169.

SEC. 203. Funds available to the Library of Congress may be expended for contracting on behalf of and hiring alien employees for the Library of Congress under compensation plans comparable to those authorized by section 444 of the Foreign Service Act of 1946, 2 USC 143a.

as amended (22 U.S.C. 889(a)); for benefits comparable to those payable under sections 911(9), 911(11), and 941 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9), 1136(11), and 1156, respectively); and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (Public Law 87-195, 22 U.S.C. 2396(b)); subject to such rules and regulations as may be issued by the Librarian of Congress.

Advance payments.

SEC. 204. Payments in advance for subscriptions or other charges for bibliographical data, publications, materials in any other form, and services may be made by the Librarian of Congress whenever he determines it to be more prompt, efficient, or economical to do so in the interest of carrying out required Library programs.

Congressional Research Service.

SEC. 205. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $126,500, of which $47,000 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 206. Funds available to the Library of Congress may be expended to provide additional parking facilities for Library of Congress employees in an area or areas in the District of Columbia outside the limits of the Library of Congress grounds, and to provide for transportation of such employees to and from such area or areas and the Library of Congress grounds without regard to the limitations imposed by 31 U.S.C. 638a(c)(2).

2 USC 142e.

SEC. 207. The Library of Congress is authorized to compute and disburse the basic pay of all personnel of the Congressional Budget Office pursuant to the provisions of section 5504 of Title 5 of the United States Code, except the Director, who as head of an agency, shall have pay computed and disbursed pursuant to the provisions of section 5505 of Title 5 of the United States Code.

17 USC 805 note.

SEC. 208. The Library of Congress is authorized to compute and disburse basic pay of all personnel of the Copyright Royalty Tribunal pursuant to the provisions of section 5504 of title 5 of the United States Code.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For necessary expenditures for mechanical and structural maintenance, including improvements, equipment, supplies, waterproof wearing apparel, and personal and other services, $2,776,000, of which $200,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $805,000.

GOVERNMENT PRINTING OFFICE

PRINTING AND BINDING

For authorized printing, binding, and distribution of the Federal Register (including the Code of Federal Regulations) as authorized by law (44 U.S.C. 1509, 1510); and printing and binding of Government publications authorized by law to be distributed without charge to the recipient, $11,476,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $88,300): *Provided*, That expenditures in connection with travel expenses of the Depository Library Council to the Public Printer shall be deemed necessary to carry out the provisions of chapter 19 of title 44, United States Code; price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying books to depository libraries; $23,200,000: *Provided further*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

44 USC 1901 *et seq.*

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with special studies of governmental printing, binding, and distribution practices and procedures: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of two passenger motor vehicles and the purchase of one passenger motor vehicle.

31 USC 849.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with special studies

of governmental financial practices and procedures; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries notwithstanding section 3648, Revised Statutes, as amended (31 U.S.C. 529); benefits comparable to those payable under sections 911(9), 911(11) and 942(a) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9), 1136(11), and 1157(a), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (Public Law 87-195, 22 U.S.C. 2396(b)), $185,756,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed.

5 USC 5332 note.

COST-ACCOUNTING STANDARDS BOARD

SALARIES AND EXPENSES

For expenses of the Cost-Accounting Standards Board necessary to carry out the provisions of section 719 of the Defense Production Act of 1950, as amended (Public Law 91-379, approved August 15, 1970), $1,850,000.

50 USC app. 2168.

TITLE III—GENERAL PROVISIONS

Regulations.

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

Fiscal year limitation.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

D.C. Code 40-603c.

SEC. 303. Hereafter, each Senator, Member of the House of Representatives, and other individual who is authorized by law to be issued a congressional tag for his automobile shall, upon application therefor, be entitled to be issued a duplicate tag bearing the same number.

Salary or pay for government positions. 5 USC 5318 note.

SEC. 304. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in

the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1978, if the rate of salary or basic pay for for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

Regulations.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Congressional pages, pay.
2 USC 88b-1 note.

SEC. 305. The provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b-1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the second session of the Ninety-fifth Congress and the convening of the first session of the Ninety-sixth Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment.

Televising and broadcasting proceedings.

SEC. 306. No funds in this bill may be used to implement a system for televising and broadcasting the proceedings of the House pursuant to House Resolution 866, Ninety-fifth Congress, under which the TV cameras in the Chamber purchased by the House are controlled and operated by persons not in the employ of the House.

Utility or custodial service.

SEC. 307. Effective December 1, 1978, none of the funds appropriated by this Act may be used to provide or maintain any utility or custodial service for any office premises of the House of Representatives if such premises is occupied by any organization which was, during 1977, requested by the Speaker of the House of Representatives to vacate such premises.

Legal representation for employees.

SEC. 308. None of the funds appropriated or otherwise made available in this Act for the House of Representatives or for any other agency shall be used to provide legal representation for any employee without the specific authorization of the Congress.

SEC. 309. None of the funds contained in this Act shall be used to provide House Wall Calendars, U.S. Historical Society Calendars, Agriculture Yearbooks, plants from the U.S. Botanic Garden, and

shipping trunks, to Members of the House of Representatives, without reimbursement for such items from Member's official Office Expenses Allowances.

Longevity compensation. 2 USC 60j-2. 2 USC 60j.

SEC. 310. (a) The provisions of subsections (a) and (b) of section 106 of the Legislative Branch Appropriation Act, 1963 (as amended by section 110 of this Act), shall apply to telephone operators (including the chief operator and assistant chief operators) on the United States Capitol telephone exchange and members of the Capitol Police whose compensation is disbursed by the Clerk of the House of Representatives in the same manner and to the same extent as such provisions apply to individuals whose compensation is disbursed by the Secretary of the Senate. For purposes of so applying such subsections, creditable service shall include service performed as an employee of the United States Capitol telephone exchange or a member of the Capitol Police whether compensation therefor is disbursed by the Clerk of the House of Representatives or the Secretary of the Senate.

SEC. 311. Of the total budget authority provided in this Act, for payments not required by law, five per centum shall be withheld from obligation and expenditure.

Short title.

This Act may be cited as the "Legislative Branch Appropriation Act, 1979".

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1254 (Comm. on Appropriations) and No. 95-1457 (Comm. of Conference).

SENATE REPORT No. 95-1024 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 15, considered and passed House.

Aug. 4, 7, considered and passed Senate, amended.

Aug. 17, House agreed to conference report; concurred in Senate amendments.

Aug. 19, Senate agreed to conference report.

Public Law 95-392
95th Congress

An Act

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes.

Sept. 30, 1978
[H.R. 12936]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, namely:

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in annual appropriations acts, is increased by $1,322,297,000 of which not more than $50,000,000 shall be for the modernization of existing low-income housing projects: *Provided*, That budget authority obligated under such contracts shall be increased above amounts heretofore provided in annual appropriations acts by $24,395,848,000: *Provided further*, That any balances of authorities remaining at the end of fiscal year 1978 shall be added to and merged with the authority provided herein and made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1979.

HOUSING PAYMENTS

For the payment of annual contributions, not otherwise provided for, in accordance with section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); for payments authorized by title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.); for rent supplement payments authorized by section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s); for payments as authorized by sections 235 and 236, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1); and for payments as authorized by section 802 of the Housing and Community Development Act of 1974 (42 U.S.C. 1440), $4,460,000,000.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

The limitation on the aggregate loans that may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), from the fund authorized by subsection (a)(4) of such section, is

increased by $800,000,000, together with any portion of loan limitations established for fiscal years beginning after June 30, 1975 which was not administratively committed or which becomes uncommitted, in accordance with paragraph (C) of such subsection, which funds shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government.

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $727,000,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, $74.000,000, together with any excess rental charges collected after September 30, 1977, to remain available until September 30, 1980.

Post, p. 2080.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and the General Insurance Fund, $352,290,000, to remain available until expended, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c (f)).

COLLEGE HOUSING—LOANS AND OTHER EXPENSES

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1979 shall not exceed the total of loan repayments and other income available during such period, less operating costs.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

The aggregate amount of purchases and commitments authorized to be made pursuant to section 313 of the National Housing Act, as amended (12 U.S.C. 1723e), out of recaptured Emergency Mortgage Purchase Assistance authority, is increased by $1,000,000,000.

SPECIAL ASSISTANCE FUNCTIONS FUND

The aggregate amount of purchases and commitments authorized to be made pursuant to section 305 of the National Housing Act, as amended (12 U.S.C. 1720), is further increased by $2,000,000,000, of which $1,500,000,000 may be out of recaptured Special Assistance Purchase authority.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), $20,477,000. 81 Stat. 341.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,650,000,000, to remain available until September 30, 1981: *Provided*, That not to exceed 20 per centum of any grant made pursuant to section 103(a) of title I of the Housing and Community Development Act of 1974, as amended, shall be expended for "Planning and Management Development" and "Administration" as defined at 24 CFR § 570.205 and 570.206, respectively, promulgated by the Department of Housing and Urban Development on March 1, 1978. 42 USC 5303.

For grants to units of general local government pursuant to section 103(b) of title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $100,000,000, to remain available until September 30, 1981.

URBAN DEVELOPMENT ACTION GRANTS

For grants pursuant to section 103(c) of title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $400,000,000, to remain available until September 30, 1981.

COMPREHENSIVE PLANNING GRANTS

For grants as authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), $53,000,000, to remain available until expended.

REHABILITATION LOAN FUND

For the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), $230,000,000, which shall be merged with all unobligated funds previously appropriated therefor, to remain available until expended: *Provided*, That the aggregate amount of commitments for loans made from the fund for fiscal year 1979 shall not exceed the total of loan repayments, appropriations, and other income available during such period, less operating costs, which aggregate shall be augmented by any previously appropriated funds which would otherwise become unavailable after September 30, 1978.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Funds for losses incurred under the urban homesteading program (12 U.S.C. 1706e), $20,000,000, to remain available until expended.

FEDERAL INSURANCE ADMINISTRATION

FLOOD INSURANCE

For necessary expenses, not otherwise provided for, in carrying out the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127), $85,000,000.

NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $9,000,000.

12 USC 1701x.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $57,500,000, to remain available until September 30, 1980.

49 USC 1608 note.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $3,000 for official reception and representation expenses, $524,065,000, of which $250,255,000 shall be provided from the various funds of the Federal Housing Administration.

FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Department of Housing and Urban Development under the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5202), and Reorganization Plan No. 1 of 1973 (50 U.S.C. 2271), authorizing assistance to States and local governments, $200,000,000, to remain available until expended: *Provided*, That not to exceed 3 per centum of the foregoing amount shall be available for administrative expenses. 42 USC 5121 note.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchase and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; not to exceed $71,000 for expenses of travel; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; $6,240,000, of which $40,000 shall remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it. 36 USC 121b. 36 USC 122. 36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including rent in the District of Columbia, hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, and not to exceed $500 for official reception and representation, $40,000,000: *Provided*, That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

3 CFR 1977 Comp., p. 142.
5 USC 5332 note.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of maintenance, operation, and improvement of the cemetery at the Soldiers' and Airmen's Home and Arlington National Cemetery, including the purchase of one passenger motor vehicle, $5,100,000, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

AGENCY AND REGIONAL MANAGEMENT

For agency and regional management expenses, including not to exceed $3,000 for official reception and representation expenses, $84,185,000.

RESEARCH AND DEVELOPMENT

For research and development activities, $328,528,000, to remain available until September 30, 1980.

ABATEMENT AND CONTROL

For abatement and control activities, $692,915,000, to remain available until September 30, 1980.

ENFORCEMENT

For enforcement activities, $94,755,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Environmental Protection Agency, $1,063,000, to remain available until expended.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 206, 208, and 209, $4,200,000,000, to remain available until expended, and for

33 USC 1281.
33 USC 1286, 1288, 1289.

liquidation of obligations incurred pursuant to authority contained in section 203, $1,400,000,000 to remain available until expended. 33 USC 1283.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Environmental Protection Agency in the conduct of scientific activities overseas in connection with environmental pollution, as authorized by law, $2,500,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations to such Agency, for payments in the foregoing currencies.

ADMINISTRATIVE PROVISIONS

Not to exceed 7 per centum of any appropriation made available to the Environmental Protection Agency by this Act (except appropriations for "Construction grants") may be transferred to any other such appropriation.

Appropriations made available to the Environmental Protection Agency by this Act (except appropriations for "Construction grants", "Scientific activities overseas", and "Buildings and facilities") shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; purchase of reprints; and library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members. 3 CFR, 1977 Comp., p. 142. 5 USC 5332 note.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91–190), the Environmental Quality Improvement Act of 1970 (Public Law 91–224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $3,026,000. 42 USC 4321 note. 42 USC 4371 note. 5 USC app.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,000 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $2,476,000.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,146,000: *Provided*, That this appropriation shall be available, subject to reimbursement by user agencies, for payment to the Government Printing Office for distribution of free consumer information.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,700,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; and purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration, $3,292,200,000, to remain available until September 30, 1980.

CONSTRUCTION OF FACILITIES

For construction, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $147,500,000, to remain available until September 30, 1981: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this head by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); awards; purchase (not to exceed one, for replacement only of one or more existing aircraft, at least one of which shall be an administrative aircraft, which existing aircraft may be exchanged in part payment), hire, maintenance and operation of

administrative aircraft; purchase (not to exceed twenty-nine for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $25,000 per project for construction of new facilities and additions to existing facilities, and not in excess of $50,000 per project for rehabilitation and modification of facilities; $910,500,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed $25,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

National Commission on Air Quality

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Air Quality as authorized by the Clean Air Act Amendments of 1977 (42 U.S.C. 7623 and 7626), including services as authorized by 5 U.S.C. 3109, $2,000,000.

National Institute of Building Sciences

SALARIES AND EXPENSES

For necessary expenses of the National Institute of Building Sciences as authorized by section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j–2), $750,000.

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876–1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed $3,500 for official reception and representation expenses; not to exceed $54,800,000 for program development and management; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $827,000,000, to remain available until September 30, 1980: *Provided*, That not more than $55,500,000 shall be available for Applied Science and Research Applications, of which not more than $1,000,000 shall be for Problem Analysis, not more than $5,000,000 for Integrated Basic Research, not more than $17,400,000 for Earthquake Hazards Mitigation, and not more than $2,400,000 for Community Water Management: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers may be credited to this appropriation: *Provided further*, That if an institution of higher education receiving funds hereunder determines after affording notice and opportunity for hearing to an individual attend-

ing, or employed by, such institution, that such individual has, after the date of enactment of this Act, willfully refused to obey a lawful regulation or order of such institution and that such refusal was of a serious nature and contributed to the disruption of the administration of such institution, then the institution shall deny any further payment to, or for the benefit of, such individual: *Provided further*, That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies: *Provided further*, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS–18, unless expressly approved by the Director of the National Science Foundation.

3 CFR, 1977 Comp., p. 142.
5 USC 5332 note.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $80,000,000: *Provided*, That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, $4,000,000, to remain available until September 30, 1980: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation, for payments in the foregoing currencies.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $500 for official reception and representation expenses; $7,045,000: *Provided*, That during the current fiscal year, the President may

exempt this appropriation from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States. 31 USC 665.

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

For payments to the State and Local Government Fiscal Assistance Trust Fund, as authorized by the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221–1263), $6,854,924,000.

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses in the Office of Revenue Sharing, including the hire of passenger motor vehicles, $7,200,000.

NEW YORK CITY SEASONAL FINANCING FUND, ADMINISTRATIVE EXPENSES

For necessary administrative expenses as authorized by the New York City Seasonal Financing Act of 1975 (31 U.S.C. 1507(c)), $1,050,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of amounts of compromises or settlements under 28 U.S.C. 2672 and 2677 of tort claims potentially subject to the offset provisions of 38 U.S.C. 351, and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, $9,577,300,000, to remain available until expended. 50 USC app. note prec. 540.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, 32, 34–36 and 39), $2,144,000,000, to remain available until expended. 38 USC 801, 1501, 1601, 1651–1770, 1901.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, $5,750,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment

in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); and aid to State homes as authorized by law (38 U.S.C. 641); $5,334,374,000, plus reimbursements.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1980, $122,847,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, and for carrying out the provisions of section 5055, title 38, United States Code, relating to pilot programs and grants for exchange of medical information, $47,058,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law, purchase of eleven passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $615,964,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5001, 5002, 5004 and 5012 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $1,000,000 or more, or where funds for a project were made available in a previous major project appropriation, $365,560,000, to remain available until expended: *Provided*, That $1,424,600 of the $6,259,000 made available in Public Law 94–116 for construction of a research and education facility at Houston, Texas is made available to other Construction, major projects until expended; that $615,900 of the $6,700,000 made available in Public Law 94–116 for construction of a research and education facility at Jackson, Mississippi is made available to other Construction, major projects until expended; that $925,700 of the $5,800,000 made available in Public Law 94–378 for construction of a research and education facility at Dallas, Texas is made available to other Construction, major projects until expended; that $4,400,000 of the $10,000,000 made avail-

89 Stat. 595.

90 Stat. 1105.

able in Public Law 94-378 for construction of facilities on government-owned land for a TARGET data processing center is made available to other Construction, major projects until expended: *Provided further*, That none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process. 90 Stat. 1105.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5001, 5002, 5004, and 5012 of title 38, United States Code, where the estimated cost of a project is less than $1,000,000, $85,401,000, to remain available until expended: *Provided*, That not more than $21,450,000 shall be available for expenses of the Office of Construction.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), $10,000,000, to remain available until September 30, 1981.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For pilot programs for assistance in the establishment of new State medical schools, grants to affiliated medical schools, assistance to public and nonprofit institutions of higher learning, hospitals and other health manpower institutions affiliated with the Veterans Administration to increase the production of professional and other health personnel, and for expansion of Veterans Administration hospital education and training capacity as authorized by 38 U.S.C. chapter 82, $47,437,000, to remain available until September 30, 1985. 38 USC 5070 *et seq.*

LOAN GUARANTY REVOLVING FUND

During the current fiscal year, the Loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations under chapter 37, title 38, United States Code, except administrative expenses, as authorized by section 1824 of such title: *Provided*, That the unobligated balances including retained earnings of the Direct loan revolving fund shall be available, during the current fiscal year, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer. 38 USC 1801 *et seq.*

ADMINISTRATIVE PROVISIONS

Not to exceed 5 per centum of any appropriation for the current fiscal year for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for the current fiscal year for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which
31 USC 841 note. are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by
31 USC 849. section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriation Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $17,793,000 shall be available for administrative expenses of the Federal Home Loan Bank Board, which may procure services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901–5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided*, That all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Fed-

eral Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A(f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of, or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be considered as nonadministrative expenses for the purposes hereof: *Provided further*, That members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That expenses of any functions of supervision (except of Federal home loan banks) vested in or exercisable by the Board shall be considered as nonadministrative expenses: *Provided further*, That not to exceed $500 shall be available for official reception and representation expenses: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421–1449): *Provided further*, That the nonadministrative expenses (except such part as the Board determines not to be field expense, which part shall be treated as if expenses of supervision and examination were not as such excluded from administrative expense, and except those included in the first proviso hereof) for the supervision and examination of Federal and State chartered institutions (other than special examinations determined by the Board to be necessary) shall not exceed $29,895,000.

12 USC 1425a, 1426. 12 USC 1464. 15 USC 78*l*. 12 USC 1729–1730a.

12 USC 1421. Travel expenses. 12 USC 1428a note.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $940,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve Banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in

42 USC 1729–1730a.

amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724–1730f).

TITLE IV

GENERAL PROVISIONS

Travel expenses.

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That the limitations may be increased by the Secretary when necessary to allow for travel performed by employees of the Department of Housing and Urban Development as a result of increased Federal Housing Administration inspection and appraisal workload.

Uniforms.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

Legal and banking services.
31 USC 841 note.
12 USC 1749a.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

Audit.

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such an audit.

Certain government transportation, prohibition.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitations.

Research projects.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

3 CFR, 1977 Comp., p. 142.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979".

5 USC 5332 note. Short title.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1265 (Comm. on Appropriations) and No. 95-1569 (Comm. of Conference).

SENATE REPORT No. 95-1060 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 19, considered and passed House.

Aug. 4, 7, considered and passed Senate, amended.

Sept. 19, House agreed to conference report; concurred in certain Senate amendments and in others with amendments.

Sept. 20, Senate agreed to conference report; concurred in House amendments.

Public Law 95-393
95th Congress

An Act

Sept. 30, 1978
[H.R. 7819]

To complement the Vienna Convention on Diplomatic Relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Diplomatic Relations Act.

SHORT TITLE

22 USC 254a note.

SECTION 1. This Act may be cited as the "Diplomatic Relations Act".

DEFINITIONS

22 USC 254a.

SEC. 2. As used in this Act—

(1) the term "members of a mission" means—

(A) the head of a mission and members of the diplomatic staff of a mission,

(B) members of the administrative and technical staff of a mission, and

(C) members of the service staff of a mission,

as such terms are defined in Article 1 of the Vienna Convention;

(2) the term "family" means—

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States,

within the meaning of Article 37 of the Vienna Convention;

(3) the term "mission" includes missions within the meaning of the Vienna Convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

(4) the term "Vienna Convention" means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

ESTABLISHMENT OF THE VIENNA CONVENTION AS THE UNITED STATES LAW ON DIPLOMATIC PRIVILEGES AND IMMUNITIES

Repeal.

SEC. 3. (a)(1) Sections 4063 through 4066 of the Revised Statutes of the United States (22 U.S.C. 252–254) are repealed.

(2) The section analysis of title XLVII of the Revised Statutes of the United States is amended by striking out the items relating to sections 4063 through 4066.

22 USC 254b.

(b) Members of the mission of a sending state which has not ratified the Vienna Convention, their families, and the diplomatic couriers of such state, shall enjoy the privileges and immunities specified in the Vienna Convention.

AUTHORITY TO EXTEND MORE FAVORABLE OR LESS FAVORABLE TREATMENT

SEC. 4. The President may, on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for members of the mission, their families, and the diplomatic couriers of any sending state which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention. 22 USC 254c.

DISMISSAL OF ACTIONS AGAINST INDIVIDUALS ENTITLED TO IMMUNITY

SEC. 5. Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure. 22 USC 254d.

REQUIREMENT FOR LIABILITY INSURANCE

SEC. 6. (a) Each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, shall comply with any requirement imposed by the regulations promulgated by the President pursuant to subsection (b). 22 USC 254e.

(b) The President shall, by regulation, establish liability insurance requirements to be met by each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, relating to risks arising from the operation in the United States of any motor vehicle, vessel, or aircraft. Regulations.

(c) The President shall take such steps as he may deem necessary to insure that each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, who operate motor vehicles, vessels, or aircraft in the United States comply with the requirements established pursuant to subsection (b).

SEC. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section:

"§ 1364. Direct actions against insurers of members of diplomatic missions and their families 28 USC 1364.

"(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission (as defined in the Vienna Convention on Diplomatic Relations) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

"(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose.".

(b) The chapter analysis of chapter 85 of title 28, United States Code, is amended by adding after the item relating to section 1363 the following new item:

"1364. Direct actions against insurers of members of diplomatic missions and their families.".

CONFORMING AMENDMENTS TO TITLE 28

SEC. 8. (a)(1) Section 1351 of title 28, United States Code, is amended to read as follows:

"§ 1351. Consuls, vice consuls, and members of a diplomatic mission as defendant

"The district courts shall have original jurisdiction, exclusive of the courts of the States, of all civil actions and proceedings against—

"(1) consuls or vice consuls of foreign states; or

"(2) members of a mission or members of their families (as such terms are defined in section 2 of the Diplomatic Relations Act).".

(2) The chapter analysis of chapter 85 of such title 28 is amended by amending the item relating to section 1351 to read as follows:

"1351. Consuls, vice consuls, and members of a diplomatic mission as defendant.".

(b)(1) Section 1251(a) of such title 28 is amended to read as follows:

Jurisdiction.

"(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.".

(2) Section 1251(b)(1) of such title 28 is amended by striking out "brought by" and all that follows through "consuls or" and inserting in lieu thereof "to which ambassadors, other public ministers, consuls, or".

EFFECTIVE DATE

22 USC 254a note.

SEC. 9. This Act shall take effect at the end of the ninety-day period beginning on the date of its enactment.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-526 (Comm. on International Relations).
SENATE REPORTS: No. 95-958 (Comm. on Foreign Relations) and No. 95-1108 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 27, considered and passed House.
Vol. 124 (1978): Aug. 17, considered and passed Senate, amended.
Sept. 18, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 40 (1978): Oct. 2, Presidential statement.

Public Law 95-394
95th Congress

An Act

To facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

Sept. 30, 1978
[H.R. 12772]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to facilitate the exchange of certain lands in the State of Oregon for purposes of enlarging the Ecola State Park, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized and directed to convey to the State of Oregon the reversionary interest retained by the United States pursuant to the first proviso of the first section of the Act of August 11, 1916 (39 Stat. 505) in a tract comprising about one hundred and sixty acres and described as the northwest quarter, section 8, township 5 north, range 8 west, Willamette meridian. Such conveyance shall be made, upon relinquishment to the Secretary of patent numbered 602062 by the State, by issuance of a new patent describing all lands which were described by patent numbered 602062. The conveyance directed by this section shall be made only if, in the judgment of the Secretary, the requirements of sections 2 and 3 of this Act have been met by the State.

Ecola State Park, Oreg.
Land conveyance.

(b) The new patent issued under subsection (a) hereof shall contain all reservations and exceptions required by the Act of August 11, 1916, and contained in patent numbered 602062 except that the reverter provision contained in the proviso referred to in subsection (a) shall not apply to the one-hundred-and-sixty-acre tract described in subsection (a) of this section.

SEC. 2. No conveyance shall be made and no new patent issued pursuant to this Act unless the State of Oregon has shown to the satisfaction of the Secretary that—

(a) the lands described in the first section of this Act will be exchanged for lands of at least equal value, or if not of at least equal value that the values will be equalized by payment of money or other consideration to the State;

(b) the lands received by the State in exchange are at least as suitable for park purposes as the lands conveyed;

(c) the lands obtained by exchange by the State will be used for public park purposes in perpetuity; and

(d) any amount of money or other consideration paid to the State to equalize values on a land exchange under this Act will be used for park purposes.

39-194 O—80—pt. 1——55 : QL3

SEC. 3. The Secretary, upon his determination that the requirements of section 2 of this Act are satisfied, is authorized and directed to enter into an agreement or agreements with the State of Oregon whereby, in consideration of a conveyance of the reversionary interest of the United States in the lands described in the first section of this Act, and issuance of a new patent, the State of Oregon agrees that—

(a) title to the lands acquired and dedicated for public park purposes pursuant to section 2 of this Act will vest in the United States if such lands ever cease to be used for public park purposes; and

(b) the State of Oregon will include provisions to this effect in any document of transfer of such property; and

(c) the State will execute a document to this effect and deliver such document to the Secretary.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1455 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 15, considered and passed House.
Sept. 15, considered and passed Senate.

Public Law 95-395
95th Congress

An Act

To settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

Sept. 30, 1978
[H.R. 12860]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That this Act may be cited as the "Rhode Island Indian Claims Settlement Act".

Rhode Island Indian Claims Settlement Act.
25 USC 1701 note.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Congress finds and declares that— 25 USC 1701.

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term— 25 USC 1702.

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the actions entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co., et al., C.A. No. 75-0006 (D.R.I.)" and "Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75-0005 (D.R.I.)";

(d) "private settlement lands" means approximately nine hundred acres of privately held land outlined in red in the map marked "Exhibit A" attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 5 and 8 of this Act;

(e) "public settlement lands" means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 7 of this Act;

(f) "settlement lands" means those lands defined in subsections (d) and (e) of this section;

(g) "Secretary" means the Secretary of the Interior;

(h) "settlement agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims", executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the lawsuits, as filed with the Secretary of the State of Rhode Island;

(i) "State Corporation" means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 7 of this Act; and

(j) "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

RHODE ISLAND INDIAN CLAIMS SETTLEMENT FUND

25 USC 1703.

SEC. 4. There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which $3,500,000 shall be deposited following the appropriation authorized by section 11 of this Act.

OPTION AGREEMENTS TO PURCHASE PRIVATE SETTLEMENT LANDS

25 USC 1704.

SEC. 5. (a) The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands: *Provided*, That the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exceed the amount specified in section 4. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submission, the Secretary will be deemed to have accepted the assignment of the option.

(b) Payment for any option entered into pursuant to subsection (a) shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 4 of this Act.

(c) The total amount of the option fees paid pursuant to subsection (b) shall not exceed $175,000.

(d) The option fee for each option agreement shall be applied to the agreed purchase price in the agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

(e) The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING THE NARRAGANSETT TRIBE AND THE TOWN OF CHARLESTOWN, RHODE ISLAND

Publication in Federal Register. 25 USC 1705.

SEC. 6. (a) If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 7 of this Act, he shall publish such findings in the Federal Register and upon such publication—

(1) any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in subsection (a) may involve land or natural resources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer.

(b) Any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to section 6, bring an action against the State Corporation in lieu of an action against any other person against whom a cause may have existed in the absence of this section. In any such

action, the remedy shall be limited to a right of possession of the settlement lands.

FINDINGS BY THE SECRETARY

25 USC 1706.

SEC. 7. Section 6 of this Act shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage, and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the members of which shall be selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

Regulations.

(3) the corporation shall be authorized, after consultation with appropriate State officials, to establish its own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement.

PURCHASE AND TRANSFER OF PRIVATE SETTLEMENT LANDS

25 USC 1707.

SEC. 8. (a) When the Secretary determines that the State Corporation described in section 7(a) has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 5 of this Act and assign the private settlement lands thereby purchased to the State Corporation.

(b) Any moneys remaining in the fund established by section 4 of this Act after the purchase described in subsection (a) shall be returned to the general Treasury of the United States.

(c) Upon the discharge of the Secretary's duties under sections 5, 6, 7, and 8 of this Act, the United States shall have no further duties or liabilities under the Act with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands: *Provided, however*, That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to anyone other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: *Provided, however*, That nothing in this Act shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any easement for public or private purposes pursuant to the laws of the State of Rhode Island.

APPLICABILITY OF STATE LAW

SEC. 9. Except as otherwise provided in this Act, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island. 25 USC 1708.

FEDERAL BENEFITS PRESERVED

SEC. 10. Nothing contained in this Act or in any legislation enacted by the State of Rhode Island as described in section 7 of this Act shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669–669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777–777(k)). 25 USC 1709.

AUTHORIZATION OF FUNDS

SEC. 11. There is hereby authorized to be appropriated $3,500,000 to carry out the purposes of this Act. 25 USC 1710.

LIMITATION OF ACTIONS

SEC. 12. Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days of the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island. 25 USC 1711.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE OUTSIDE THE TOWN OF CHARLESTOWN, RHODE ISLAND AND INVOLVING OTHER INDIANS IN RHODE ISLAND

SEC. 13. (a) Except as provided in subsection (b)— 25 USC 1712.

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 6 of this Act), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United

States, any State or subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

(b) This section shall not apply to any claim, right, or title of any Indian, Indian nation, or tribe of Indians that is asserted in an action commenced in a court of competent jurisdiction within one hundred and eighty days of the date of enactment of this Act: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

Notice.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1453 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-972 accompanying S. 3153 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 21, S. 3153 considered and passed Senate.
Sept. 12, considered and passed House.
Sept. 15, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
Oct. 2, Presidential statement.

Public Law 95-396
95th Congress

An Act

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Sept. 30, 1978
[S. 1678]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Pesticide Act of 1978.

DEFINITIONS

SECTION 1. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136.

(1) adding at the end of subsection (e) (1) the following: "Any applicator who holds or applies registered pesticides, or use dilutions of registered pesticides consistent with section 2(ee) of this Act, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act.";

(2) in subsection (e) (3), striking out "a certified" and inserting in lieu thereof "an";

(3) in subsection (q) (1), striking out the period at the end of clause (G), inserting "; or" in lieu thereof, and adding a new clause (H) as follows:

"(H) in the case of a pesticide not registered in accordance with section 3 of this Act and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: 'Not Registered for Use in the United States of America'."; 7 USC 136a.

(4) in subsection (w), inserting "or active ingredient used in producing a pesticide" immediately after "or device" wherever that phrase appears therein;

(5) adding at the end of subsection (w) the following: "The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of 'producer' for the purposes of this Act.";

(6) in subsection (dd), inserting "or active ingredient used in producing a pesticide" immediately after "or device"; and

(7) adding at the end thereof a new subsection (ee) as follows:

"(ee) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The term 'to use any registered pesticide in a manner inconsistent with its labeling' means to use any registered pesticide in a manner not permitted by the labeling: *Provided*, That the term shall not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after

the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling: *Provided further*, That the term also shall not include any use of a pesticide in conformance with section 5, 18, or 24 of this Act, or any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this Act: *And provided further*, That after March 31, 1979, the term shall not include the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage unless before or after that date the Administrator issues a regulation or advisory opinion consistent with the study provided for in section 27(b) of the Federal Pesticide Act of 1978, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.".

7 USC 136c, 136p.
Post, p. 835.
Post, p. 841.

USE OF DATA TO SUPPORT REGISTRATION; ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION

SEC. 2. (a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

7 USC 136a.

(1) amending subsection (c)(1)(D) to read as follows:

"(D) except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

"(i) With respect to pesticides containing active ingredients that are initially registered under this Act after the date of enactment of the Federal Pesticide Act of 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide: *Provided*, That such permission shall not be required in the case of defensive data;

Ante, p. 819.

"(ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an appli-

cation by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the

affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(iii) after expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under subparagraphs (D)(i) and (D)(ii) of this paragraph, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data;"; and

(2) amending subsection (c)(2) by—

(A) inserting "(A)" immediately after "(2)";

(B) inserting immediately after "kind of information" in the second sentence the following: "under subparagraph (B) of this paragraph,";

(C) striking out "subsection (c)(1)(D) of this section and" from the third sentence; and

(D) adding at the end thereof a new subparagraph (B) as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

Notification.

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

"(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

Joint data development.

Arbitration.

"(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing, data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to

the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator.

Payment of arbitrator.

"(iv) Notwithstanding any other provision of this Act, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act: *Provided*, That the only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registra-

Hearing.

7 USC 136d.

tion suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

"(v) Any data submitted under this subparagraph shall be subject to the provisions of subsection (c) (1) (D) of this section. Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.".

7 USC 136a note.

(b) The amendment to section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act made by this section shall apply with respect to all applications for registration approved after the date of enactment of this Act.

MINOR USE REGISTRATIONS

Ante, p. 820.

SEC. 3. Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 2 of this Act, is further amended by inserting immediately after the second sentence the following: "The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data.".

SIMPLIFIED REGISTRATION PROCEDURES; EXEMPTION FROM REQUIREMENTS FOR SUBMISSION OF DATA

Ante, p. 820.

SEC. 4. Section 3(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is further amended by adding at the end thereof new subparagraphs (C) and (D) as follows:

"(C) SIMPLIFIED PROCEDURES.—Within nine months after the date of enactment of this subparagraph, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

"(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such purchased product; or

"(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.".

WAIVER OF DATA REQUIREMENTS PERTAINING TO EFFICACY

Sec. 5. Section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following: "In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 24(c) of this Act, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.". 7 USC 136a.

Post, p. 835.

REGISTRATION UNDER SPECIAL CIRCUMSTANCES; INTERIM ADMINISTRATIVE REVIEW

Sec. 6. Section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof new paragraphs (7) and (8) as follows: 7 USC 136a.

"(7) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—Notwithstanding the provisions of subsection (c)(5) of this section—

"(A) The Administrator may conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided*, That, if the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated

in whole or in part with human dietary exposure enumerated in regulations issued under this Act, and during the pendency of any risk-benefit evaluation initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop, or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c) (5) of this section: *Provided*, That, if the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

"(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this Act, and on such other conditions as the Administrator may prescribe: *Provided*, That a conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

"(8) INTERIM ADMINISTRATIVE REVIEW.—Notwithstanding any other provision of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms 'validated test' and 'other significant evidence' as used herein shall be published by the Administrator in the Federal Register.".

Notice of definitions. Publication in Federal Register.

CLASSIFICATION PRIOR TO REREGISTRATION; CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE

SEC. 7. Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

7 USC 136a.

(1) inserting in paragraph (1)(A) immediately after the first sentence the following: "Pesticide uses may be classified by regula-

tion on the initial classification, and registered pesticides may be classified prior to reregistration.";

(2) striking out "30 days" in paragraph (2) and inserting in lieu thereof "forty-five days"; and

(3) adding a new paragraph (3) at the end thereof as follows:

"(3) CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE.—The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 16 of this Act.".

REREGISTRATION

SEC. 8. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof new subsection (g) as follows: 7 USC 136a.

"(g) REREGISTRATION OF PESTICIDES.—The Administrator shall accomplish the reregistration of all pesticides in the most expeditious manner practicable: *Provided*, That, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.".

AUTHORITY OF ADMINISTRATOR TO CERTIFY APPLICATORS

SEC. 9. Section 4(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting in paragraph (1) immediately after "(1) FEDERAL CERTIFICATION.—" the following: "In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides: *Provided*, That such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applicators to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may require any person engaging in the commercial application, sale, offering for sale, holding 7 USC 136b. Public hearings.

for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by regulation prescribe.".

EXPERIMENTAL USE PERMITS

SEC. 10. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136c.

(1) amending subsection (a) to read as follows:

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than one hundred and twenty days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of the Administrator's determination not to issue the permit and the reasons therefor. The applicant may correct the application or request a waiver of the conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if the Administrator determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3 of this Act. An application for an experimental use permit may be filed at any time."; and

(2) in subsection (f), striking out the word "may" the first time it appears in the first sentence and inserting in lieu thereof "shall".

ALTERNATIVE TO CANCELLATION

SEC. 11. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting in the last sentence immediately after "In taking any final action under this subsection, the Administrator" the following: "shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and". 7 USC 136d.

CANCELLATION OF CONDITIONAL REGISTRATION

SEC. 12. Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) a new subsection (e) as follows: 7 USC 136d.

"(e) CONDITIONAL REGISTRATION.—

Notice.

"(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 3(c)(7) of this Act if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed, determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed, or (B) at the end of the period provided for satisfaction of any condition imposed, that condition has not been met: *Provided*, That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that

Ante, p. 825.

such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.

"(2) A cancellation proposed under this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. If a hearing is requested, a hearing shall be conducted under subsection (d) of this section: *Provided*, That the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. A decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.".

REGISTRATION OF ESTABLISHMENTS

SEC. 13. Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136e.

(1) in subsection (a), inserting "or active ingredient used in producing a pesticide subject to this Act" immediately after "any pesticide subject to this Act";

(2) in subsection (c)(1), inserting "and, if applicable, active ingredients used in producing pesticides" immediately after "pesticides"; and

(3) in subsection (d), inserting "other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment" immediately after "pursuant to subsection (c)".

INSPECTION OF BOOKS AND RECORDS

SEC. 14. Section 8(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following: "Before undertaking an inspection under this subsection, the officer or employee must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness.". 7 USC 136f.

TRADE SECRET AMENDMENTS

SEC. 15. Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136h.

(1) in subsection (b), inserting immediately after "Notwithstanding any other provision of this Act" the following: "and subject to the limitations in subsections (d) and (e) of this section"; and

(2) adding at the end thereof new subsections (d), (e), (f), and (g) as follows:

"(d) LIMITATIONS.—

Information, availability to public.

"(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public: *Provided*, That the use of such data for any registration purpose shall be governed by section 3 of this Act: *Provided further*, That this paragraph does not authorize the disclosure of any information that—

7 USC 136a.

"(A) discloses manufacturing or quality control processes,

"(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

"(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

"(2) Information concerning production, distribution, sale, or inventories of a pesticide that is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

"(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided*, That where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute

an action in an appropriate district court to enjoin or limit the proposed disclosure. The court shall give expedited consideration to any such action. The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

"(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

"(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

"(e) DISCLOSURE TO CONTRACTORS.—Information otherwise protected from disclosure to the public under subsection (b) of this section may be disclosed to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this Act and under such conditions as the Administrator may specify. The Administrator shall require as a condition to the disclosure of information under this subsection that the person receiving it take such security precautions respecting the information as the Administrator shall by regulation prescribe.

"(f) PENALTY FOR DISCLOSURE BY FEDERAL EMPLOYEES.—(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who, knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

"(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section, or any employee of any such contractor, shall be considered to be an employee of the United States.

"(g) DISCLOSURE TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS.—(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant under this Act to any employee or agent of any business or other entity engaged in the production, sale, or

distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administrator shall require an affirmation from any person who intends to inspect data that such person does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees. Notwithstanding any other provision of this subsection, the Administrator may disclose information to any person in connection with a public proceeding under law or regulation, subject to restrictions on the availability of information contained elsewhere in this Act, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

Records.

"(2) The Administrator shall maintain records of the names of persons to whom data are disclosed under this subsection and the persons or organizations they represent and shall inform the applicant or registrant of the names and affiliations of such persons.

"(3) Section 1001 of title 18 of the United States Code shall apply to any affirmation made under paragraph (1) of this subsection.".

EXEMPTION FROM THE UNLAWFUL ACTS PROVISION

SEC. 16. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting immediately before the semicolon at the end of subparagraph (F) the following: ": *Provided*, That it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator".

7 USC 136j.

CIVIL PENALTIES FOR CERTAIN APPLICATORS; PROCEDURE FOR DETERMINING THE AMOUNT OF CIVIL PENALTIES

SEC. 17. Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

7 USC 136*l*.

(1) inserting immediately before the period at the end of paragraph (2) the following: ": *Provided*, That any applicator not included under paragraph (1) of this subsection who holds or applies registered pesticides, or use dilutions of registered pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $500 for the first offense nor more than $1,000 for each subsequent offense";

(2) striking out the last sentence in paragraph (3);

(3) redesignating paragraph (4) as paragraph (5); and

(4) inserting after paragraph (3) a new paragraph (4) as follows:

"(4) DETERMINATION OF PENALTY.—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty.".

PESTICIDES AND DEVICES INTENDED FOR EXPORT

SEC. 18. (a) Section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136o.

(1) amending subsection (a) to read as follows:

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—

"(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q)(1) (A), (C), (D), (E), (G), and (H), 2(q)(2) (A), (B), (C) (i) and (iii), and (D), 7, and 8 of this Act; and 7 USC 136, 136e, 136f.

"(2) in the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1) of this Act, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country."; and 7 USC 136a, 136d.

(2) adding at the end of subsection (b) the following: "Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide.". Notification.

(b) The amendment made by subsection (a)(1) of this section shall become effective one hundred and eighty days after the date of enactment of this Act. Effective date. 7 USC 136o note.

DISPOSAL OF PESTICIDES

SEC. 19. Section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection (c) as follows: 7 USC 136q.

"(c) PROVISIONS FOR UNUSED QUANTITIES.—Notification of cancellation of any pesticide shall include specific provisions for the disposal of the unused quantities of such pesticide.".

RESEARCH AND MONITORING ACTIVITIES

SEC. 20. Section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136r.

(1) in the first sentence of subsection (a), striking out all after the phrase "and he shall" down through the end of the sentence and inserting in lieu thereof the following: "conduct research into integrated pest management in coordination with the Secretary of Agriculture."; and

(2) amending subsection (c) to read as follows:

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including, but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidential pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.".

STATE COOPERATION, AID, AND TRAINING

SEC. 21. Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows: 7 USC 136u.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements with States and Indian tribes—

"(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist States in developing and administering State programs, and Indian tribes that enter into cooperative agreements, to train and certify applicators consistent with the standards the Administrator prescribes.

Effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under such cooperative agreements, of conducting training and certification programs during such fiscal year. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator may enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

"(c) INFORMATION AND EDUCATION.—The Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperative State extension services to inform and educate pesticide users about accepted uses and other regulations made under this Act.".

PESTICIDES FORMULATED FOR DISTRIBUTION AND USE WITHIN A STATE

SEC. 22. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows: 7 USC 136v.

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act.

"(b) Such State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this Act.

"(c)(1) A State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that State to meet special local needs in accord with the purposes of this Act and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State. 7 USC 136a.

"(2) A registration issued by a State under this subsection shall not be effective for more than ninety days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator shall, except as provided in paragraph (3) of this subsection, advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator shall not prohibit or disapprove a registration issued by a State under this subsection (A) on the basis of lack of essentiality of a pesticide or (B) except as provided in paragraph (3) of this subsection, if its composition and use patterns are similar to those of a federally registered pesticide.

"(3) In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act that permits the residues of the pesticide on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of, a pesticide under a registration issued by a State constitutes an imminent hazard, the Administrator may immediately disapprove the registration. 21 USC 301.

"(4) If the Administrator finds, in accordance with standards set forth in regulations issued under section 25 of this Act, that a State is not capable of exercising adequate controls to assure that State registration under this section will be in accord with the purposes of this Act or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator shall advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.". *Post*, p. 836.

AUTHORITY OF ADMINISTRATOR—REGULATIONS; SCIENTIFIC ADVISORY PANEL

7 USC 136w.

SEC. 23. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) in subsection (a)(1), striking out the period at the end of the second sentence and adding the following: "and differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.";

Publication in Federal Register.

(2) adding at the end of subsection (a)(2)(B), the following: "In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.";

(3) in subsection (d), striking out the third sentence and inserting in lieu thereof the following: "The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this Act. The comments, evaluations, and recommendations of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations."; and

Publication in Federal Register.

Advisory panel, termination.

(4) adding at the end of subsection (d) the following: "The advisory panel established under this subsection shall terminate September 30, 1981. In performing the functions assigned by this Act, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978.".

42 USC 4365.

STATE ENFORCEMENT; IDENTIFICATION OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM; ANNUAL REPORT

SEC. 24. The Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) redesignating sections 26 (severability) and 27 (authorization for appropriations) as sections 30 and 31, respectively; and

7 USC 136x, 136y.

(2) inserting after section 25 new sections 26 through 29 as follows:

7 USC 136w-1.

"SEC. 26. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

"(a) For the purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(1) has adopted adequate pesticide use laws and regulations; *Provided*, That the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

"(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

"(b) Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 23 of this Act for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 4 of this Act in effect on the date of enactment of the Federal Pesticide Act of 1978 not later than six months after that date.

Ante, p. 834.

7 USC 136b.

Ante, p. 819.

"(c) The Administrator shall have primary enforcement responsibility for those States that do not have primary enforcement responsibility under this Act. Notwithstanding the provisions of section 2(e)(1) of this Act, during any period when the Administrator has such enforcement responsibility, section 8(b) of this Act shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or use dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 9(a) of this Act shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

7 USC 136.

Ante, p. 829.

7 USC 136g.

"SEC. 27. FAILURE BY THE STATE TO ASSURE ENFORCEMENT OF STATE PESTICIDE USE REGULATIONS.

7 USC 136w-2.

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this Act.

"(b) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

"(c) Neither section 26 of this Act nor this section shall limit the authority of the Administrator to enforce this Act, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

Ante, p. 836.

7 USC 136w-3.

"SEC. 28. IDENTIFICATION OF PESTS; COOPERATION WITH DEPARTMENT OF AGRICULTURE'S PROGRAM.

"The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.

7 USC 136w-4.

"SEC. 29. ANNUAL REPORT.

"The Administrator shall submit an annual report to Congress before February 16 of each year and the first report shall be due February 15, 1979. The report shall include the total number of applications for conditional registration under sections 3(c)(7)(B) and 3(c)(7)(C) of this Act that were filed during the immediately preceding fiscal year, and, with respect to those applications approved, the Administrator shall report the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides.".

Ante, p. 825.

AUTHORIZATION OF APPROPRIATIONS

SEC. 25. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as redesignated by section 24 of this Act, is amended by striking out "and for the period beginning October 1, 1976, and ending March 31, 1977, the sum of $23,600,000", and inserting in lieu thereof the following: "and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $46,636,000, and for the period beginning October 1, 1977, and ending September 30, 1978, the sum of $54,500,000, and for the period beginning October 1, 1978, and ending September 30, 1979, such sums as may be necessary, but not in excess of $70,000,000".

7 USC 136y.

REVISION OF FIFRA TABLE OF CONTENTS

SEC. 26. Section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

86 Stat. 973.

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified applicator, etc.
"(1) Certified applicator.
"(2) Private applicator.
"(3) Commercial applicator.
"(4) Under the direct supervision of a certified applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.

"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Unreasonable adverse effects on the environment.
"(cc) Weed.
"(dd) Establishment.
"(ee) To use any registered pesticide in a manner inconsistent with its labeling.
"Sec. 3. Registration of pesticides.
"(a) Requirement.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(7) Registration under special circumstances.
"(8) Interim administrative review.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"(g) Reregistration of pesticides.
"Sec. 4. Use of restricted use pesticides; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"(c) Instruction in integrated pest management techniques.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification.
"(c) Suspension.
"(1) Order.
"(2) Expedite hearing.

"(3) Emergency order.
"(4) Judicial review.
"(d) Public hearings and scientific review.
"(e) Conditional registration.
"(f) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirements.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Books and records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets and other information.
"(a) In general.
"(b) Disclosure.
"(c) Disputes.
"(d) Limitations.
"(e) Disclosure to contractors.
"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
"Sec. 11. Standards applicable to pesticide applicators.
"(a) In general.
"(b) Separate standards.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Hearing.
"(4) Determination of penalty.
"(5) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private applicator.
"(3) Disclosure of information.
"(4) Acts of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"Sec. 16. Administrative procedure; judicial review.
"(a) District court review.
"(b) Review by Court of Appeals.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.

"Sec. 18. Exemption of Federal agencies.
"Sec. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"(c) Provisions for unused quantities.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of comments; notice of public hearings.
"Sec. 22. Delegation and cooperation.
"(a) Delegation.
"(b) Cooperation.
"Sec. 23. State cooperation, aid, and training.
"(a) Cooperative agreements.
"(b) Contracts for training.
"(c) Information and education.
"Sec. 24. Authority of States.
"Sec. 25. Authority of Administrator.
"(a)(1) Regulations.
"(2) Procedure.
"(3) Congressional committees.
"(b) Exemption of pesticides.
"(c) Other authority.
"(d) Scientific advisory panel.
"Sec. 26. State primary enforcement responsibility.
"Sec. 27. Failure by the State to assure enforcement of State pesticide use regulations.
"Sec. 28. Identification of pests; cooperation with Department of Agriculture's program.
"Sec. 29. Annual report.
"Sec. 30. Severability.
"Sec. 31. Authorization for appropriations.".

STUDIES

SEC. 27. (a) The Administrator of the Environmental Protection Agency shall perform a study examining the feasibility of assessing and collecting fees from persons applying to register, or amend the registration of, pesticides to cover the costs incurred by the Environmental Protection Agency in processing such applications under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

7 USC 136w-4 note.

Report to congressional committees.

(b) The Administrator, in cooperation with the Secretary of Agriculture, and after consultation with appropriate State officials, shall review available scientific information dealing with issues involved in the methods of pesticide application, including, but not limited to, the advisability of ultra-low-volume methods of application, and shall recommend to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture such changes as the Administrator may deem necessary in existing law relative to provisions of the Act pertaining to the use of a registered pesticide in a manner inconsistent with its labeling. The report shall be submitted as soon as practicable, but not later than six months after the date of enactment of this Act.

Report to congressional committees.

(c) The Administrator shall submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act.

EFFECTIVE DATES

7 USC 136 note.

SEC. 28. Section 4 of the Federal Environmental Pesticide Control Act of 1972 is amended by—

(1) in subsection (b), striking out the colon immediately after the second "thereunder" and all that follows down through the end of the subsection and substituting in lieu thereof a period;

(2) in subsection (c), striking out paragraph (2), and redesignating paragraphs (3), (4), and (5) as (2), (3), and (4), respectively; and

(3) in subsection (c)(3)(B), as redesignated, striking out "Within four years after the enactment of this Act each" and inserting in lieu thereof "Each".

SHORT TITLE

7 USC 136 note.

SEC. 29. This Act may be cited as the "Federal Pesticide Act of 1978".

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-343 and No. 95-343, Pt. 2, (Comm. on Agriculture) both accompanying H.R. 7073 and No. 95-1560 (Comm. of Conference).

SENATE REPORTS: No. 95-334 (Comm. on Agriculture, Nutrition and Forestry) and 95-1188 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 29, considered and passed Senate.
Sept. 22, Oct. 31, considered and passed House, amended, in lieu of H.R. 7073.

Vol. 124 (1978): Sept. 18, Senate agreed to conference report.
Sept. 19, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 40 (1978): Oct. 2, Presidential statement.

Public Law 95-397
95th Congress

An Act

To amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes.

Sept. 30, 1978
[H.R. 3702]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Survivors' Benefits Amendments of 1978".

Uniformed Services Survivors' Benefits Amendments of 1978.
10 USC 1431 note.

TITLE I—ANNUITIES UNDER RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

SEC. 101. (a) Section 1434 of title 10, United States Code, is amended—

(1) by striking out "or remarries" in subsection (a)(1) and inserting in lieu thereof "or, if the spouse remarries before age 60, when the spouse remarries";

(2) by striking out "or remarriage of that spouse" in subsection (a)(3) and inserting in lieu thereof "of that spouse or the remarriage of that spouse before age 60"; and

(3) by adding at the end thereof the following new subsection:

"(e) Whenever there is an increase in retired and retainer pay under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or child of a member who died on or before March 20, 1974, shall be increased by the same percentage as the percentage of that increase, effective on the effective date of that increase.".

Retired and retainer pay, increase.
10 USC 1401a.

(b) No benefits shall accrue to any person by virtue of the amendments made by subsection (a) for any period prior to the first day of the first calendar month following the month in which this Act is enacted or October 1, 1978, whichever is later.

10 USC 1434 note.

SEC. 102. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, on the day before the date of the enactment of this Act to a spouse or child of a member of the uniformed services who died on or before March 20, 1974, shall be increased effective as of the first day of the first calendar month following the month in which this Act is enacted, or as of October 1, 1978, whichever is later, by the percentage increase in retired and retainer pay under section 1401a of that title since September 21, 1972.

10 USC 1434 note.
10 USC 1431 *et seq.*

TITLE II—ANNUITIES UNDER SURVIVOR BENEFIT PLAN

DEFINITION OF BASE AMOUNT

SEC. 201. Section 1447(2) of title 10, United States Code, is amended to read as follows:

"(2) 'Base amount' means—

"(A) in the case of a person who dies after becoming entitled to retired or retainer pay, the amount of monthly retired or retainer pay to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list;

"(B) in the case of a person who would have become eligible for retired pay under chapter 67 of this title but for the fact that he died before becoming 60 years of age, the amount of monthly retired pay for which the person would have been eligible—

10 USC 1331 *et seq.*

"(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

Infra.

"(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title; or

"(C) any amount which is less than the amount otherwise applicable under clause (A) or (B) with respect to an annuity provided under the Plan and which is designated by the person providing the annuity on or before (i) the first day for which he becomes eligible for retired or retainer pay, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, or (ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, in the case of a person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, but not less than $300;

Infra.

Post, p. 847.

as increased from time to time under section 1401a of this title.".

APPLICATION OF SURVIVOR BENEFIT PLAN

SEC. 202. (a) Subsection (a) of section 1448 of title 10, United States Code, is amended to read as follows:

"(a)(1) The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

"(A) Persons entitled to retired or retainer pay.

"(B) Persons who would be eligible for retired pay under chapter 67 of this title but for the fact that they are under 60 years of age.

10 USC 1331 *et seq.*

"(2) The Plan applies—

"(A) to a person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired or retainer pay, unless he elects not to participate in the Plan before the first day for which he is eligible for that pay; and

"(B) to a person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (iii) elects to participate

in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification.

A person described in subclauses (i) and (ii) of clause (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in such clause shall remain eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3)(A) If a person who is eligible under paragraph (1)(A) to participate in the Plan and who is married elects not to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that election.

"(B) If a person who is eligible under paragraph (1)(B) to participate in the Plan and who is married does not elect to participate in the Plan at the maximum level, or elects to provide an annuity for a dependent child but not for his spouse, that person's spouse shall be notified of that action.

"(4)(A) An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired or retainer pay.

"(B) An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the 90-day period referred to in such paragraph.

"(5) A person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan, but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries or acquires that dependent child. Such an election may not be revoked. His election is effective as of the first day of the first calendar month following the month in which his election is received by the Secretary concerned. In the case of a person providing an annuity by virtue of eligibility under paragraph (1)(B), such an election shall include a designation under subsection (e).". *Infra.*

(b) Subsection (b) of such section is amended—

(1) by striking out "entitled to retired or retainer pay" and inserting in lieu thereof "eligible to participate in the Plan"; and

(2) by adding at the end thereof the following new sentence: "In the case of a person providing an annuity under this subsection by virtue of eligibility under subsection (a)(1)(B), such an election shall include a designation under subsection (e).".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(e) In any case in which a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on the day after the date of his death or on the 60th anniversary of his birth.".

PAYMENT OF ANNUITY

SEC. 203. Section 1450 of title 10, United States Code, is amended—

(1) by inserting "(or on such other day as he may provide under subsection (j))" in subsection (a) after "of this title applies" the first place it appears therein; and

(2) by adding at the end thereof the following new subsections:

"(j) An annuity elected by any person providing an annuity by virtue of eligibility under section 1448(a)(1)(B) of this title shall be effective in accordance with the designation made by such person under section 1448(e) of this title.

Ante, p. 844.

Ante, p. 844.

"(k) If a widow or widower whose annuity has been adjusted under subsection (c) subsequently loses entitlement to compensation under section 411(a) of title 38 because of the remarriage of such widow or widower, and if at the time of such remarriage such widow or widower is 60 years of age or more, the amount of the annuity of such widow or widower shall be readjusted, effective on the effective date of such loss of compensation, to the amount of the annuity which would be in effect with respect to such widow or widower if the adjustment under subsection (c) had never been made, but such readjustment may not be made until the widow or widower repays any amount refunded under subsection (e) by reason of the adjustment under subsection (c).".

AMOUNT OF ANNUITY

SEC. 204. (a) The first sentence of subsection (a) of section 1451 of title 10, United States Code, is amended to read as follows: "The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

Ante, p. 845.

"(1) 55 percent of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title, or

Ante, p. 844.

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.".

(b) The last sentence of subsection (a) of such section is amended to read as follows: "For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work.".

42 USC 401.

(c) Subsection (b) of such section is amended to read as follows:

"(b) The monthly annuity payable under section 1450(a)(4) of this title shall be—

"(1) 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title; or

Post, p. 847.

Ante, p. 844.

"(2) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the retired pay of the person who elected to provide that annuity after the reduction in such pay in accordance with section 1452(c) of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

A person who provides an annuity which is determined in accordance with clause (2) and who dies before becoming 60 years of age and is otherwise entitled to retired pay shall be considered to have been entitled to retired pay, for the purpose of such clause, at the time of

his death, and the retired pay of such person for the purpose of such clause shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity is to become effective in accordance with the designation of such person under section 1448(e) of this title.". *Ante*, p. 844.

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(d) The percentage to be applied by the Secretary of Defense in determining the amount of an annuity under subsection (a)(2) or (b)(2) shall be 55 percent reduced by such amount as the Secretary shall by regulation prescribe, taking into consideration the age of the person electing to provide the annuity at the time of such election, the difference in age between such person and the beneficiary of the annuity, whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth, appropriate group annuity tables, and such other factors as the Secretary considers relevant.".

REDUCTION IN RETIRED PAY

SEC. 205. (a) The first sentence of subsection (a) of section 1452 of title 10, United States Code, is amended by striking out "shall be reduced each month" and all that follows in such sentence and inserting in lieu thereof "shall be reduced each month—

"(1) by an amount equal to 2½ percent of the first $300 of the base amount plus 10 percent of the remainder of the base amount, if the person is providing an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title; or *Ante*, p. 844.

"(2) by an amount prescribed under regulations of the Secretary of Defense, if the person is providing an annuity by virtue of eligibility under section 1448(a)(1)(B).".

(b) Subsection (c) of such section is amended to read as follows:

"(c) The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced—

"(1) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(A) of this title, by 10 percent plus 5 percent for each full five years the individual designated is younger than that person; or

"(2) in the case of a person providing the annuity by virtue of eligibility under section 1448(a)(1)(B) of this title, by an amount prescribed under regulations of the Secretary of Defense.

However, the total reduction under clause (1) may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this section shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f) of this title.".

NOTIFICATION

SEC. 206. Section 1331(d) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "Such notice shall include notification of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the effects of such elections.". 10 USC 1447.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 207. (a) The first sentence of section 1449 of title 10, United States Code, is amended by striking out "the first sentence of subsection (a), or subsection (b)," and inserting in lieu thereof "subsection (a)(2) or (b)".

(b) Section 1450(d) of such title is amended by striking out "section 8339(i)" and inserting in lieu thereof "section 8339(j)".

(c) Section 1450(f) of such title is amended by striking out "the last three sentences of section 1448(a)" and inserting in lieu thereof "section 1448(a)(5)".

TRANSITION

10 USC 1447 note.

SEC. 208. With respect to any individual who—

10 USC 1331 *et seq.*

(1) would be eligible for retired pay under chapter 67 of title 10, United States Code, on the effective date of this title but for the fact that such individual is under 60 years of age; or

(2) receives, before the end of the nine-month period beginning on the effective date of this title, a notification that such individual has completed the years of service required for eligibility for such retired pay;

the 90-day period referred to in section 1447(2)(C) of title 10, United States Code (as amended by section 201 of this Act), and in sections 1448(a)(2) and 1448(a)(4)(B) of title 10, United States Code (as amended by section 202(a) of this Act), shall be considered to end at the end of the one-year period beginning on the effective date of this title.

Ante, p. 843.

Ante, p. 844.

MINIMUM INCOME FOR CERTAIN SURVIVORS

10 USC 1431 *et seq.*

SEC. 209. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "$2,100" in subsections (a)(3) and (b) and inserting in lieu thereof "$2,340"; and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) The amounts specified in subsections (a)(3) and (b) shall be increased by the Secretary concerned whenever there is an increase in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code. Any such increase under the preceding sentence shall be in the same amount, and shall have the same effective date, as such increase in limitation on annual income.".

EFFECTIVE DATES

10 USC 1447 note.

SEC. 210. (a) Except as provided in subsection (b), the provisions of this title and the amendments made by this title shall take effect on October 1, 1978, or on the date of the enactment of this Act, whichever is later, and shall apply to annuities payable by virtue of such amendments for months beginning on or after such date.

Ante, p. 847.

(b) The amendment made by section 206 shall apply to notifications under section 1331(d) of title 10, United States Code, after the date of the enactment of this Act.

TITLE III—MEDICAL AND DENTAL CARE

SEC. 301. Subsection (b) of section 1076 of title 10, United States Code, is amended to read as follows:

"(b) Under regulations to be prescribed jointly by the Secretary of Defense and the Secretary of Health, Education, and Welfare, a dependent of a member or former member— Regulations.

"(1) who is, or (if deceased) was at the time of his death, entitled to retired or retainer pay or equivalent pay; or

"(2) who died before attaining age 60 and at the time of his death (A) would have been eligible for retired pay under chapter 67 of this title but for the fact that he was under 60 years of age, and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title; 10 USC 1447.

may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff, except that a dependent of a member or former member described in clause (2) may not be given such medical or dental care until the date on which such member or former member would have attained age 60.".

SEC. 302. The amendment made by section 301 shall become effective on October 1, 1978, or on the date of the enactment of this Act, whichever is later. Effective date. 10 USC 1076 note.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-72 (Comm. on Armed Services).
SENATE REPORT No. 95-1138 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 12, considered and passed House.
Vol. 124 (1978): Aug. 24, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendment with an amendment.
Sept. 22, Senate concurred in House amendment.

Public Law 95-398
95th Congress

An Act

Sept. 30, 1978
[S. 3069]

To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members.

Sisseton-Wahpeton Sioux Tribe. Land conveyance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended—

(1) by inserting "or upon the request of any member of the tribe" after "South Dakota" the first place it appears;

(2) by inserting "for the tribe or member thereof" after "gift, or exchange";

(3) by inserting "or member thereof" after "available to the tribe"; and

(4) by inserting "or for the individual member for whom the land is acquired" before the period at the end thereof.

(b) Section 2 of the Act of October 26, 1974, Public Law 93-491 (88 Stat. 1468) is amended by redesignating subsection (b) as subsection (c) and adding after subsection (a) the following new subsection:

"(b) Notwithstanding any other provision of law, the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, acting through its governing body or its designated agent, shall have a preference right to purchase any land held by the United States in trust for any member or members of the Sisseton-Wahpeton Sioux Tribe offered at public sale or auction. The tribe shall have thirty days from the date bidding is closed to match the high bid and the terms of the notice of sale.".

Effective date.

(c) The amendments made by this Act shall become effective on the date of the enactment of this Act.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1511 accompanying H.R. 13096 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-983 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 21, considered and passed Senate.

Sept. 18, considered and passed House, in lieu of H.R. 13096.

Public Law 95-399
95th Congress

An Act

To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

Sept. 30, 1978
[S. 3002]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Salt River Pima-Maricopa Indian Reservation, Ariz. Boundary revision.

FINDINGS AND POLICY

SECTION 1. (a) The Congress hereby finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian community to live in peace and prosperity with other persons in Arizona;

(2) at the time of the creation of such reservation, a portion of the south boundary was established to follow the course of the Salt River;

(3) the United States granted patents for, and leaseholds and other interests in, lands adjacent to such boundary for sand and gravel excavation and for other purposes to persons who were not members of such Indian community;

(4) subsequent to the establishment of such boundary, the course of the Salt River shifted, creating uncertainty with respect to the precise location of such boundary; and

(5) by an Executive order, the Secretary of the Interior located and permanently fixed such boundary in a location which included within such reservation, lands for which the United States had previously issued patents, leaseholds, and other interests, causing confusion and an ongoing controversy between such Indian community and persons holding such patents, leaseholds, and other interests.

(b) The Congress hereby declares that it is the policy of the Congress to resolve, without costly and lengthy litigation, the dispute between the Salt River Pima-Maricopa Indian community and the persons referred to in subsection (a)(3) over the location of the south boundary of the Salt River Pima-Maricopa Indian Reservation.

MODIFICATION OF SOUTH BOUNDARY

SEC. 2. The south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona (hereinafter in this Act referred to as the "reservation"), created by the Executive order issued on June 14, 1879, shall be modified in accordance with the provisions of sections 3 and 4 of this Act. Any portion of such boundary established by this Act shall be fixed and permanent and not ambulatory.

RESERVATION LANDS

SEC. 3. (a)(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire by purchase or condemnation the lands described in paragraph (2). Upon acquisition, such lands shall be added to the reservation. The acquisition of lands

Land acquisition.

under this subsection, and payment for such lands under section 5(b) of this Act, shall be deemed to have been pursuant to condemnation by the United States.

(2) The lands authorized to be acquired in paragraph (1) are located in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, and are those portions of the land in—

(A) the south half of the southeast quarter of section 7 of such township and range;

(B) the south half of the southwest quarter of section 8 of such township, and range; and

(C) the southwest quarter of the southeast quarter of section 4 of such township and range;

which lie north of that boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on a map entitled "Township 1 North, Range 5 East, of the Gila and Salt River Meridian, Arizona, Dependent Resurvey and Survey of the South Boundary of Salt River Indian Reservation" which consists of four sheets, dated August 17, 1972, and is on file and available for public inspection at the Department of the Interior, Bureau of Land Management, Washington, District of Columbia.

(b) Upon the acquisition of the lands described in subsection (a), the reservation shall include all lands in township 1 north, range 5 east, Gila and Salt River base and meridian, Arizona, lying north of that boundary line representing the middle of the south channel of the Salt River and the south boundary of the Salt River Indian Reservation as shown of record on the map referred to in subsection (a)(2), except for any portion of the following parcels of land:

(1) the north half of the northwest quarter of section 18 of such township and range;

(2) the north half of the northeast quarter of section 18 of such township and range;

(3) the north half of the southeast quarter of the northeast quarter of section 8 of such township and range;

(4) the northwest quarter of the northwest quarter of section 9 of such township and range;

(5) the northeast quarter of the northwest quarter of section 9 of such township and range;

(6) the southeast quarter of the northwest quarter of section 3 of such township and range;

(7) the north half of the north half of the southwest quarter of section 3 of such township and range;

(8) the southwest quarter of the northeast quarter of section 3 of such township and range; and

(9) the northeast quarter of the northeast quarter of section 3 of such township and range.

(c) The boundary of the reservation shall be extended to include the following parcels of land:

(1) in township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona—

(A) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and a line parallel to and 150 feet north of the concrete canal lining on the northerly edge of the South Canal within the west 1,000 feet of section 13 of such township and range;

(B) any portion of the southeast quarter of the southeast quarter of section 14 of such township and range lying south and east of the reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(C) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended and a line parallel to and 150 feet north of the top of the concrete canal lining on the northerly edge of the South Canal in sections 24, 23, 22, and 27 of such township and range and the east half of section 28 of such township and range, except for approximately 16 acres of land described as that part of the west half of the southwest quarter of section 27 of such township and range lying north of the South Canal;

(D) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the southwest quarter of section 28 of such township and range;

(E) the area between the reservation boundary created by the Executive order issued on June 14, 1879, as amended, and the north line of the south half of the south half of sections 29 and 30 of such township and range; and

(F) the north 600 feet of the Granite Reef Reserve in lots 2 and 3 of section 13 of such township and range; and

(2) in township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, the south 450 feet of the Evergreen Reserve in the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23.

(d) Any lands added to the reservation under this Act shall become a part of the reservation in all respects and upon all the same terms as if such lands had been included in the Executive order issued by the President on June 14, 1879, as amended, except that such lands shall remain tribal lands and shall not be subject to allotment to individual Indians.

STATUS OF ARIZONA CANAL AND OTHER RECLAMATION PROJECT LANDS

SEC. 4. (a) The United States shall have, free of any claim of Indian title or trusteeship by the Salt River Pima-Maricopa Indian community, all rights and interests in, and absolute and unqualified title to, the following parcels of land:

(1) those portions of the Arizona Canal right-of-way within the exterior boundaries of the Salt River Indian Reservation as defined by the March 29, 1913, accepted United States general land office resurveys of township 2 north, range 5 east and township 2 north, range 6 east of the Gila and Salt River base and meridian, Arizona, and supplemental surveys dated September 30, 1924, plats of which are of record in the Arizona State Office of the Bureau of Land Management, United States Department of the Interior, Phoenix, Arizona;

(2) that portion of the reservation in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, lying between the southerly prolongation of the west line of lot 2 and the southerly prolongation of the east line of lot 3 of section 13 and lying between the southerly boundaries of lots 2 and 3 and the southerly reservation boundary created by the Executive order issued on June 14, 1879, as amended;

(3) United States Reclamation Service Reserve (Granite Reef), which consists of lots 2 and 3 in section 13, township 2 north, range 6 east, Gila and Salt River base and meridian, Arizona, except the north 600 feet of such lots 2 and 3, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community; and

(4) United States Reclamation Service Reserve (Evergreen), which consists of lot 9 and the west half of the northwest quarter of the northwest quarter of the southeast quarter of section 23, township 2 north, range 5 east, Gila and Salt River base and meridian, Arizona, except the south 450 feet of such Reserve, title to which has been confirmed in the United States for the benefit of the Salt River Pima-Maricopa Indian community.

(b) The reservation boundary shall be modified to exclude from the reservation the parcels of land described in paragraphs (1) through (4) of subsection (a).

COMPENSATION

Fair market value.

SEC. 5. (a) (1) The Secretary shall determine the fair market value of those portions of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which lie north of the boundary line referred to in section 3(b) of this Act, and shall pay an amount equal to such fair market value or $1,964,520, whichever is greater, to the Salt River Pima-Maricopa Indian community.

(2) Acceptance of the payment described in paragraph (1) shall constitute a complete release and satisfaction of any claim which the Salt River Pima-Maricopa Indian community may have against the United States or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in paragraphs (1) through (9) of section 3(b) of this Act which are located north of the boundary line referred to in section 3(b) of this Act.

(b) (1) Except as otherwise provided in paragraph (2), the Secretary shall determine the fair market value of each parcel of land acquired by the United States and added to the Reservation pursuant to section 3(a) (1) of this Act, and shall pay an amount equal to such fair market value to the owner, under a patent issued by the United States, of such parcel.

(2) If the aggregate of all amounts to be paid under paragraph (1) is less than the sum of $1,951,740, in lieu of such payments under paragraph (1), the Secretary shall pay such sum to the owners, under patents issued by the United States, of the parcels of land acquired by the United States and added to the reservation pursuant to section 3(a) (1) of this Act. In determining the amount of any payment to any person under this paragraph with respect to such parcels of land, the proportion of the amount of the payment to any person to $1,951,740 shall be equal to the proportion of the amount of the acreage of such parcel which such person owns, under a patent issued by the United States, to the total acreage of such parcels.

(3) Acceptance of the payment described in paragraph (1) or (2) by any person shall constitute a complete release and satisfaction of any claim which such person may have against the United States, the Salt River Pima-Maricopa Indian community, or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in subparagraphs (A), (B), or (C) of section 3(a) (2) of this Act which are located north of the boundary line referred to in section 3(a) (2) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1498 accompanying H.R. 12344 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1170 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 11, considered and passed Senate.
Sept. 19, considered and passed House, in lieu of H.R. 12344.

Public Law 95-400
95th Congress

An Act

Sept. 30, 1978
[S. 3271]

To amend the pilot project workfare provisions of the Food Stamp Act of 1977.

Food Stamp Act of 1977, amendment.
7 USC 2026.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 17(b)(2) of the Food Stamp Act of 1977 is amended by striking everything after "Act," and inserting in lieu thereof the following: "shall issue an interim report no later than October 1, 1979, and shall issue a final report describing the results of such pilot projects no later than October 1, 1980.".

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1342 accompanying H.R. 13149 (Comm. on Agriculture).
SENATE REPORT No. 95-1052 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 3, considered and passed Senate.
Sept. 19, H.R. 13141 considered and passed House; passage vacated and S. 3271 passed in lieu.

Public Law 95-401
95th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

Sept. 30, 1978
[H.R. 11401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1978:

National Aeronautics and Space Administration Authorization Act, 1979.

(a) For "Research and development", for the following programs: Research and development.

(1) Space Shuttle, $1,443,300,000;
(2) Space flight operations, $315,900,000;
(3) Expendable launch vehicles, $74,000,000;
(4) Physics and astronomy, $285,500,000;
(5) Lunar and planetary exploration, $187,100,000;
(6) Life sciences, $42,600,000;
(7) Space applications, $280,300,000;
(8) Technology utilization, $12,100,000;
(9) Aeronautical research and technology, $275,100,000;
(10) Space research and technology, $111,300,000;
(11) Energy technology applications, $5,000,000; and
(12) Tracking and data acquisition, $305,400,000;

(b) For "Construction of facilities", including land acquisition, as follows: Construction of facilities.

(1) Modification of unitary plan wind tunnel, Ames Research Center, $5,390,000;
(2) Modification of 3.5-foot wind tunnel, Ames Research Center, $1,870,000;
(3) Modification of 12-foot pressure wind tunnel, Ames Research Center, $2,510,000;
(4) Modifications and additions for logistic and supply functions, Goddard Space Flight Center, $5,640,000;
(5) Modifications and addition to the space flight operations facility, Jet Propulsion Laboratory, $3,060,000;
(6) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $1,570,000;
(7) Modifications for utility control system, Langley Research Center, $1,980,000;
(8) Rehabilitation of unitary plan wind tunnel, Langley Research Center, $4,520,000;
(9) Construction of research analysis center, Lewis Research Center, $6,140,000;
(10) Large aeronautical facility; construction of national transonic facility, Langley Research Center, $24,500,000;
(11) Large aeronautical facility; modification of 40- by 80-foot subsonic wind tunnel, Ames Research Center, $31,600,000;
(12) Space Shuttle facilities at various locations as follows:
(A) Modifications to launch complex 39, John F. Kennedy Space Center, $13,570,000;

(B) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $13,980,000;

(C) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol Plant, Wasatch, Utah, $1,920,000;

(D) Minor Shuttle-unique projects, various locations, $1,600,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $15,300,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,200,000; and

(15) Facility planning and design not otherwise provided for, $10,650,000;

Research and program management.

(c) For "Research and program management", $914,000,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Program specifications.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

Notice to Speaker of the House, President of the Senate, and congressional committees.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

Scientific consultations or extraordinary expenses.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $25,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $50,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs. Limitations.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of subsection 1(b)— Construction cost variations.

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent, Report to congressional committees.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. Transfer of funds. Report to Speaker of the House, President of the Senate, and congressional committees.

39-194 O—80—pt 1——58 QL3

Use of funds, restrictions.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notice to Speaker of the House, President of the Senate, and congressional committees.

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Research funds, geographical distribution.
42 USC 2459 note.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473) is amended—

(1) by inserting "(1)" after "(b)" in the subsection which was added by section 15(c) of Public Law 94-413; and

42 USC 2473.

(2) by redesignating the subsection which was added by section 4 of Public Law 93-409 (and redesignated by section 15(c) of Public Law 94-413) as paragraph (2) of subsection (b).

42 USC 2473.

SEC. 7. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended (1) by redesignating subsection (f) as subsection (g) thereof; and (2) by inserting immediately after subsection (e) thereof the following new subsection.

Bioengineering research, development, and demonstration programs.

"(f) The Congress declares that the general welfare of the United States requires that the unique competence of the National Aeronautics and Space Administration in science and engineering systems be directed to assisting in bioengineering research, development, and demonstration programs designed to alleviate and minimize the effects of disability.".

(b) The subsection of section 102 of such Act redesignated as subsection (g) by subsection (a) of this section is amended by striking out "and (e)" and inserting in lieu thereof "(e), and (f)".

Report to congressional committees.
42 USC 2462 note.

SEC. 8. The Administrator of the National Aeronautics and Space Administration will report to the House Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation no later than December 31, 1978, on the Administration policy regarding conflicts of interest, standards of conduct and financial disclosure and the implementation of that policy.

SEC. 9. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1979". Short title.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-973 (Comm. on Science and Technology) and No. 95-1509 (Comm. of Conference).
SENATE REPORTS: No. 95-799 (Comm. on Commerce, Science, and Transportation) and No. 95-1123 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 25, considered and passed House.
May 18, considered and passed Senate, amended.
Aug. 17, Senate agreed to conference report.
Sept. 19, House agreed to conference report.

Public Law 95-402
95th Congress

An Act

Sept. 30, 1978
[S. 3468]

To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.

Cotton price support levels.
7 USC 1444.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(f) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of paragraph (1).

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1551 accompanying H.R. 13675 (Comm. on Agriculture).
SENATE REPORT No. 95-1154 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 8, considered and passed Senate.
Sept. 18, considered and passed House, in lieu of H.R. 13675.

Public Law 95-403
95th Congress

An Act

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979.

Sept. 30, 1978
[S. 1896]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by—

(1) striking out "and" immediately after "1976,"; and

(2) inserting ", and not to exceed $5,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

Hazardous Materials Transportation Act, appropriation authorization.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1170, Pt. I (Interstate and Foreign Commerce).
SENATE REPORT No. 95-814 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 18, considered and passed Senate.
Sept. 19, H.R. 11871 considered and passed House; passage vacated and S. 1896 passed in lieu.

Public Law 95-404
95th Congress

An Act

Sept. 30, 1978
[S. 2701]

To amend the Water Resources Planning Act (79 Stat. 244, as amended).

Water Resources Planning Act, appropriation authorizations. 42 USC 1962d.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401(a) of the Water Resources Planning Act of 1965 (79 Stat 244, as amended) is hereby amended by deleting the words: "Not to exceed $6,000,000 for fiscal year 1978" and inserting in lieu thereof: "The sum of $2,886,000 for fiscal year 1979".

(b) Section 401(b) of the Water Resources Planning Act (79 Stat. 244, as amended) is further amended by deleting the words: "not to exceed $2,000,000 for fiscal year 1978" and inserting in lieu thereof: "the sum of $2,668,000 for fiscal year 1979".

(c) Section 401(c) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words: "Not to exceed the sum of $3,905,000 for fiscal year 1978 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act: *Provided*" and inserting in lieu thereof: "The sum of $3,179,900 for fiscal year 1979 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act: *Provided*, That $828,900 shall be available under this subsection for preparation of the Columbia River Estuary Special Study: *Provided further*, That $308,000 shall be available under this subsection for preparation of the New England Port and Harbor Study and $135,000 shall be available for completion of the Hudson River Basin Level B Study: *Provided further*, That $150,000 shall be available under this subsection for completion of Case Studies of the Application of Cost Sharing Policy Options for Flood Plain Management in the Connecticut River Basin: *Provided further*".

42 USC 1962c.

(d) Section 301(a) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words: "for fiscal years 1977 and 1978, $5,000,000 in such year" and inserting in lieu thereof: "$3,000,000 for fiscal year 1979".

42 USC 1962d note.

(e) Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1158 accompanying H.R. 11655 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-835 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed Senate.
July 11, H.R. 11655 considered and passed House; passage vacated and S. 2701, amended, passed in lieu.
Sept. 15, House agreed to conference report.
Sept. 18, Senate agreed to conference report.

Public Law 95-405
95th Congress

An Act

To extend the Commodity Exchange Act, and for other purposes.

Sept. 30, 1978
[S. 2391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1978".

Futures Trading Act of 1978.
7 USC 1 note.

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST; LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL AMENDMENTS

SEC. 2. Section 2(a) of the Commodity Exchange Act is amended by— 7 USC 2, 4, 4a.

(1) striking out in the third sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a(a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(7) inserting in paragraph (6)(A) (7 U.S.C. 4a(e)(1)) after "use and expenditures of funds," the following: "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in paragraph (6)(B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof ", plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a(f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

5 USC 5332 note.

"(B) No Commissioner or employee of the Commission classified as a GS–16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(i) make any appearance before the Commission, or

"(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission,

if such last day of service is more than four months after the date of enactment of this subparagraph. The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.";

(11) inserting "(A)" immediately after the designation of paragraph (8) (7 U.S.C. 4a(g));

(12) striking out in the first sentence of paragraph (8) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

"(B) (i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

"(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies shall be included as part of the public record of the Commission's designation proceeding. In designating, or refusing, suspending, or revoking the designation of, a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 8a(9) of this Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

7 USC 12a.

"(iii) The provisions of this subparagraph shall not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.";

(14) striking out in paragraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(15) striking out in paragraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 3. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, no person may, after the enactment of the Futures Trading Act of 1978, offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting, at any time, documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade. Nothing in this subsection shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978: *Provided*, That this prohibition shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof.

Report to congressional committees. Regulations.

Ante, p. 865.

7 USC 1 note.

Ante, p. 865.

"(d) Notwithstanding the provisions of subsection (c) of this section—

"(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issue options on that commodity in accordance with Commission regu-

Regulations.

lations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subsection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

Regulations.

"(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section if—

"(A) the grantor is a person domiciled in the United States who—

"(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

"(ii) at all times has a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

"(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below $5,000,000;

"(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

"(v) provides an identification number for each transaction; and

"(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

"(B) the futures commission merchant is a person who—

"(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

"(ii) treats and deals with all money, securities, or property received from its customers as payment of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

"(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

"(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

"(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest. Regulations. Hearing.

"(e) The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.". Regulations.

CUSTOMER FUNDS AND PROPERTY

SEC. 4. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by inserting in paragraph (2) after "*Provided further*," the following: "That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*,".

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 5. Section 4(f)(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence "All registrations shall expire on the 31st day of December of the year for which issued" and inserting in lieu thereof the following: "Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe".

TECHNICAL AMENDMENT

SEC. 6. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

REGISTRATION OF ASSOCIATED PERSONS; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A REGISTERED FUTURES ASSOCIATION

SEC. 7. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended by—

(1) amending the last sentence of subsection (2) to read as follows: "Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the

7 USC 9.

period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof."; and

(2) adding at the end thereof a new subsection (3) as follows: "(3) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

REGISTRATION OF COMMODITY TRADING ADVISORS

SEC. 8. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by adding at the end thereof a new sentence as follows: "The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 14 of this Act.".

Ante, p. 865.
7 USC 1 note.

7 USC 18.

REGISTRATION OF COMMODITY TRAINING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 9. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (2), as redesignated by clause (1) of this section, "All registrations" and inserting in lieu thereof "Each registration"; and

(3) inserting in subsection (2), as redesignated by clause (1) of this section, after "year," the following: "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe,".

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 10. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out "registered under this Act".

7 USC 6o.

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 11. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting after "otherwise" the following: "(such as by delegation to a registered futures association having rules providing for such procedures)".

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS OF CONTRACT MARKETS

SEC. 12. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting in the second sentence after "receipt" the following: "(or within sixty days of their receipt if the Commission determines them to be of major economic significance)"; and

(2) inserting after the first sentence three new sentences as follows: "At least thirty days before approving any such bylaws, rules, regulations, and resolutions of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such bylaws, rules, regulations, or resolutions are of major economic significance shall be final and not subject to judicial review.". Publication in Federal Register.

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 13. Section 6 of the Commodity Exchange Act is amended by—

(1) inserting in the second sentence "on the record" after "a hearing" (7 U.S.C. 8);

(2) inserting in the second sentence of paragraph (a) "on the record" after "hearing" (7 U.S.C. 8); and

(3) striking out the third sentence of paragraph (b) (7 U.S.C. 15) and inserting in lieu thereof the following: "For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.".

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF CIVIL PENALTY

SEC. 14. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

JURISDICTION OF THE STATES

SEC. 15. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

7 USC 13a–2.

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

"(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) For purposes of this section, 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States. "State."

"(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.".

DISCLOSURE TO THE PUBLIC OF TRADERS AND THEIR POSITIONS ON BOARDS OF TRADE

SEC. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12, 12–1, 12–2, and 12–3) is amended to read as follows:

"SEC. 8. (a) For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this Act. The Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this Act, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers. Investigations and reports.

"(b) The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

"(c) The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this Act or the rules, regulations, or orders of the Commission thereunder in proceedings brought under section 6 of this Act. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act. 7 USC 8, 9, 9a, 13b, 15.

"(d) The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

"(e) The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities

purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Executive Branch of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party.

Report to Congress.

"(f) The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this Act and its powers and functions under this Act.

Reviews and audits.

"(g) The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptroller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.".

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in paragraph (1) after "by the Commission" the following: ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing"; and

(2) striking out in paragraph (6) "and to publish".

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

SEC. 18. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action

taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.".

CRIMINAL PENALTIES

SEC. 19. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) striking out in subsection (a) "$100,000" and inserting in lieu thereof "$500,000"; and inserting immediately after the first sentence of subsection (a) the following: "Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution.";

(2) striking out in subsection (b) "$100,000" and inserting in lieu thereof "$500,000"; and inserting before the period at the end of subsection (b) the following: ", or knowingly to violate the provisions of section 4, section 4b, section 4c(b) through section 4c(e), section 4h, section 4o(1), or section 19 of this Act, or knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or knowingly to omit in any application or report any material fact that is required to be stated therein. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution";

7 USC 6, 6b, 6c, 6h, 6o.
Post, p. 876.

(3) amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4c(a), section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.";

7 USC 6a, 6c, 6d, 6e, 6i, 6k, 6m, 6o, 12b.

(4) striking out in subsection (d) "$10,000" and inserting in lieu thereof "$100,000"; and

(5) striking out in subsection (e) "$10,000" and inserting in lieu thereof "$100,000".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 20. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982.".

REPARATIONS PROCEEDINGS

SEC. 21. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";

(2) striking out in subsection (b) "$2,500" and inserting in lieu thereof "$5,000"; and

(3) striking out in subsection (c) "$2,500" wherever it appears and inserting in lieu thereof "$5,000".

REGISTERED FUTURES ASSOCIATION

SEC. 22. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) striking out in subsection (b)(3)(B) "(7 U.S.C. 9)";

(2) striking out in subsection (b)(10) "$5,000" and inserting in lieu thereof "$15,000";

(3) striking out in subsection (l) "title" each time that word appears and inserting in lieu thereof "Act"; and

(4) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:

"(m) Notwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act.".

LEVERAGE TRANSACTIONS

SEC. 23. The Commodity Exchange Act is amended by adding at the end thereof a new section 19 as follows:

7 USC 23. "SEC. 19. (a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

7 USC 2, 4, 4a.

7 USC 1 note.

"(b) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing.

Regulations. "(c) The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities.

"(d) If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.". Regulations.

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

SEC. 24. Section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is hereby repealed.

USE IMMUNITY

SEC. 25. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after "Civil Aeronautics Board," the following: "the Commodity Futures Trading Commission,".

PLAN FOR USER FEES

SEC. 26. Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts. 7 USC 16a. Report to congressional committees.

POTATO FUTURES STUDY

SEC. 27. Within one year of the effective date of this Act, the Secretary of Agriculture shall— 7 USC 20 note.

(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts of sale for the future delivery of Irish potatoes, including rules and regulations pertaining to such trading issued by the Commodity Futures Trading Commission or any contract market designated by the Commission; and

(2) submit to each House of Congress a detailed report on the results of such study. Report to Congress.

Legislative recommendations.

The report shall also include any proposals the Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by the Commission or any contract market designated by the Commission.

EFFECTIVE DATE

7 USC 2 note.

SEC. 28. Except as otherwise provided in this Act, the provisions of this Act shall become effective October 1, 1978.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1181 accompanying H.R. 10285 (Comm. on Agriculture) and No. 95-1628 (Comm. of Conference).

SENATE REPORTS: No. 95-850 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1239 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 12, considered and passed Senate.

July 24-26, H.R. 10285 considered and passed House; proceedings vacated and S. 2391, amended, passed in lieu.

Sept. 28, Senate agreed to Conference report.

Sept. 29, House agreed to Conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:

Oct. 2, Presidential statement.

Public Law 95-406
95th Congress

Joint Resolution

To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes.

Sept. 30, 1978
[S.J. Res. 165]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Housing Administration, temporary authority extension.

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "November 1, 1978". 12 USC 1703.

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978". 12 USC 1715h.

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "October 31, 1978". 12 USC 1715*l*.

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978". 12 USC 1715z.

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978". 12 USC 1715z-1.

(f) Section 244(d) of such Act is amended— 12 USC 1715z-9.

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "November 1, 1978".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" where it appears and inserting in lieu thereof "October 31, 1978". 12 USC 1715z-10.

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978". 12 USC 1748h-1.

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978". 12 USC 1748h-2.

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978". 12 USC 1749bb.

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "October 31, 1978". 12 USC 1749aaa.

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

12 USC 1723e note.

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF NEW COMMUNITIES SPECIAL PLANNING GRANTS AUTHORITY

42 USC 4521.

SEC. 4. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and inserting in lieu thereof "November 1, 1978".

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

12 USC 1749bbb.

SEC. 5. Section 1201 of the National Housing Act is amended—

(1) by striking out, both places it appears in subsection (b), "September 30, 1978" and inserting in lieu thereof "October 31, 1978"; and

(2) by striking out in subsection (b)(1)(A) "September 30, 1981" and inserting in lieu thereof "October 31, 1981".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

42 USC 4026.

SEC. 6. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

42 USC 4056.

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978".

EXTENSION OF RURAL HOUSING AUTHORITIES

42 USC 1483.

SEC. 7. (a) Section 513 of the Housing Act of 1949 is amended by striking out "September 30, 1978" where it appears in clauses (b), (c), and (d) and inserting in lieu thereof "October 31, 1978".

(b) Section 515 of such Act is amended by striking out "September 30, 1978" where it appears in paragraph (b)(5) and inserting in lieu thereof "October 31, 1978". 42 USC 1485.

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 31, 1978". 42 USC 1487.

(d) Section 523(f) of such Act is amended by striking out "October 1, 1978" where it appears in paragraph (f) and inserting in lieu thereof "November 1, 1978"; and by striking out "September 30, 1978" where it appears in such paragraph (f) and inserting in lieu thereof "October 31, 1978". 42 USC 1490c.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 29, considered and passed Senate and House.

Public Law 95-407
95th Congress

Joint Resolution

Sept. 30, 1978
[H.J. Res. 1140]

To amend section 8 of the Export-Import Bank Act of 1945.

Export-Import Bank Act of 1945, amendment.
12 USC 635f.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30" and inserting in lieu thereof "December 31".

Approved September 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 28, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 95-408
95th Congress

An Act

To amend title 28 of the United States Code to make certain changes in the places of holding Federal district courts, in the divisions within judicial districts, and in judicial district dividing lines.

Oct. 2, 1978
[S. 3375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal District Court Organization Act of 1978.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1978". 28 USC 81 note.

PLACES OF HOLDING COURT

SEC. 2. (a) The last sentence of section 97(a) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Ashland, Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.".

(b) The last sentence of section 104(a)(1) of title 28, United States Code, is amended to read as follows:

"Court for the eastern division shall be held at Aberdeen, Ackerman, and Corinth.".

DIVISIONS WITHIN JUDICIAL DISTRICTS

SEC. 3. (a) Section 98(c) of title 28, United States Code, is amended to read as follows:

"Western District

"(c) The Western District comprises the parishes of Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, Jefferson Davis, De Soto, East Carroll, Evangeline, Franklin, Grant, Iberia, Jackson, Lafayette, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Saint Landry, Saint Martin, Saint Mary, Tensas, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

"Court for the Western District shall be held at Alexandria, Lafayette, Lake Charles, Monroe, Opelousas, and Shreveport.".

(b) Section 114 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking out "Sheridan, Steele, Stutsman, and Wells" and inserting in lieu thereof "Steele, and Stutsman";

(2) in paragraph (3), by striking out "Bottineau,", "McHenry,", and "Pierce,"; and

(3) by amending paragraph (4) to read as follows:

"(4) The Northwestern Division comprises the counties of Bottineau, Burke, Divide, McHenry, McKenzie, Mountrail, Pierce, Renville, Sheridan, Ward, Wells, and Williams.".

JUDICIAL DISTRICT DIVIDING LINES

SEC. 4. (a) Section 89 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Madison," immediately after "Liberty,"; and

(2) in the first paragraph of subsection (b), by striking out "Madison,".

(b) (1) Section 93 of title 28, United States Code, is amended to read as follows:

"§ 93. Illinois

"Illinois is divided into three judicial districts to be known as the Northern, Central, and Southern Districts of Illinois.

"Northern District

"(a) The Northern District comprises two divisions.

"(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will.

"Court for the Eastern Division shall be held at Chicago.

"(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

"Court for the Western Division shall be held at Freeport and Rockford.

"Central District

"(b) The Central District comprises the counties of Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Henderson, Henry, Iroquois, Knox, Livingston, Logan, McDonough, McLean, Macoupin, Macon, Marshall, Mason, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Putnam, Rock Island, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermilion, Warren, and Woodford.

"Court for the Central District shall be held at Danville, Peoria, Quincy, Rock Island, and Springfield.

"Southern District

"(c) The Southern District comprises the counties of Alexander, Bond, Calhoun, Clark, Clay, Clinton, Crawford, Cumberland, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

"Court for the Southern District shall be held at Alton, Benton, Cairo, and East Saint Louis.".

(2) Section 133 of title 28, United States Code, is amended by striking out the item relating to Illinois and inserting in lieu thereof the following:

"Illinois:	
"Northern	13
"Central	2
"Southern	2".

(c) Section 112 of title 28, United States Code, is amended—

(1) in the first paragraph of subsection (a), by inserting "Columbia," immediately after "Clinton,", by inserting "Greene," immediately after "Fulton,", and by inserting "Ulster," immediately after "Tompkins,"; and

(2) in the first paragraph of subsection (b), by striking out "Columbia,", "Greene,", and "Ulster,".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect 180 days after the date of enactment of this Act. 28 USC 89 note.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Approved October 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1554 accompanying H.R. 13331 (Comm. on the Judiciary).
SENATE REPORT No. 95-1121 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 21, considered and passed Senate.
Sept. 12, H.R. 13331 considered and passed House; passage vacated and S. 3375, amended, passed in lieu.
Sept. 19, Senate concurred in House amendment.

Public Law 95-409
95th Congress

An Act

Oct. 2, 1978
[S. 3272]

To amend the Packers and Stockyards Act, 1921, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Packers and Stockyards Act, 1921, is amended as follows:

Packers and Stockyards Act, 1921, amendment.
7 USC 181.

(a) Section 305 of the Act (7 U.S.C. 206) is amended by inserting immediately before the period at the end thereof the following: ": *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis"; and

(b) Section 310 of the Act (7 U.S.C. 211) is amended by—

(1) in the introductory paragraph, striking out "unjust, unreasonable, or discriminatory" and inserting in lieu thereof "violative of section 304, 305, or 307";

7 USC 205, 206, 208.

(2) in subsection (a) thereof—

(A) striking out "just and reasonable" and inserting after the word "May" the following: "in accordance with the standard set forth in section 305";

(B) striking out "as both the maximum and minimum" and inserting in lieu thereof "as the maximum or minimum or both";

(C) inserting immediately before the semicolon at the end thereof ": *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 305"; and

(3) in subsection (b), striking out "more or less than the rate or charge" and inserting in lieu thereof "other than the rate or charge or rates or charges".

SEC. 2. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing and recommending methods by which any livestock sellers, or their agents, may furnish to livestock marketing agencies, dealers, or packers, who purchase livestock or provide marketing services, information concerning the existence of any lien or security interest in or against such livestock. The Secretary shall submit a report of the findings and conclusions of such task force, including legislative recommendations, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives no later than February 1, 1979.

Interagency task force.
7 USC 221 note.

Report to congressional committees.

Approved October 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1337 accompanying H.R. 9482 (Comm. on Agriculture).
SENATE REPORT No. 95-1053 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 4, considered and passed Senate.
Sept. 19, H.R. 9482 considered and passed House; passage vacated and S. 3272 passed in lieu.

Public Law 95-410
95th Congress

An Act

Oct. 3, 1978
[H.R. 8149]

To provide customs procedural reform, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Procedural Reform and Simplification Act of 1978".

Customs Procedural Reform and Simplification Act of 1978.
19 USC 1654 note.

TITLE I—CUSTOMS PROCEDURAL REFORM

SEC. 101. Section 315(a) of the Tariff Act of 1930 (19 U.S.C. 1315 (a)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) any article for which duties may, under section 505 of this Act, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.".

19 USC 1505.

SEC. 102. (a) Section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENT AND TIME.—(1) Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, the consignee of imported merchandise, either in person or by an agent authorized by the consignee in writing—

19 USC 1490, 1498, 1552, 1553, 1336.

"(A) shall make entry therefor by filing with the appropriate customs officer such documentation as is necessary to enable such officer to determine whether the merchandise may be released from customs custody; and

Documentation.

"(B) shall file (at the time required under paragraph (2)(B) of this subsection) with the appropriate customs officer such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation required under paragraph (1) of this subsection with respect to any imported merchandise shall be filed at such place within the customs-collection district where the merchandise will be released from customs custody as the Secretary shall by regulation prescribe.

"(B) The documentation required under paragraph (1)(B) of this subsection with respect to any imported merchandise shall be filed with the appropriate customs officer when entry of the merchandise is made or at such time within the ten-day period (exclusive of Saturdays, Sundays, and holidays) immediately following the date of entry as the Secretary shall by regulation prescribe.

Regulations.

"(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such

NOTE: In the twelveth line of Sec. 102, which begins with "(B) shall . . . ", the word "file" has been added after the word "shall".

statistical data discovered after the release of merchandise shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the facilitation of the commerce of the United States, and the equal treatment of all consignees of imported merchandise.";

(2) by striking out "subdivision" in subsection (c)(3) and inserting in lieu thereof "subsection"; and

(3) by striking out the second sentence in subsection (j).

(b) The amendments made by this section shall take effect 60 days after the date of enactment of this Act. Effective date. 19 USC 1484 note.

SEC. 103. Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505 (a)) is amended to read as follows:

"(a) DEPOSIT OF ESTIMATED DUTIES.—Unless merchandise is entered for warehouse or transportation, or under bond, the consignee shall deposit with the appropriate customs officer at the time of making entry, or at such later time as the Secretary may prescribe by regulation (but not to exceed thirty days after the date of entry), the amount of duties estimated by such customs officer to be payable thereon.". Regulations.

SEC. 104. The Tariff Act of 1930 is amended by inserting after section 507 the following new section:

"SEC. 508. RECORDKEEPING. 19 USC 1508.

"(a) REQUIREMENTS.—Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which—

"(1) pertain to any such importation, or to the information contained in the documents required by this Act in connection with the entry of merchandise; and

"(2) are normally kept in the ordinary course of business.

"(b) PERIOD OF TIME.—The records required by subsection (a) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.

"(c) LIMITATION.—For the purposes of this section and section 509, *Infra.* a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless—

"(1) the terms and conditions of the importation are controlled by the person placing the order; or

"(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise.".

SEC. 105. Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended to read as follows:

"SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

"(a) AUTHORITY.—In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty and taxes due or duties and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

Notice.

"(1) examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry;

Notice.

"(2) summon, upon reasonable notice—

"(A) the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

"(B) any officer, employee, or agent of such person,

"(C) any person having possession, custody, or care of records relating to such importation, or

"(D) any other person he may deem proper,

to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, required to be kept under section 508 of this Act, and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

Ante, p. 889.

"(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

"(b) SERVICE OF SUMMONS.—A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

Definitions.

"(c) SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—(1) For purposes of this subsection—

"(A) The term 'records' includes statements, declarations, or documents required to be kept under section 508 of this Act.

"(B) The term 'summons' means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

"(C) The term 'third-party recordkeeper' means—

"(i) any customhouse broker;

"(ii) any attorney; and

"(iii) any accountant.

Notice.

"(2) If—

"(A) any summons is served on any person who is a third-party recordkeeper; and

"(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the import transactions of any person (other than the person sum-

moned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

"(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

"(4) Paragraph (2) of this subsection shall not apply to any summons—

"(A) served on the person with respect to whose liability for duties or taxes the summons is issued, or any officer or employee of such person; or

"(B) to determine whether or not records of the import transactions of an identified person have been made or kept.

"(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

"(A) to intervene in any proceeding with respect to the enforcement of such summons under section 510 of this Act; and *Infra.*

"(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

"(i) notice in writing is given to the person summoned not to comply with the summons; and

"(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

"(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsection may be made—

"(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

"(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.".

SEC. 106. Section 510 of the Tariff Act of 1930 (19 U.S.C. 1510) is amended to read as follows:

"SEC. 510. JUDICIAL ENFORCEMENT.

"(a) ORDER OF COURT.—If any person summoned under section 509 of this Act does not comply with the summons, the district court of *Ante*, p. 889.

the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) SANCTIONS.—(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of this Act and for refusing to obey the order of the court, remains in contempt, the Secretary may—

Ante, p. 889.

"(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

"(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

"(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officers shall cause all merchandise held in customs custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

"(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.".

Repeal.

SEC. 107. Section 511 of the Tariff Act of 1930 (19 U.S.C. 1511) is repealed.

SEC. 108. (a) Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BEFORE PAYMENT.—Merchandise may be withdrawn for consumption without the payment of the duty thereon if the consignee or transferee is permitted to pay duty at a later time pursuant to regulations prescribed by the Secretary under section 505 of this Act.".

19 USC 1505.

(b)(1) Sections 557 and 559 of the Tariff Act of 1930 (19 U.S.C. 1557 and 1559) are amended by striking out "three years" each place it appears and inserting in lieu thereof "5 years" in each such place.

19 USC 1557 note.

(2) For purposes of applying the amendments made by paragraph (1) to merchandise remaining in a bonded warehouse on the date of enactment of this Act, any period of time the merchandise was in the bonded warehouse before that date shall be disregarded.

SEC. 109. Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out the first word of each paragraph and inserting in lieu thereof—

(A) "(a) GENERAL RULE.—(1) Any" in the first paragraph,

(B) "(2) If" in the second paragraph, and

(C) "(3) If" in the last paragraph;

(2) by inserting "lesser of $10,000 or the domestic" immediately after "penalty equal to the" in the first sentence of the first paragraph;

(3) by inserting "or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest" immediately after "or the owner of such vessel or vehicle" each place it appears in the first sentence of the first paragraph;

(4) by adding at the end of the first paragraph the following new sentence: "For purposes of this subsection, the term 'clerical error' means a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest."; "Clerical error."

(5) by inserting "or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the first sentence of the second paragraph;

(6) by inserting "or any person directly or indirectly responsible for smoking opium, opium prepared for smoking, or marihuana being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the second sentence of the second paragraph;

(7) by inserting "or any person directly or indirectly responsible for crude opium being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the third sentence of the second paragraph; and

(8) by adding at the end thereof the following new subsection:

"(b) PROCEDURES.—(1) If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a)(1) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall— Notice.

"(A) describe the merchandise;

"(B) set forth the details of the error in the manifest;

"(C) specify all laws and regulations allegedly violated;

"(D) disclose all the material facts which establish the alleged violation;

"(E) state the estimated loss of lawful duties, if any, and, taking into account all of the circumstances, the amount of the proposed monetary penalty; and

"(F) inform such person that he will have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

No notice is required under this subsection for any violation of subsection (a)(1) for which the proposed penalty is $500 or less.

"(2) After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a)(1), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under subparagraphs (A) through (E) of paragraph (1).".

SEC. 110. (a) Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended to read as follows:

"SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE.

"(a) PROHIBITION.—

"(1) GENERAL RULE.—Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence—

"(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—

"(i) any document, written or oral statement, or act which is material and false, or

"(ii) any omission which is material, or

"(B) may aid or abet any other person to violate subparagraph (A).

"(2) EXCEPTION.—Clerical errors or mistakes of fact are not violations of paragraph (1) unless they are part of a pattern of negligent conduct.

"(b) PROCEDURES.—

"(1) PRE-PENALTY NOTICE.—

"(A) IN GENERAL.—If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall—

"(i) describe the merchandise;

"(ii) set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or procuring of the entry or introduction;

"(iii) specify all laws and regulations allegedly violated;

"(iv) disclose all the material facts which establish the alleged violation;

"(v) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

"(vi) state the estimated loss of lawful duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

"(B) EXCEPTIONS.—The preceding subparagraph shall not apply if—

"(i) the importation with respect to which the violation of subsection (a) occurs is noncommercial in nature, or

"(ii) the amount of the penalty in the penalty claim issued under paragraph (2) is $1,000 or less.

"(2) PENALTY CLAIM.—After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under clauses (i) through (vi) of paragraph (1)(A). Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or miti-

19 USC 1618.

gation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person concerned a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based. 19 USC 1618.

"(c) MAXIMUM PENALTIES.—

"(1) FRAUD.—A fraudulent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise.

"(2) GROSS NEGLIGENCE.—A grossly negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

"(A) the lesser of—

"(i) the domestic value of the merchandise, or

"(ii) four times the lawful duties of which the United States is or may be deprived, or

"(B) if the violation did not affect the assessment of duties, 40 percent of the dutiable value of the merchandise.

"(3) NEGLIGENCE.—A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

"(A) the lesser of—

"(i) the domestic value of the merchandise, or

"(ii) two times the lawful duties of which the United States is or may be deprived, or

"(B) if the violation did not affect the assessment of duties, 20 percent of the dutiable value of the merchandise.

"(4) PRIOR DISCLOSURE.—If the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (c) shall not exceed—

"(A) if the violation resulted from fraud—

"(i) an amount equal to 100 percent of the lawful duties of which the United States is or may be deprived, so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount, or

"(ii) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

"(B) if such violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within 30 days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount. 26 USC 6621.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(5) SEIZURE.—If the Secretary has reasonable cause to believe that a person has violated the provisions of subsection (a) and that such person is insolvent or beyond the jurisdiction of the United States or that seizure is otherwise essential to protect the revenue of the United States or to prevent the introduction of prohibited or restricted merchandise into the customs territory of the United States, then such merchandise may be seized and, upon assessment of a monetary penalty, forfeited unless the monetary penalty is paid within the time specified by law. Within a reasonable time after any such seizure is made, the Secretary shall issue to the person concerned a written statement containing the reasons for the seizure. After seizure of merchandise under this subsection, the Secretary may, in the case of restricted merchandise, and shall, in the case of any other merchandise (other than prohibited merchandise), return such merchandise upon the deposit of security not to exceed the maximum monetary penalty which may be assessed under subsection (c).

"(d) DEPRIVATION OF LAWFUL DUTIES.—Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties as a result of a violation of subsection (a), the appropriate customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed.

19 USC 1514.

"(e) DISTRICT COURT PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of this Act for the recovery of any monetary penalty claimed under this section—

19 USC 1604.

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence;

"(3) if the monetary penalty is based on gross negligence, the United States shall have the burden of proof to establish all the elements of the alleged violation; and

"(4) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of proof that the act or omission did not occur as a result of negligence.".

(b) Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by inserting "promptly" immediately after "to report".

(c) Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended—

(1) by striking out "Any" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, any"; and

(2) by adding at the end thereof the following new subsection:

Ante, p. 893.

"(b) If merchandise is forfeited under section 592 of this Act, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a) (1) and (2) of this section incurred in such sale shall be returned to the person against whom the penalty was assessed."

(d) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended by inserting "(other than those arising under section 592 of this Act)" immediately after "In all suits or actions".

(e) Section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) is amended by inserting the following after "*Provided*, That": "in the case of an alleged violation of section 592 of this Act arising out of gross negligence or negligence, such suit or action shall not be instituted more than five years after the date the alleged violation was committed: *Provided further*, That". *Ante*, p. 893.

(f)(1)(A) Except as provided in subparagraphs (B) and (C), subsections (a), (b), and (c) (other than new subsection (e) of section 592 of the Tariff Act of 1930 as added by subsection (a)) shall be effective with respect to proceedings commenced after the 89th day after the date of enactment of this Act. 19 USC 1592 note.

(B) Except as provided in subparagraph (C), section 592 of the Tariff Act of 1930 (as such section existed on the day before the date of enactment of this Act) shall apply to any alleged intentional violation thereof involving television receivers that are the product of Japan and that were or are the subject of antidumping proceedings if the alleged intentional violation—

(i) occurred before the date of enactment of this Act, and

(ii) was the subject of an investigation by the Customs Service which was begun before the date of enactment of this Act.

(C) Except as provided in the next sentence, subsection (e) of section 592 of the Tariff Act of 1930 (as added by subsection (a)) shall be effective on the date of enactment of this Act. Notwithstanding any provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of the Tariff Act of 1930 for the recovery of any monetary penalty claimed under section 592 of such Act for an alleged intentional violation described in subparagraph (B)— 19 USC 1604.

(i) all issues, including the amount of the penalty, shall be tried de novo; and

(ii) the United States shall have the burden of proof to establish such violation by a preponderance of the evidence.

(2)(A) The amendment made by subsection (e) shall apply with respect to alleged violations of section 592 of the Tariff Act of 1930 resulting from gross negligence or negligence which are committed on or after the date of the enactment of this Act.

(B) In the case of any alleged violation of such section 592 resulting from gross negligence or negligence which was committed before the date of the enactment of this Act and for which no suit or action for recovery was commenced before such date of enactment, no suit or action for recovery with respect to such alleged violation shall be instituted after—

(i) the closing date of the 5-year period beginning on the date on which the alleged violation was committed, or

(ii) the closing date of the 2-year period beginning on such date of enactment,

whichever date later occurs, except that no such suit or action may be instituted after the date on which such suit or action would have been barred under section 621 of the Tariff Act of 1930 (as in effect on the day before such date of enactment). 19 USC 1621.

SEC. 111. (a) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" each place that it appears therein and inserting in lieu thereof "$10,000".

(b) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" in such section and inserting in lieu thereof "$10,000".

(c) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by striking out "$2,500" each place it appears therein and inserting in lieu thereof "$10,000".

SEC. 112. The Tariff Act of 1930 is amended by inserting immediately after section 624 the following new section:

19 USC 1625.

"SEC. 625. PUBLICATION OF DECISIONS.

"Within 120 days after issuing any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision) under this Act with respect to any customs transaction, the Secretary shall have such decision published in the Customs Bulletin or shall otherwise make such decision available for public inspection.".

SEC. 113. Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended by adding at the end thereof the following new subsection:

"(e) TRIENNIAL REPORTS BY CUSTOMHOUSE BROKERS.—On February 1, 1979, and on February 1 of each third year thereafter, each person who is licensed as a customhouse broker under this section shall file with the Secretary a report as to—

"(1) whether such person is actively engaged in business as a customhouse broker; and

"(2) the name under, and the address at, which such business is being transacted.".

TITLE II—CUSTOMS SIMPLIFICATION

SEC. 201. Section 11 of the Act of March 1, 1879 (19 U.S.C. 467) is amended to read as follows:

Regulations.

"SEC. 11. The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America."

SEC. 202. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended as follows:

(1) Item 812.20 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms", by striking out "1 quart" and inserting in lieu thereof "1 liter", and by striking out "300 cigarettes" and inserting in lieu thereof "200 cigarettes".

(2) Item 812.25 is amended by striking out "(including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars)" and inserting in lieu thereof "(not including alcoholic beverages and cigarettes but including not more than 100 cigars)".

(3) Item 812.40 is amended by inserting "(including not more than 4 liters of alcoholic beverages)" after "Not exceeding $200 in value of articles".

(4) The prefatory note to item 813.10 is amended by inserting the following before the colon at the end of such note: "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)". 19 USC 1202 note.

(5) Subpart A of part 2 is amended by striking out items 813.30 and 813.31 and by inserting in lieu thereof the following new items:

"	Other articles, including not more than 100 cigars, acquired abroad as an incident of the journey from which the person is returning if such person arrives from the Virgin Islands of the United States or from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the United States for a period of not less than 48 hours, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury and if such person has not claimed an exemption under item 813.30 or 813.31 within 30 days preceding his arrival, and does not claim an exemption under the other item on his arrival:		
813.30	Articles, accompanying a person, not over $300 in aggregate fair retail value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 quart of alcoholic beverages	Free	Free
813.31	Articles, whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 wine gallon of alcoholic beverages, not more than 1 quart of which shall have been acquired elsewhere than in American Samoa, Guam, or the Virgin Islands of the United States, if such person arrives directly or indirectly from such insular possessions, not more than $300 of which shall have been acquired elsewhere than in such insular possessions (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in such insular possessions)	Free	Free ".

(6) The item description appearing immediately before item 813.30 (as amended by paragraph (5)) is amended by inserting "200 cigarettes and" before "100 cigars".

(7) Item 813.30 (as amended by paragraph (5)) is amended by striking out "1 quart" and inserting in lieu thereof "1 liter".

(8) Item 813.31 (as amended by paragraph (5)) is amended by striking out "1 wine gallon" and inserting in lieu thereof "4 liters", and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(9) Item 814.00 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms" and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(10) Item 860.10 is amended by striking out "8 ounces" and inserting in lieu thereof "300 milliliters", by striking out "4 ounces" and inserting in lieu thereof "150 milliliters", and by striking out "2 ounces" and inserting in lieu thereof "100 milliliters".

(11) Item 860.20 is amended by striking out "⅛ ounce" each place that it appears and inserting in lieu thereof "3.5 grams".

(b)(1) The amendments made by this section with respect to metric conversion apply to merchandise entered on or after January 1, 1980.

(2) The amendments made by this section (other than those referred to in paragraph (1)) shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act. For purposes of this subsection, the amendment made by paragraph (3) of subsection (a) shall not be considered an amendment with respect to metric conversion. 19 USC 1202 note.

19 USC 1202 note.

SEC. 203. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is further amended by redesignating part 6 as part 7, by striking out "Part 6 headnote:" in part 7 (as so redesignated) and inserting in lieu thereof "Part 7 headnote:"; and by inserting after part 5 the following new part:

"

	PART 6.—NONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE		
	Part 6 headnote:		
	For the purposes of this part the rates of duty for articles provided in this part shall be assessed in lieu of any other rates of duty, except free rates of duty on such articles, unless the Secretary of the Treasury or his delegate determines, in accordance with regulations, that the application of the rate of duty provided in this part to any article in lieu of the rate of duty otherwise applicable thereto adversely affects the economic interest of the United States.		
	Articles for personal or household use, or as bona fide gifts, not imported for the account of another person, valued in the aggregate at not over $600 fair retail value in the country of acquisition, if the person claiming the benefit of item 869.00 or 869.10, or both, has not received the benefits thereof within the 30 days immediately preceding his arrival:		
869.00	Accompanying a person, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, or the Virgin Islands of the United States).....	10% of the fair retail value	10% of the fair retail value
869.10	Imported by or for the account of a person (whether or not accompanying him) arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States, acquired in such insular possessions as an incident of such person's physical presence.....	5% of the fair retail value	5% of the fair retail value

".

19 USC 1202 note.

(b) The amendment made by this section shall apply to persons and articles arriving in the United States on or after the 30th day after the date of the enactment of this Act.

Publication in Federal Register.

SEC. 204. Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by striking out "weekly Treasury Decisions" and inserting in lieu thereof "Federal Register".

SEC. 205. (a) Section 321(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(1)) is amended by striking out "$3" and inserting in lieu thereof "$10", and by striking out "or" after "duties" wherever it appears and inserting in lieu thereof "and".

(b)(1) Subparagraph (A) of section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)) is amended by striking out "$10" and inserting in lieu thereof "$25", and by striking out "$20" and inserting in lieu thereof "$40".

(2) Subparagraph (B) of such section 321(a)(2) is amended by striking out "$10" and inserting in lieu thereof "$25".

(3) Subparagraph (C) of such section 321(a)(2) is amended by striking out "$1" and inserting in lieu thereof "$5".

SEC. 206. Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended—

(1) by striking out "; and if the owner or master" in subsection (a) and all that follows thereafter down through the period at the end of the first sentence and inserting in lieu thereof the following: ". If the owner or master willfully or knowingly

neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture; and

(2) by redesignating subsections (b) and (c) as (d) and (e), respectively, and by inserting after subsection (a) the following new subsections: 19 USC 1466.

"(b) NOTICE.—If the appropriate customs officer has reasonable cause to believe a violation has occurred and determines that further procedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a penalty claim. Such notice shall—

"(1) describe the circumstances of the alleged violation;

"(2) specify all laws and regulations allegedly violated;

"(3) disclose all the material facts which establish the alleged violation;

"(4) state the estimated loss of lawful duties, if any, and taking into account all of the circumstances, the amount of the proposed penalty; and

"(5) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

"(c) VIOLATION.—After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under paragraphs (1) through (4) of subsection (b).".

SEC. 207. Section 483(1) of the Tariff Act of 1930 (19 U.S.C. 1483(1)) is amended—

(1) by inserting "or the holder of an air waybill" immediately after "bill of lading";

(2) by adding "in the case of a bill of lading" immediately before "if consigned to order, by the consignor"; and

(3) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that this section shall not limit in any way the rights of the consignor, as prescribed by article 12 of the Warsaw Convention (49 Stat. 3017)."

SEC. 208. Section 491 of the Tariff Act of 1930 (19 U.S.C. 1491) is amended—

(1) by amending the section heading to read as follows:

"SEC. 491. UNCLAIMED MERCHANDISE; DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES AND MALT LIQUOR";

(2) by inserting "(a)" at the beginning of such section; and

(3) by adding at the end thereof the following new subsection:

"(b) All distilled spirits, wines, and malt liquor forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

"(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and malt liquor for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

"(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and malt liquor for medical purposes;

Regulations. "(3) sale by appropriate customs officer at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or

"(4) destruction."

SEC. 209. (a) The Tariff Act of 1930 is amended by adding immediately after section 503 the following new section:

19 USC 1504. "SEC. 504. LIMITATION ON LIQUIDATION.

"(a) LIQUIDATION.—Except as provided in subsection (b), an entry of merchandise not liquidated within one year from:

"(1) the date of entry of such merchandise;

"(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry; or

"(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under *Ante*, p. 889. section 505(a) of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his 19 USC 1500. consignee, or agent. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in regulations, if—

"(1) information needed for the proper appraisement or classification of the merchandise is not available to the appropriate customs officer;

"(2) liquidation is suspended as required by statute or court order; or

"(3) the importer, consignee, or his agent requests such extension and shows good cause therefor.

Regulations. "(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer or consignee concerned and to any authorized agent and surety of such importer or consignee.

"(d) LIMITATION.—Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by

the importer, his consignee, or agent, unless liquidation continues to be suspended as required by statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom."

(b) The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act. 19 USC 1504 note.

SEC. 210. Section 520(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1520(c)(1)) is amended to read as follows:

"(1) a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the appropriate customs officer within one year after the date of liquidation or exaction; or".

SEC. 211. (a) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended—

(1) by striking out "It" in subsection (a) and inserting in lieu thereof "Except as provided in subsection (d) of this section, it"; and

(2) by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS.—(1) The trademark provisions of this section and section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

"(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by this subsection. In determining such quantities of particular types of trade-marked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use. Publication in Federal Register.

"(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

"(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.". Rules and regulations.

(b) Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), is amended by striking out "That" and inserting in lieu thereof "Except as provided in subsection (d) of section 526 of the Tariff Act of 1930,".

(c) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended by adding at the end of the following new subsection:

"(e) Any such merchandise bearing a counterfeit mark (within the meaning of section 45 of the Act of July 5, 1946 (commonly referred to as the Lanham Act, 60 Stat. 427; 15 U.S.C. 1127)) imported into the United States in violation of the provisions of section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), shall

be seized and, in the absence of the written consent of the trademark owner, forfeited for violations of the customs laws. Upon seizure of such merchandise, the Secretary shall notify the owner of the trademark, and shall, after forfeiture, obliterate the trademark where feasible and dispose of the goods seized—

"(1) by delivery to such Federal, State, and local government agencies as in the opinion of the Secretary have a need for such merchandise,

"(2) by gift to such eleemosynary institutions as in the opinion of the Secretary have a need for such merchandise,

"(3) more than 1 year after the date of forfeiture, by sale by appropriate customs officers at public auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2), or

"(4) if the merchandise is unsafe or a hazard to health, by destruction.".

SEC. 212. Section 599 of the Tariff Act of 1930 (19 U.S.C. 1599) is amended by inserting "(other than a yacht or other pleasure boat)" after "part, any vessel".

SEC. 213. The first sentence of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), is further amended by deleting the word "thereof" where it first appears and by inserting in lieu thereof "of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported)".

Repeals.

SEC. 214. (a) Sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58 and 46 U.S.C. 329, 330, and 333) are each repealed.

Fees.
19 USC 58a.

(b) The Secretary may charge such fees as may be necessary to cover the costs of providing services similar to or the same as services furnished by customs officers under the sections repealed by subsection (a).

19 USC 1496a.

SEC. 215. Except as otherwise provided by law, no individual returning to the United States from abroad shall be—

(1) entitled to the admission of his or her baggage and effects free of duty without entry; or

(2) entitled to expedited customs examination and clearance of his or her baggage and effects.

Paragraph (2) shall not apply to individuals in special circumstances (including being seriously ill or infirm, having been summoned by news of affliction or disaster, and accompanying the body of a deceased relative). For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

"Baggage and effects."

Study.
19 USC 1496a note.

SEC. 216. The Comptroller General, in cooperation with the Customs Service of the Department of the Treasury and the Immigration and Naturalization Service of the Department of Justice, shall study

clearance procedures for individuals entering or reentering the United States. The study shall include an analysis and comparison of the clearance procedures employed by other countries for individuals entering or reentering such other countries and an analysis of the usefulness of preentry forms completed by travelers for use when entering or reentering the United States. The Comptroller General shall report the results of his study and any recommendations he may have for expediting the clearance process (including recommendations for legislation) to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the House of Representatives not later than September 1, 1979.

Report to congressional committees.

TITLE III—CUSTOMS SERVICE APPROPRIATIONS AUTHORIZATION

SEC. 301. For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

19 USC 2075.

TITLE IV—SEPARABILITY OF PROVISIONS

SEC. 401. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Act and the application of such provisions to other persons or circumstances, shall not be affected thereby.

19 USC 1652 note.

Approved October 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-621 (Comm. on Ways and Means) and No. 95-1517 (Comm. of Conference).
SENATE REPORT No. 95-778 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 17, considered and passed House.
Vol. 124 (1978): June 7, considered and passed Senate, amended.
Aug. 25, Senate agreed to conference report.
Sept. 19, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 40 (1978): Oct. 4, Presidential statement.

Public Law 95-411
95th Congress

Joint Resolution

Oct. 5, 1978
[S.J. Res. 154]

Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.

International Petroleum Exposition, Tulsa, Okla.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

Approved October 5, 1978.

Public Law 95-412
95th Congress

An Act

To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy.

Oct. 5, 1978
[H.R. 12443]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(a) of the Immigration and Nationality Act is amended to read as follows:

Immigration and Nationality Act, amendment.
8 USC 1151.
8 USC 1101.

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-seven thousand and shall not in any fiscal year exceed a total of two hundred and ninety thousand.".

8 USC 1153.

SEC. 2. Section 202(c) of the Immigration and Nationality Act is amended to read as follows:

8 USC 1152.

"(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitation set forth in section 202(a), to the foreign state, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed six hundred in any one fiscal year.".

SEC. 3. Section 203(a) of the Immigration and Nationality Act is amended to delete "201(a) (1) or (2)" each place it appears in paragraphs one through seven and by substituting in lieu thereof "201(a)".

8 USC 1153.

SEC. 4. (a) There is established a Select Commission on Immigration and Refugee Policy (hereinafter in this section referred to as the "Commission") which shall be composed of—

Select Commission on Immigration and Refugee Policy. Establishment.
8 USC 1151 note.

(1) four members appointed by the President, one of whom shall be designated by the President as Chairman;

(2) the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health, Education, and Welfare;

(3) four members appointed by the Speaker of the House of Representatives from the membership of the House Committee on the Judiciary; and

(4) four members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

(b)(1) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

(2) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $100 for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses,

5 USC 5701 *et seq.*

when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

Study and evaluation. Recommendations to President and Congress.

(c) It shall be the duty of the Commission to study and evaluate, in accordance with subsection (d), existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to the President and to the Congress as are appropriate.

(d) In particular, the Commission shall—

8 USC 1101 note.

(1) conduct a study and analysis of the effect of the provisions of the Immigration and Nationality Act (and administrative interpretations thereof) on (A) social, economic, and political conditions in the United States; (B) demographic trends; (C) present and projected unemployment in the United States; and (D) the conduct of foreign policy;

(2) conduct a study and analysis of whether and to what extent the Immigration and Nationality Act should apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the other territories and possessions of the United States;

(3) review, and make recommendations with respect to the numerical limitations (and exemptions therefrom) of the Immigration and Nationality Act on the admission of permanent resident aliens;

(4) assess the social, economic, political, and demographic impact of previous refugee programs and review the criteria for, and numerical limitations on, the admission of refugees to the United States;

(5) conduct a comprehensive review of the provisions of the Immigration and Nationality Act and make legislative recommendations to simplify and clarify such provisions;

(6) make semiannual reports to each House of Congress during the period before publication of its final report (described in paragraph (7)); and

Report to President and Congress.

(7) make a final report of its findings and recommendations to the President and each House of Congress, which report shall be published not later than September 30, 1980.

Compensation.

(e)(1) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(2) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

(f) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

(g) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this section. Grants and contracts.

(h) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to sixty days thereafter for the purpose of winding up its affairs. Termination.

(i) There is authorized to be appropriated the sum of $700,000 to carry out the provisions of this section. Appropriation authorization.

(j) Notwithstanding any other provision of this Act, no payment, or authorization to make payments or to enter into contracts under this Act, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

SEC. 5. Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act before September 30, 1980, shall have his status adjusted pursuant to the provisions of section 203 (g) and (h) of that Act. 8 USC 1182 note. 8 USC 1182. 8 USC 1153.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1206 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 18, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 95-413
95th Congress

An Act

Oct. 5, 1978
[S. 3342]

To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake".

Standing Bear Lake, Nebr. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the lake known as the Military Lake, which has been completed on site 16 (as described in House Document Numbered 349, Ninetieth Congress) of such Papillion Creek basin project, shall hereafter be known and designated as the "Standing Bear Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States shall be held to be a reference to the Standing Bear Lake.

Glenn Cunningham Lake. Designation.

(b) The lake known as the Irvington Lake, which has been completed on site 11 (as described in House Document Numbered 349, Ninetieth Congress) of the Papillion Creek basin project authorized under the heading Missouri River basin in section 203 of the Flood Control Act of 1970 (82 Stat. 743), shall, as of September 10, 1982, be known and designated as the "Glenn Cunningham Lake". Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the Glenn Cunningham Lake after September 10, 1982.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-1037 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 28, considered and passed Senate.
July 31, passage vitiated.
Sept. 20, reconsidered and passed Senate.
Sept. 25, considered and passed House.

Public Law 95-414
95th Congress

An Act

To authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes.

Oct. 5, 1978
[S. 2507]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Smithsonian Institution. Museum of African Art, transfer. 20 USC 80k.

SECTION 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

Establishment. 20 USC 80*l*.

SEC. 2. There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by section 3(a).

Functions. 20 USC 80m.

SEC. 3. (a) For the purpose of carrying out sections 1 and 2 of this Act, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

Commission for the Museum of African Art. Establishment. 20 USC 80n.

SEC. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

Membership.

(b) The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each

initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendents in the United States, collectors of African Art, and scholars in the fields of African art and culture.

Term.

(c) Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

Compensation.

(e) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this Act.

20 USC 80*o*.

SEC. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

5 USC 5101 *et seq.*
5 USC 5331.

Funds.
20 USC 80p.

SEC. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

Appropriation authorization.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

SEC. 7. Except for the provisions in sections 1 and 6(b), the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1. Effective date. 20 USC 80k note.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1417 accompanying H.R. 10792 (Comm. on House Administration).
SENATE REPORT No. 95-793 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 16, considered and passed Senate.
Sept. 18, considered and passed House, amended, in lieu of H.R. 10792.
Sept. 22, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
Oct. 5, Presidential statement.

Public Law 95-415
95th Congress

Joint Resolution

Oct. 5, 1978
[H.J. Res. 1088]

Providing financial assistance for the city of New York.

New York City, financial assistance.
31 USC 1531 note.
Ante, p. 460.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized to guarantee the payment of principal and interest on loans in accordance with the provisions of the New York City Loan Guarantee Act of 1978 in amounts not to exceed $1,650,000,000 in principal outstanding at any time, and there is hereby appropriated effective October 1, 1978, such amounts as may be necessary for payment of principal and interest on loans in default and guaranteed pursuant to the New York City Loan Guarantee Act of 1978, to remain available until September 30, 1998.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1404 (Comm. on Appropriations).
SENATE REPORT No. 95-1192 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 6, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 95-416
95th Congress

An Act

To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.

Oct. 5, 1978
[S. 1265]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 44, United States Code, is amended as follows:

GSA.
Transferred records, relating to acceptance and use.

(a) In section 2103 delete the words "fifty years" in subsection (2) and substitute in lieu thereof the words "thirty years".

(b) Section 2104 of title 44, United States Code, is amended—

(1) by inserting "(a)" immediately before "The Administrator";

(2) by striking out the third and fourth sentences therein and inserting in lieu thereof the following "Except as provided in subsection (b) of this section, when the head of a Federal agency states, in writing, restrictions that appear to him to be necessary or desirable in the public interest with respect to the use or examination of records being considered for transfer from his custody to the Administrator of General Services, the Administrator shall, if he concurs, and in consultation with the Archivist of the United States, impose such restrictions on the records so transferred, and may not relax or remove such restrictions without the written concurrence of the head of the agency from which the material was transferred, or of his successor in function, if any. In the event that a Federal agency is terminated and there is no successor in function, the Administrator is authorized to relax, remove, or impose restrictions on such agency's records when he determines that such action is in the public interest. Statutory and other restrictions referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Administrator of General Services by order, having consulted with the Archivist and the head of the transferring Federal agency or his successor in function, determines, with respect to specific bodies of records, that for reasons consistent with standards established in relevant statutory law, such restrictions shall remain in force for a longer period."; and

(3) by adding at the end thereof the following new subsection:

Census Bureau, release of information from records; agreement with GSA.

"(b) With regard to the census and survey records of the Bureau of the Census containing data identifying individuals enumerated in population censuses, any release pursuant to this section of such identifying information contained in such records shall be made by the

Administrator of General Services pursuant to the specifications and agreements set forth in the exchange of correspondence on or about the date of October 10, 1952, between the Director of the Bureau of the Census and the Archivist of the United States, together with all amendments thereto, now or hereafter entered into between the Director of the Bureau of the Census and the Archivist of the United States. Such amendments, if any, shall be published in the Register.".

Publication in Federal Register.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1522 (Comm. on Government Operations).
SENATE REPORT No. 95-710 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 3, considered and passed Senate.
Sept. 25, considered and passed House.

Public Law 95-417
95th Congress

An Act

To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children.

Oct. 5, 1978
[H.R. 12508]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(a)(8) of the Immigration and Nationality Act is amended by adding the following sentences: "No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.".

Immigration and Nationality Act, amendment.
8 USC 1153.

SEC. 2. Section 204(c) of the Immigration and Nationality Act is amended to delete the language "no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 101(b)(1)(E) or (F) unless necessary to prevent the separation of brothers and sisters and".

8 USC 1154.
8 USC 1101.

SEC. 3. Subsection (e) of section 204 of the Immigration and Nationality Act is renumbered subsection (f) and a new subsection (e) is inserted to read as follows:

8 USC 1154.

"(e) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.".

SEC. 4. Paragraphs (1) and (2) of section 320(a) of the Immigration and Nationality Act are amended to delete the word "sixteen" and substitute in lieu thereof the word "eighteen", and subsection (b) of section 320 is amended to read as follows:

8 USC 1431.

"(b) Subsection (a)(1) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.".

8 USC 1432.

SEC. 5. Paragraphs (4) and (5) of section 321(a) of the Immigration and Nationality Act are amended to delete the word "sixteen" and substitute in lieu thereof the word "eighteen", and subsection (b) of section 321 is amended to read as follows:

"(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.".

8 USC 1433.

SEC. 6. Subsection (b) of section 322 of the Immigration and Nationality Act is amended to read as follows:

"(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.".

Repeal.
8 USC 1434.

SEC. 7. Section 323 of the Immigration and Nationality Act and the title preceding that section are hereby repealed.

SEC. 8. The table of contents, title III, chapter 2, is amended by deleting the following:

"Sec. 323. Children adopted by United States citizens.".

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1301 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 18, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 95-418
95th Congress

An Act

To name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building".

Oct. 5, 1978
[H.R. 8812]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 615 South Main Street in Jonesboro, Arkansas, is hereby designated as the "E. C. 'Took' Gathings Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the E. C. "Took" Gathings Building.

E. C. "Took" Gathings Building, Ark. Designation.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1468 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Sept. 22, considered and passed Senate.

Public Law 95-419
95th Congress

Joint Resolution

Oct. 5, 1978
[H.J. Res. 1007]

Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week".

Asian/Pacific American Heritage Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week" and calling upon the people of the United States, especially the educational community, to observe such week with appropriate ceremonies and activities.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1335 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 10, considered and passed House.
Sept. 19, considered and passed Senate.

Public Law 95-420
95th Congress

An Act

To authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981.

Oct. 5, 1978
[H.R. 13745]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sikes Act Amendments of 1978".

Sikes Act Amendments of 1978.
16 USC 670a note.

SEC. 2. Section 106 of the Act of September 15, 1960 (16 U.S.C. 670f(b)) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

Appropriation authorizations.

"(b) There are authorized to be appropriated to the Secretary of Defense not to exceed $1,500,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out this title, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

"(c) There are authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out such functions and responsibilities as the Secretary may have under cooperative plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.".

SEC. 3. Section 209 of the Act of September 15, 1960 (16 U.S.C. 670o), is amended to read as follows:

"SEC. 209. (a) There are authorized to be appropriated the sum of $10,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of the Interior to carry out his functions and responsibilities under this title, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 318 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748), or other provisions of law.

"(b) There are authorized to be appropriated the sum of $12,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this title. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601–1610).".

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1519 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 19, considered and passed House.
Sept. 25, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
Oct. 6, Presidential statement.

Public Law 95-421
95th Congress

An Act

To amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes.

Oct. 5, 1978
[S. 3040]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Amtrak Improvement Act of 1978.
45 USC 501 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Improvement Act of 1978".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 601(a)(1) of the Rail Passenger Service Act (45 U.S.C. 601(a)(1)) is amended—

(1) in clause (1) thereof (A) by striking out "except for" and all that follows through "sentence" and inserting in lieu thereof "including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.)", (B) by striking out "and" immediately after "1977,", and (C) by inserting ", and not to exceed $600,000,000 for the fiscal year ending September 30, 1979" immediately after "1978";

(2) in clause (2) thereof (A) by striking out "and" immediately after "1977,", and (B) by striking out "1978;" and inserting in lieu thereof "1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(5)); and";

(3) by striking out clause (3) and redesignating clause (4), and all references thereto, as clause (3); and

(4) in clause (3) thereof, as so redesignated, by inserting ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

(b)(1) Section 601(a)(2) of such Act (45 U.S.C. 601(a)(2)) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(3)".

(2) Section 602(d) of such Act (45 U.S.C. 602(d)) is amended by striking out "clause (4)" and inserting in lieu thereof "clause (3)"

BUDGET ESTIMATES

SEC. 3. Subsection (b) of section 601 of the Rail Passenger Service Act (45 U.S.C. 601(b)) is repealed. Repeal.

ROUTE REEXAMINATION

SEC. 4. (a) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary"), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred

Preliminary recommendations for route system.
45 USC 521 note.

to as the "Corporation"), shall immediately develop preliminary recommendations for a route system for the Corporation which will provide and optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route system. In developing such recommendations, the Secretary shall consider—

(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

(3) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passenger per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

(4) the transportation needs of areas lacking adequate alternative forms of transportation;

(5) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

(6) the adequacy of other transportation modes serving the same points to be served by the recommended route system.

Copies of route system recommendations.

(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

45 USC 151.

(1) a recommended route system by end points and principal intermediate points to be served;

(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State supported routes and State supported routes;

(4) an estimate of the equipment and facilities necessary to support the recommended system;

(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passenger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Rail Services Planning Office is required to conduct. During such period, in addition to holding public hearings, the Rail Services Planning Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, interested citizens groups, and the United States Postal Service. Public hearings.

(d) The Rail Services Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route system for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the potential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation. Summary and analysis.

(e)(1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explanatory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 90 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations. Final recommendations to Congress and congressional committees. Approval, effective date.

(2) If either the House of Representatives or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall, Revised plan, submittal to Congress.

within 45 days after the date of adoption, determine and resubmit a revised recommendation. Each such revised plan shall be submitted to the Congress for review pursuant to paragraph (1) of this subsection.

(3) For the purposes of this subsection—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 90-day period.

Route system, modified or restructured, prohibition.

(f) Notwithstanding any other provison of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this subsection shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

(g) Subject to subsection (f) of this section, immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of such approval.

(h)(1) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the date of approval of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1).

(2) During the period beginning on the date of enactment of this section, and ending 12 months after the date of approval of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic route system.

(i) Subject to subsection (f) of this section, the basic system designated in the final recommendations of the Secretary shall, after the date upon which such recommendations are approved, supersede any other system or route previously in effect.

RAIL PASSENGER SERVICE REPORT

SEC. 5. Section 703(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(2)) is amended—

(1) by inserting "(A)" immediately after "TRANSPORTATION.—"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Within one year after the date of the enactment of this subparagraph, the submission by the Secretary to the Congress of a report on the conflict between the needs of commuter rail passenger service and the needs of intercity rail passenger service in the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York.". Report to Congress.

STUDY OF RELATIONSHIP OF AMTRAK FARE STRUCTURE TO THE INTERCITY BUS INDUSTRY

SEC. 6. The Comptroller General shall, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, conduct a study of the economic relationship of the fare structure of the National Railroad Passenger Corporation to the intercity bus industry. The Comptroller General shall, no later than December 31, 1978, submit a report to the Congress setting forth the results of such study. Report to Congress.

HEARINGS ON UNFAIR OR PREDATORY PRACTICES

SEC. 7. Notwithstanding the provisions of section 306 of the Rail Passenger Service Act (45 U.S.C. 546), the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice. 45 USC 546a. *Post*, p. 1337.

NORTHEAST CORRIDOR

SEC. 8. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in paragraph (1)(A)(i) thereof, by inserting "at most" immediately before "a 3-hour-and-40-minute" and "a 2-hour-and-40-minute", respectively;

(2) in paragraph (1)(B) thereof, by inserting "or other responsible parties" immediately after "(or local or regional transportation authorities)"; and

(3) by adding at the end thereof the following new paragraph:

"(5) COMPATABLE EQUIPMENT.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. Before purchasing such equipment with Federal financial assistance, the Corporation shall obtain the Secretary's concurrence that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations Requests for appropriation authorizations.

for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1) (E) of this section.".

EXPENSES OF ELECTRIFICATION CONVERSION

SEC. 9. Section 704(a) (1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a) (1)) is amended by inserting immediately before the semicolon at the end thereof the following: ", of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title".

PURCHASES OF DOMESTIC ARTICLES, MATERIALS, AND SUPPLIES

SEC. 10. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(j) (1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation shall purchase only—

"(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

"(B) manufactured articles, materials, and supplies which have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

"(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

"(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

"(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

"(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

"(3) The provisions of this subsection shall not apply—

"(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $1,000,000; or

"(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before the date of enactment of this subsection.

"United States." "(4) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

FOR-PROFIT STATUS OF AMTRAK

SEC. 11. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting "operated and managed as" immediately before "a for profit corporation".

COMMON STOCK OWNERSHIP

SEC. 12. The Secretary of Transportation shall evaluate the common stock ownership of the National Railroad Passenger Corporation and shall, no later than December 31, 1978, submit a report to the Congress setting forth his recommendations with respect to retention, retirement, or conversion of such common stock. In making such recommendations, the Secretary shall consider the best interests of the United States. Report to Congress.

RAILROAD SAFETY SYSTEM PROGRAM

SEC. 13. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. RAILROAD SAFETY SYSTEM PROGRAM 45 USC 646.

"(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on property owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

"(b) The Railroad Safety System Program required under this section shall include but not be limited to—

"(1) a periodic analysis of accident data, including primary and secondary causes, if known;

"(2) a periodic evaluation of the activities undertaken under the Program, particularly the specific steps taken in response to accident causes;

"(3) a periodic identification of the expenditures for occupational health and safety activities included in the Program;

"(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the Program;

"(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

"(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.".

CONVERSION OF RAILROAD TERMINALS

"SEC. 14. Paragraphs (2), (3), and (5) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i)(2), (3), and (5)) are amended by striking out "60 per centum" each place it appears and inserting in lieu thereof "80 per centum".

FACILITY AND SERVICE AGREEMENTS

SEC. 15. The third sentence of section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by inserting "or for the use of tracks and facilities" immediately after "provision of services".

REIMBURSEMENT FOR STAFF SERVICES

SEC. 16. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end thereof the following new sentence: "The State or agency shall be entitled to reimburse-

ment for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.".

PETITIONS TO THE INTERSTATE COMMERCE COMMISSION

SEC. 17. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) by redesignating paragraphs (2) and (3), and all references thereto, as paragraphs (3) and (4), respectively; and

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Whenever a State, regional, or local agency requests the Corporation to institute service pursuant to this subsection, or to enter into a contract or other agreement or modify an existing contract or agreement relating to rates, fares, charges, scheduling, marketing, or operations of service provided pursuant to this subsection, and the Corporation fails to institute such service or to enter into or modify such contract or agreement, as the case may be, such State, regional, or local agency may petition the Commission for an order directing the Corporation to comply with its request. If the Commission determines, upon receipt of such a petition and after notice and an opportunity for a hearing, that the request which is the subject of such petition is consistent with the public interest and the purposes of this subsection, the Commission may enter an order directing the Corporation to comply with such request or to take such other action as the Commission considers appropriate.".

Notice and hearing.

ADDITIONAL SERVICE

SEC. 18. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended by adding at the end thereof the following new subsection:

"(d) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.".

"Commuter rail passenger service."

MAIL SERVICE

45 USC 545a.

SEC. 19. The National Railroad Passenger Corporation shall utilize all feasible means, including taking into account the needs of the United States Postal Service in establishing schedules, to attract and service the bulk mail needs of the Postal Service.

EFFECTIVE DATES

45 USC 541 note.

SEC. 20. (a) Except as provided in subsection (b) or (c) of this section, the provisions of this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The provisions of section 7 of this Act shall take effect on January 1, 1979.

(c) The amendments made by section 9 and section 16 of this Act shall take effect on October 1, 1978.

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1182 accompanying H.R. 11493 (Comm. on Interstate and Foreign Commerce) and No. 95-1478 (Comm. of Conference).
SENATE REPORT No. 95-782 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 10, considered and passed Senate.
June 21, 23, H.R. 11493 considered and passed House; proceedings vacated; S. 3040, amended, passed in lieu.
Sept. 19, House agreed to conference report.
Sept. 23, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
Oct. 6, Presidential statement.

Public Law 95-422
95th Congress

An Act

Oct. 5, 1978
[H.R. 11291]

To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended—

Federal Fire Prevention and Control Act of 1974, amendment. Appropriation authorization.

(1) by striking out "except section 11 of this Act," and insert in lieu thereof "except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act,";

(2) by striking out "and" after "September 30, 1977,"; and

(3) by inserting immediately after "1978" the following: ", and not to exceed $24,352,000 for the fiscal year ending September 30, 1979".

Appropriation authorization.

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)), is amended—

(1) by striking out "and" after "September 30, 1977,", and

(2) by inserting immediately after "1978" the following: ", and not to exceed $5,600,000 for the fiscal year ending September 30, 1979".

National Fire Prevention and Control Administration, name change.

SEC. 2. (a)(1) Sections 3, 4, and 5 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2202–2204) are amended by striking out "National Fire Prevention and Control Administration" each place it appears and inserting in lieu thereof "United States Fire Administration".

(2) The heading of section 5 of such Act is amended by striking out "NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION" and inserting in lieu thereof "UNITED STATES FIRE ADMINISTRATION".

(b) Section 16(a) of the Act of March 3, 1901 (15 U.S.C. 278f(a)), is amended by striking out "National Fire Prevention and Control Administration" in the matter preceding paragraph (1) and inserting in lieu thereof "United States Fire Administration".

(c) Section 12(g) of the Act of February 14, 1903 (15 U.S.C. 1511), is amended by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "United States Fire Administration".

SEC. 3. (a) The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PROGRAMS TO COMBAT ARSON

15 USC 2220.

"SEC. 24. (a) The Administrator shall—

"(1) develop arson detection techniques to assist Federal agencies and States and local jurisdictions in improving arson prevention, detection, and control;

"(2) provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control;

"(3) formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;

"(4) develop and implement programs for improved collection of nationwide arson statistics within the National Fire Incident Reporting System at the National Fire Data Center;

"(5) develop programs for public education on the extent, causes, and prevention of arson; and

"(6) develop handbooks to assist Federal, State, and local fire service and law enforcement personnel in arson prevention and detection.

"(b)(1) The Administrator shall prepare and submit to Congress, not later than March 15, 1979, a report on ways in which the Federal Government may better assist the States and local jurisdictions in providing for more effective arson prevention, detection, and control. Such report shall include, but need not be limited to— Report to Congress.

"(A)(i) an assessment of State and local capabilities in regard to arson investigation and detection; and

"(ii) an evaluation of the necessity for and the desirability of Federal supplementation of such State and local capabilities or other Federal assistance in arson detection;

"(B) a summary of Federal programs which seek to reduce arson;

"(C) an identification and analysis of existing Federal and State laws which may contribute to the incidence of arson;

"(D) recommendations for additional legislation or other programs, including research programs, or policies which may be required to assist in reducing arson in the United States; and

"(E) an assessment, where practical, of the costs and benefits of those programs and activities cited in paragraphs (1) through (4) of subsection (a) or recommended by the Administration.

"(2) Of the funds authorized to be appropriated in section 17 of this Act, $100,000 shall be available in fiscal year 1979 for carrying out the purposes of paragraph (1) of this subsection.". 15 USC 2216.

(b) Section 16(a)(1) of the Act of March 3, 1901 (15 U.S.C. 278f(a)(1)), as amended, is further amended by—

(1) striking out "and" at the end of clause (G) thereof;

(2) adding "and" at the end of clause (H) thereof; and

(3) adding at the end thereof the following:

"(I) methods, procedures, and equipment for arson prevention, detection, and investigation;".

SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), as amended by section 3 of this Act, is further amended by adding at the end thereof the following new section:

"ACADEMY SITE

"SEC. 25. (a) The Administrator is authorized to sell the former Marjorie Webster Junior College facility, located in Washington, D.C., which was previously purchased as the site for the Academy. In the event of the sale of such facility, the Administrator shall establish within the Administration an Academy Acquisition and Construction Account (hereinafter referred to as the 'Account'), and shall deposit into such Account only the proceeds from the sale of such facility. Following such deposit, the Administrator shall calculate 15 USC 2221.

Academy Acquisition and Construction Account.

the sum of both the funds deposited into the Account, and the total monies which have been or may be appropriated for the acquisition, construction, and/or rehabilitation of a site for the Academy. If the Administrator finds that the total amount so calculated would exceed $9,000,000, the Administrator shall deduct from the Account the difference between this combined total and $9,000,000, and shall deposit such difference into the Treasury as miscellaneous receipts.

"(b) The Administrator is thereafter authorized and directed to retain and apply funds in the Account for the acquisition, construction, and/or rehabilitation of any site which may be selected, together with such other monies as have been or may be appropriated for such purposes, except that the total authorized expenditure for such monies shall not exceed $9,000,000. Such sums shall remain available until expended.".

Approved October 5, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-992 (Comm. on Science and Technology).
SENATE REPORT No. 95-798 accompanying S.1794 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 15, considered and passed House.
June 13, considered and passed Senate, amended, in lieu of S. 1794.
Sept. 21, House concurred in Senate amendment with an amendment.
Sept. 22, Senate concurred in House amendment.

Public Law 95-423
95th Congress

An Act

To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale.

Oct. 6, 1978
[H.R. 1920]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxes.
Alcoholic beverages, excise tax refund.

SECTION 1. REFUND OF TAX ON ALCOHOLIC BEVERAGE LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

(a) IN GENERAL.—So much of section 5064 of the Internal Revenue Code of 1954 (relating to losses caused by disaster) as precedes subsection (c) is amended to read as follows:

26 USC 5064.

"SEC. 5064. LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

"(a) PAYMENTS.—The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

Regulations.

"(1) fire, flood, casualty, or other disaster, or

"(2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, rectified products, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, rectified products, or beer for sale at the time of such disaster or other damage.

"(b) CLAIMS.—

"(1) PERIOD FOR MAKING CLAIM; PROOF.—No claim shall be allowed under this section unless—

"(A) filed within 6 months after the date on which such distilled spirits, wines, rectified products, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

"(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

"(i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the distilled spirits, wines, rectified products, or beer covered by the claim; and

"(ii) is entitled to payment under this section.

"(2) MINIMUM CLAIM.—Except as provided in paragraph (3)(A), no claim of less than $250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

42 USC 5121 note.

"(3) SPECIAL RULES FOR MAJOR DISASTERS.—If the President has determined under the Disaster Relief Act of 1974 that a 'major disaster' (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

"(A) paragraph (2) shall not apply, and

"(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

"(4) REGULATIONS.—Claims under this section shall be filed under such regulations as the Secretary shall prescribe.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter A of chapter 51 of such Code is amended by striking out the item relating to section 5064 and inserting in lieu thereof the following:

"Sec. 5064. Losses resulting from disaster, vandalism, or malicious mischief.".

26 USC 5064 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

Approved October 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1038 (Comm. on Ways and Means).
SENATE REPORT No. 95-1112 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed House.
Aug. 25, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendment with amendments.
Sept. 25, Senate concurred in House amendments.

Public Law 95-424
95th Congress

An Act

To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

Oct. 6, 1978
[H.R. 12222]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

International Development and Food Assistance Act of 1978.
22 USC 2151 note.

SECTION 1. This Act may be cited as the "International Development and Food Assistance Act of 1978".

TITLE I—DEVELOPMENT ASSISTANCE

DEVELOPMENT ASSISTANCE POLICY

22 USC 2151.

SEC. 101. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by striking out section 102 and inserting in lieu thereof the following new sections:

"SEC. 101. GENERAL POLICY.—(a) The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.

"Therefore, the Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

"United States development cooperation policy should emphasize four principal goals:

"(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

"(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

"(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; and

"(4) the integration of the developing countries into an open and equitable international economic system.

"The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy and that United States development resources be effectively and efficiently utilized.

"(b) Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should have the responsibility for coordinating all United States development-related activities.

22 USC 2151-1.

"SEC. 102. DEVELOPMENT ASSISTANCE POLICY.—(a) The Congress finds that the efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

"Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by the United States Government or indirectly through callable capital provided to the international financial institutions.

"Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

"The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

"(b) Assistance under this chapter should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate

United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives set forth in section 101 and in subsection (a) of this section, bilateral development assistance authorized by this Act shall be carried out in accordance with the following principles:

Bilateral assistance, guidelines.

"(1) Development is primarily the responsibility of the people of the developing countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of this part, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient countries.

"(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

"(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

"(4) Development assistance provided under this chapter shall be concentrated in countries which will make the most effective use of such assistance to help satisfy basic human needs of poor people through equitable growth, especially in those countries having the greatest need for outside assistance. In order to make possible consistent and informed judgments in this respect, the President shall assess the commitment and progress of countries in moving toward the objectives and purposes of this chapter by utilizing criteria, including but not limited to the following:

"(A) increase in agricultural productivity per unit of land through small-farm, labor-intensive agriculture;

"(B) reduction of infant mortality;

"(C) control of population growth;

"(D) promotion of greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers;

"(E) reduction of rates of unemployment and underemployment; and

"(F) increase in literacy.

"(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries; food production and nutrition; rural development and generation of gainful employment; population planning and health; environment and natural resources; and education, development administration, and human resource development.

"(6) United States assistance shall encourage and promote the participation of women in the national economies of developing

countries and the improvement of women's status as an important means of promoting the total development effort.

"(7) United States bilateral assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes efficient utilization of energy and, therefore, consideration shall be given to the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

"(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

"(9) To the maximum extent practicable, United States private investment should be encouraged in economic and social development programs to which the United States lends support.

"(10) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

"(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

"(12) United States bilateral development assistance should be concentrated on projects which do not involve large-scale capital transfers. However, to the extent that such assistance does involve large-scale capital transfers, it should be furnished in association with contributions from other countries working together in a multilateral framework.

"(c) The Congress, recognizing the desirability of overcoming the worst aspects of absolute poverty by the end of this century by, among other measures, substantially lowering infant mortality and birth rates, and increasing life expectancy, food production, literacy, and employment, encourages the President to explore with other countries, through all appropriate channels, the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the year 2000.".

DEVELOPMENT ASSISTANCE AUTHORITIES

SEC. 102. (a) Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

Presidential authority.
22 USC 2151t.

"SEC. 122. GENERAL AUTHORITIES.—(a) In order to carry out the purposes of this chapter, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.".

(b) (1) Part I of such Act is further amended—

22 USC 2161.

(A) by striking out "less developed friendly" in the first sentence in subsection (b) of section 201;

(B) by striking out everything after the first sentence in subsection (b) of section 201 through "herein) be loaned" in subsection (d) of such section and inserting in lieu thereof the following:

"The President shall determine the interest payable on any loan. In making loans under this chapter, the President shall consider the economic circumstances of the borrower and other relevant factors, including the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made"; and

(C) by inserting subsection (b) of section 201, as amended by subparagraphs (A) and (B) of this paragraph, immediately after section 122(a), as added by subsection (a) of this section.

(2)(A) Section 301(a) of such Act is amended by striking out "201(d)" and inserting in lieu thereof "122(b)". 22 USC 2221.

(B) Section 103(b) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking out "201" and inserting in lieu thereof "122". 7 USC 1703.

(C) Section 106(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended in the second sentence by striking out "201" and inserting in lieu thereof "122(b)". 7 USC 1706.

(c)(1) Section 122 of the Foreign Assistance Act of 1961, as added by subsection (a) of this section and as amended by subsection (b)(1) of this section, is amended by adding at the end thereof the following new subsections:

"(c) Dollar receipts paid during any fiscal year from loans made under this part or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

"(d) Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this chapter may be used for assistance, on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.". Funds, limitation.

(2) Section 299(a) of such Act is amended by striking "110(b), 211(a), and 211(d)" and inserting in lieu thereof "110(b) and 122(d)". 22 USC 2220d.

(d) Part I of such Act is further amended—

(1) in section 204— 22 USC 2164.

(A) by striking out "SEC. 204. DEVELOPMENT LOAN COMMITTEE.—" and inserting in lieu thereof "(e)"; and

(B) by striking out "title" and inserting in lieu thereof "chapter"; and

(2) by inserting such section, as so redesignated and amended, at the end of section 122, as added and amended by subsections (a) through (c) of this section.

(e) Chapter 1 of part I of such Act, as amended by subsections (a) through (d) of this section, is further amended by adding at the end thereof the following new section:

"SEC. 123. PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES IN OVERSEAS DEVELOPMENT.—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human Private and voluntary organizations. 22 USC 2151u.

resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 102. The Congress urges the Administrator of the agency primarily responsible for administering this part, in implementing programs authorized under this part, to draw on the resource of private and voluntary organizations and cooperatives to plan and carry out development activities.

Ante, p. 938.

"(b) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this chapter to pay transportation charges on shipments by the American National Red Cross and by United States voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid.

Reimbursement.

"(c) Reimbursement under this section may be provided for transportation charges on shipments from United States ports, or in the case of excess or surplus property supplied by the United States from foreign ports, to ports of entry abroad or to points of entry abroad in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

Transportation costs, defraying of.

"(d) Where practicable, the President shall make arrangements with the receiving country for free entry of such shipments and for the making available by the country of local currencies for the purpose of defraying the transportation costs of such shipments from the port or point of entry of the receiving country to the designated shipping point of the consignee.".

Repeal.

(f) Section 115 of such Act is repealed.

22 USC 2151m.

(g)(1) Chapter 2 of part I of such Act, as amended by this section, is further amended—

Repeal.
22 USC 2161, 2162, 2164, 2167, 2168, 2171, 2172, 2175, 2176–2178, 2180, 2180a, 2211–2213, 2216–2217a.

(A) by repealing title I (except sections 206 and 209), title II except sections 214 and 219), title VI, title VII, and title VIII;

(B) by amending the chapter heading to read as follows: "CHAPTER 2—OTHER PROGRAMS";

(C) by inserting the following new title heading immediately before section 206: "TITLE I—MULTILATERAL AND REGIONAL DEVELOPMENT PROGRAMS"; and

(D) by inserting the following new title heading immediately before section 214: "TITLE II—AMERICAN SCHOOLS AND HOSPITALS ABROAD; PROTOTYPE DESALTING PLANT".

22 USC 2166.
22 USC 2174.
22 USC 2218.

(2)(A) Section 281 of such Act is amended by inserting "and chapter 1" immediately after "this chapter" each of the four places it appears.

22 USC 2351.

(B) Section 601(b)(5) of such Act is amended by striking out "201" and inserting in lieu thereof "122".

22 USC 2358.

(C) Section 608(a) of such Act is amended by striking out "section 212" and inserting in lieu thereof "chapter 1 of part I".

(D) Section 611(a) of such Act is amended by striking out "titles I, II, and VI of chapter 2 and chapter 4 of part I" and inserting in lieu thereof "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II". 22 USC 2361.

(E) Section 611(e) of such Act is amended by striking out "titles I, II, or VI of chapter 2 or chapter 4 of part I of this Act" and inserting in lieu thereof "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II".

(F) Section 620(d) of such Act is amended by striking out "under section 201" and inserting in lieu thereof "on a loan basis under chapter 1 of part I". 22 USC 2370.

(G) Section 635(h) of such Act is amended by striking out "titles II, V, and VI (except development loans)" and inserting in lieu thereof "chapter 1 (except development loans) and title II". 22 USC 2395.

(H) Section 636(c) of such Act is amended by striking out "(other than title I of chapter 2 of part I)" both places it appears. 22 USC 2396.

(I) Section 636 (d) and (e) of such Act are each amended by striking out "(other than title I of chapter 2 of part I)".

(J) Section 636(f) of such Act is amended—

(i) by striking out "section 212" and inserting in lieu thereof "chapter 1 of part I"; and

(ii) by striking out "title I of chapter 2" and inserting in lieu thereof "chapter 1".

(K) (i) Section 108 of such Act is repealed. Repeal.

(ii) Section 109 of such Act is amended by striking out "Notwithstanding section 108 of this Act, whenever" and inserting in lieu thereof "Whenever". 22 USC 2151f. 22 USC 2151g.

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 103. (a) Section 103 of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2151a.

"SEC. 103. AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION.—(a)(1) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition— Presidential authority.

"(A) to alleviate starvation, hunger, and malnutrition;

"(B) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

"(C) to help create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural poor people to the economic and social development of their countries.

"(2) There is authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $665,231,000 for the fiscal year 1979. Amounts appropriated under this section are authorized to remain available until expended. Appropriation authorization.

"(b)(1) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity and income of the rural poor, through such means as

creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems; expansion of rural infrastructure and utilities such as farm-to-market roads, water management systems, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements; and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, forestry, soil conservation, and improved seed, in ways which assure access to them by small farmers.

Infrastructure projects.

"(2) In circumstances where development of major infrastructure is necessary to achieve the objectives set forth in this section, assistance for that purpose should be furnished under this chapter in association with significant contributions from other countries working together in a multilateral framework. Infrastructure projects so assisted should be complemented by other measures to ensure that the benefits of the infrastructure reach the poor.

"(c) The Congress finds that the greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the agricultural producers in developing countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an important factor in alleviating inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be given to increasing agricultural production in countries which have been designated as 'least developed' by the United Nations General Assembly.

Nutrition.

Post, p. 9450.

"(d) Assistance provided under this section shall also be used in coordination with programs carried out under section 104 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the President is encouraged—

"(1) to devise and carry out in partnership with developing countries a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

"(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

"(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.".

7 USC 1691 note.

22 USC 2403.

(b) Section 644 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"(o) 'Agriculture' includes aquaculture and fisheries.

"(p) 'Farmers' includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.".

(c) Sections 117 and 296 (f) and (g) of such Act are repealed. Repeal.

(d) Section 103A of such Act is amended by inserting "environmental," immediately after "social," in clause (2) of the first sentence. 22 USC 2151o, 2220a. 22 USC 2151a-1.

POPULATION AND HEALTH

SEC. 104. (a) Section 104 of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2151b.

"SEC. 104. POPULATION AND HEALTH.—(a) FINDINGS.—The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts.

"Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

"Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process, while poor health and debilitating disease can limit productivity.

"(b) ASSISTANCE FOR POPULATION PLANNING.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for voluntary population planning. In addition to the provision of family planning information and services and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families. Population planning assistance, presidential authority.

"(c) ASSISTANCE FOR HEALTH AND DISEASE PREVENTION.—In order to contribute to improvements in the health of the greatest number of poor people in developing countries, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health programs. Assistance under this subsection shall be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control, and related health planning and research. This assistance shall emphasize self-sustaining community-based health programs by means such as training of health auxiliary and other appropriate personnel, support for the establishment and evaluation of projects that can be replicated on a broader scale, measures to improve management of health programs, and other services and supplies to support health and disease prevention programs. Health programs, presidential authority.

"(d) INTEGRATION OF ASSISTANCE PROGRAMS.—(1) Assistance under this chapter shall be administered so as to give particular attention to the interrelationship between (A) population growth, and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and

activities on population growth. All appropriate activities proposed for financing under this chapter shall be designed to build motivation for smaller families through modification of economic and social conditions supportive of the desire for large families, in programs such as education in and out of school, nutrition, disease control, maternal and child health services, improvements in the status and employment of women, agricultural production, rural development, and assistance to the urban poor. Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

"(2) Since the problems of malnutrition, disease, and rapid population growth are closely related, planning for assistance to be provided under subsections (b) and (c) of this section and under section 103 shall be coordinated to the maximum extent practicable.

Ante, p. 943.

"(3) Assistance provided under this section shall emphasize low-cost integrated delivery systems for health, nutrition, and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

Health and population research and analysis.

"(e) RESEARCH AND ANALYSIS.—(1) Health and population research and analysis carried out under this Act shall—

"(A) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked as appropriate with private and governmental biomedical research facilities within the United States;

"(B) take account of the special needs of the poor people of developing countries in the determination of research priorities; and

"(C) make extensive use of field testing to adapt basic research to local conditions.

Presidential study, authorization.

"(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or to space their children.

Funds, prohibited use.

"(f) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to carry out this part may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

"(2) None of the funds made available to carry out this part may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $224,745,000 for the fiscal year 1979 to carry out subsection (b) of this section; and

"(2) $148,494,000 for the fiscal year 1979 to carry out subsection (c) of this section.

Funds appropriated under this subsection are authorized to remain available until expended.".

(b) Section 114 and title X of chapter 2 of part I of such Act are repealed. Repeal. 22 USC 2151*l*, 2219, 2219a.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 105. Section 105(a) of the Foreign Assistance Act of 1961 is amended in the second sentence by striking out "$101,800,000 for the fiscal year 1977 and $84,900,000 for the fiscal year 1978, which amounts are" and inserting in lieu thereof "$109,036,000 for the fiscal year 1979, which amount is". 22 USC 2151c.

TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS

SEC. 106. Section 106(b) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$104,500,000 for the fiscal year 1977 and $105,000,000 for the fiscal year 1978, which amounts are" and inserting in lieu thereof "$126,244,000 for the fiscal year 1979, which amount is". 22 USC 2151d.

APPROPRIATE TECHNOLOGY

SEC. 107. Section 107 of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2151e.

"SEC. 107. APPROPRIATE TECHNOLOGY.—(a) In carrying out activities under this chapter, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

"(b) Funds made available to carry out this chapter should be used to the extent practicable for activities in the field of appropriate technology, including support of an expanded and coordinated private effort to promote the development and dissemination of appropriate technology in developing countries.".

WOMEN IN DEVELOPMENT

SEC. 108. Section 113 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection: 22 USC 2151k.

"(d)(1) Up to $10,000,000 of the funds made available each fiscal year under this chapter shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women. Funds, use of.

"(2) Nothing in this section shall be construed to authorize the establishment of a separate development assistance program for women.".

HUMAN RIGHTS ACTIVITIES

SEC. 109. Section 116(e) of the Foreign Assistance Act of 1961 is amended in the first sentence— 22 USC 2151n.

(1) by striking out "Of" and inserting in lieu thereof "The President is authorized and encouraged to use not less than $1,500,000 of"; and

(2) by striking out "1978, not less than $750,000 may be used only" and inserting in lieu thereof "1979".

ENVIRONMENT AND NATURAL RESOURCES

22 USC 2151p.

SEC. 110. Section 118 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately after the section caption; and

(2) by adding at the end thereof the following new subsections:

"(b) In carrying out programs under this chapter, the President shall take into consideration the environmental consequences of development actions.

Presidential studies.

"(c) In furtherance of the purposes of this section, the President shall carry out studies to identify the major environment and natural resource problems, and the institutional capabilities to solve those problems, which exist in developing countries. The results of these studies shall be reported to the Congress by March 1, 1979.".

Report to Congress.

RENEWABLE AND UNCONVENTIONAL ENERGY TECHNOLOGIES

22 USC 2151q.

SEC. 111. Section 119 of the Foreign Assistance Act of 1961 is amended to read as follows:

Cooperative programs.

"SEC. 119. RENEWABLE AND UNCONVENTIONAL ENERGY TECHNOLOGIES.—(a) The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation, with particular emphasis on programs in research and development, and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another.

Ante, p. 943.

Administration.

"(b) The agency primarily responsible for administering this part shall coordinate with the Department of Energy, to the maximum extent possible, the planning and implementation of energy programs authorized under this chapter, including section 107, and shall consult with the Department of Energy on such planning and implementation.".

Ante, p. 947.

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 112. (a)(1) Chapter 1 of part I of the Foreign Assistance Act of 1961, as amended by section 102 of this Act, is further amended by inserting the following new section 124 immediately after section 123:

22 USC 2151v.

"SEC. 124. RELATIVELY LEAST DEVELOPED COUNTRIES.—(a) Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of 'least developed countries') are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under this part.

"(b) For the purpose of promoting economic growth in these countries, the President is authorized and encouraged to make assistance under this chapter available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives. Grants.

"(c)(1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 101 and 102— Grant assistance terms. 22 USC 2370. 22 USC 2220a note. *Ante*, p. 937.

"(A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under this part (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for activities which are consistent with section 102; and

"(B) may waive interest payments on liability incurred by a relatively least developed country under this part (or any predecessor legislation) if the President determines that that country would be unable to use for development purposes the equivalent amounts of local currencies which could be made available under subparagraph (A).

"(2) The aggregate amount of interest waived and interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs.

"(3) In exercising the authority granted by this subsection, the President should act in concert with other creditor countries.

"(d) The President may on a case-by-case basis waive the requirement of section 110(a) for financial or 'in kind' contributions in the case of programs, projects, or activities in relatively least developed countries. Waiver. 22 USC 2151h.

"(e) Section 110(b) shall not apply with respect to grants to relatively least developed countries.".

(2) The authority granted by section 124(c) of the Foreign Assistance Act of 1961 shall not become effective until October 1, 1979. 22 USC 2151v note.

(b)(1) Section 110(a) of such Act is amended by striking out "and except that" and all that follows through the end of the sentence and inserting in lieu thereof a period. *Ante*, p. 948. 22 USC 2151h.

(2) Section 110(b) of such Act is amended by striking out "Except" and all that follows through "no" and inserting in lieu thereof "No".

PROJECT AND PROGRAM EVALUATION

SEC. 113. Chapter 1 of part I of the Foreign Assistance Act, as amended by sections 102 and 112 of this Act, is further amended by inserting the following new section 125 immediately after section 124:

Administration.
22 USC 2151w.

"SEC. 125. PROJECT AND PROGRAM EVALUATION.—(a) The Administrator of the agency primarily responsible for administering this part is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this chapter. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

Presidential reports.

"(b) The President shall report on actions taken by the international financial institutions and the United Nations Development Program to improve the evaluation of projects and programs conducted by those institutions. The report required by this subsection shall be submitted as a part of the report required by section 634.".

22 USC 2394.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

Appropriation authorization.
22 USC 2174.

SEC. 114. Section 214 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (c) by striking out "for the fiscal year 1977, $25,000,000, and for the fiscal year 1978, $25,000,000, which amounts are" and inserting in lieu thereof "$25,000,000 for the fiscal year 1979, which amount is"; and

(2) by striking out subsections (d) and (e) and by redesignating subsection (f) as subsection (d).

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

SEC. 115. (a) Sections 221 and 222 of the Foreign Assistance Act of 1961 are amended to read as follows:

22 USC 2181.

"SEC. 221. HOUSING GUARANTIES.—The Congress recognizes that shelter requirements are among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such housing must come from domestic resources. the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved housing and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost housing can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost housing. Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

22 USC 2182.

"SEC. 222. AUTHORIZATION.—(a) To carry out the policy of section 221, the President is authorized to issue guaranties to eligible investors

(as defined in section 238(c)) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 221. The total principal amount of guaranties issued under this title or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $1,180,000,000. The authority of this section shall continue until September 30, 1980. The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders. 22 USC 2198. *Ante*, p. 950. Regulations.

"(b) Activities carried out under this section shall emphasize—

"(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

"(2) projects comprised of expandable core shelter units on serviced sites;

"(3) slum upgrading projects designed to conserve and improve existing shelter;

"(4) shelter projects for low income people designed for demonstration or institution building purposes; and

"(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

"(c) In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.". Solar energy technologies.

(b) Section 222A(h) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979". 22 USC 2182a.

(c) Section 223(a) of such Act is amended by striking out "221, 222." and inserting in lieu thereof "222". 22 USC 2183.

(d) Section 223(b) of such Act is amended in the first sentence—

(1) by striking out "221 or" the first place it appears;

(2) by striking out "221 and section 222 and of" and inserting in lieu thereof "222 and administering housing guaranties heretofore authorized under this title and under";

(3) by striking out "section 221 or" the second place it appears; and

(4) by inserting "this title or" immediately after "heretofore pursuant to".

(e) Section 223(c) of such Act is amended by striking out "section 221 or" and by inserting "under this title or" immediately after "heretofore".

(f) Section 223(d) of such Act is amended—

(1) by striking out "221, 222, 222A," and inserting in lieu thereof "222 or 222A"; and

(2) by inserting "under this title or" immediately after "heretofore".

(g) Section 223(f) of such Act is amended in the first sentence by striking out "section 221 or".

(h) Section 223(g) of such Act is amended by inserting "heretofore under this title or" immediately after "outstanding".

Repeal.
22 USC 2183.

(i) Section 223(i) of such Act is repealed.

(j) Section 223(j) of such Act is amended by striking out "sections 221 and" in the first sentence and inserting in lieu thereof "section".

22 USC 2370.

(k) Section 620(l) of such Act is amended by striking out "221 (b)(1)" both places it appears and inserting in lieu thereof "234 (a)(1)".

ASSISTANCE FOR CERTAIN DISADVANTAGED CHILDREN IN ASIA

SEC. 116. Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by striking out the title heading for title V and inserting in lieu thereof the following:

"TITLE V—DISADVANTAGED CHILDREN IN ASIA

22 USC 2201.

"SEC. 241. ASSISTANCE TO CERTAIN DISADVANTAGED CHILDREN IN ASIA.—(a) The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the United States citizens.

Appropriation authorization.

"(b) Accordingly, the President is authorized to expend up to $2,000,000 of funds made available under chapter 1 of this part, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

United Nations Trust Fund on South Africa, appropriation authorization.
22 USC 2222.

SEC. 117. (a) Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "for the fiscal year 1977, $219,900,000 and for the fiscal year 1978, $252,000,000" and inserting in lieu thereof "$285,450,000 for the fiscal year 1979 of which not to exceed $300,000 shall be available for contribution to the United Nations Trust Fund on South Africa".

(b)(1) Section 302(a)(1) of such Act is further amended—

(A) by striking out "$42,500,000" in the third sentence and inserting in lieu thereof "$52,000,000"; and

United Nations Relief and Works Agency for Palestine Refugees, appropriation authorization.

(B) by inserting immediately after the third sentence the following: "Of the funds authorized to be appropriated under this subsection for the fiscal year 1979, not to exceed $52,000,000 shall be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees, except that not more than $42,500,000 of this amount may be obligated unless the President certifies to the Congress that any contributions above this level have been matched by equivalent contributions by members of the Organization of Petroleum Exporting Countries.".

(2) Not later than January 31, 1979, the Secretary of State shall provide the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives with a full and detailed report on the progress made by the Commissioner-General of the United Nations Relief and Works Agency to improve the ration distribution system so that food to Palestine refugees can be more equitably distributed on the basis of need, rather than entitlement.

Report to congressional committees. 22 USC 2222 note.

(c) Section 302(a) of such Act is amended by adding at the end thereof the following new paragraph:

Funds, prohibition. 22 USC 2222.

"(3) None of the funds made available under this subsection for the fiscal year 1979 may be used for the United Nations Institute for Namibia unless the President determines that such funds will not be used to support the military or paramilitary activities of the Southwest African Peoples Organization.".

(d) Section 301 of such Act is amended by adding at the end thereof the following new subsection: 22 USC 2221.

"(g) It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.".

(e) In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection are authorized to remain available until expended.

World Assembly on Aging, appropriation authorization. 22 USC 2222 note.

INTERNATIONAL DISASTER ASSISTANCE

SEC. 118. (a) Section 491(b) of the Foreign Assistance Act of 1961 is amended by striking "or international organization" and inserting in lieu thereof ", international organization, or private voluntary organization,". 22 USC 2292.

(b) Section 492 of such Act is amended—

Appropriation authorization. 22 USC 2292a.

(1) in the first sentence by striking out "each of the fiscal years 1977 and 1978" and inserting in lieu thereof "the fiscal year 1979"; and

(2) by striking out the third sentence.

ASSISTANCE FOR AFRICAN REFUGEES

SEC. 119. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended— 22 USC 2292.

(1) by redesignating section 495D, as added by section 121 of the International Development and Food Assistance Act of 1977, as section 495E; and 22 USC 2292k.

(2) by adding at the end thereof the following new section:

"SEC. 495F. ASSISTANCE TO AFRICAN REFUGEES.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, exclusively for the relief and rehabilitation of African refugees and other needy people located in Africa. There is authorized to be appropriated for the fiscal year 1979 for purposes of this section, in addition to amounts otherwise available for such purposes, 22 USC 2292l.

Appropriation authorization.

$15,000,000, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

LOCUST PLAGUES CONTROL IN AFRICA

Appropriation authorization. 22 USC 2292d note.

SEC. 120. In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended.

REIMBURSABLE DEVELOPMENT PROGRAMS

Appropriation authorization. 22 USC 2421.

SEC. 121. Section 661 of the Foreign Assistance Act of 1961 is amended by striking out "$2,000,000" the first place it appears and all that follows through "1978," and inserting in lieu thereof "$3,000,000 of the funds made available for the purposes of this Act for the fiscal year 1979".

AFRICAN DEVELOPMENT FOUNDATION

Community-based self-help activities. 22 USC 2151u note.

SEC. 122. (a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961, can complement current United States development programs in Africa.

Ante, p. 941.

Report to Congress.

(b) The Congress therefore requests that the President report to the Congress not later than February 1, 1979, on steps he has taken to review proposals for an African Development Foundation.

TITLE II—FOOD FOR PEACE

EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING BASIC FOOD NEEDS

7 USC 1711 note.

SEC. 201. The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural

7 USC 1701.

Trade Development and Assistance Act of 1954 often is distributed within those countries in ways which do not significantly alleviate

Report to Congress.

hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act) to increase the effectiveness of food assistance under that Act in meeting those needs.

7 USC 1721, 1727.

TRANSPORTATION COSTS FOR FOOD FOR DEVELOPMENT PROGRAMS

SEC. 202. Section 304 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new subsection: 7 USC 1727c.

"(d) The Commodity Credit Corporation may pay, with respect to commodities made available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, freight charges from United States ports to designated ports of entry abroad or to designated points of entry abroad in the case of landlocked countries.".

APPLICATION OF FOOD FOR DEVELOPMENT PROCEEDS TO REPAYMENT OBLIGATIONS

SEC. 203. Section 305 of the Agricultural Trade Development and Assistance Act of 1954 is amended— 7 USC 1727d.

(1) by inserting "(a)" immediately after "SEC. 305."; and

(2) by adding at the end thereof the following new subsection:

"(b) Such disbursements shall be deemed to be payments with respect to the credit furnished pursuant to the agreement or if, in the case of a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the disbursements in a fiscal year are greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this Act.".

TITLE III—COORDINATION AND ADMINISTRATION OF THE DEVELOPMENT-RELATED PROGRAMS AND POLICIES OF THE UNITED STATES

DECLARATION OF OBJECTIVES

SEC. 301. The Congress declares that the United States Government should place higher priority, in the formulation and implementation of governmental policies, on efforts to help meet the legitimate needs of poor countries for improving the quality of the lives of their populations. The Congress also declares that greater effectiveness and efficiency of United States assistance to such countries can be achieved through improved coordination and administrative consolidation. 22 USC 2151 note.

IMPLEMENTATION OF OBJECTIVES

SEC. 302. In furtherance of the objectives set forth in section 301 the Congress directs the President to institute a strengthened system of coordination of all United States economic policies which impact on the developing countries of the world, including but not limited to policies concerning international trade, commodity agreements, investment, debt, international financial institutions, international and multilateral development agencies and programs, and concessional and grant food assistance, in addition to policies concerning United States bilateral economic development assistance. 22 USC 2151 note.

39-194 O—80—pt. 1——64 : QL3

REPORT

Report to Congress. 22 USC 2151 note.

SEC. 303. The President shall report to the Congress not later than February 1, 1979, on the steps he has taken to implement this title and on any further legislation which may be needed to achieve the objectives of this title.

TITLE IV—UNIFIED PERSONNEL SYSTEM

ESTABLISHMENT OF A UNIFIED PERSONNEL SYSTEM

Regulations. Publication in Federal Register. 22 USC 2385a.

22 USC 2151.

SEC. 401. (a) Not later than March 15, 1979, the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, notwithstanding and inconsistent provision of law unless that provision of law specifically states that it supersedes regulations issued under this section.

TITLE V—ADMINISTRATIVE PROVISIONS

USE OF COMPETITIVE SELECTION PROCEDURES

Contract awards. 22 USC 2351.

SEC. 501. Section 601 of the Foreign Assistance Act of 1961 is amended by adding the following new subsection at the end thereof:

"(e)(1) The Congress finds that significantly greater effort must be made in carrying out programs under part I of this Act to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering part I of this Act allow noncompetitive procedures to be used.

"(2) In order to provide the Congress with information to assist it in assessing the efforts of the agency primarily responsible for administering part I of this Act to make the maximum possible use of competitive selection procedures, the Administrator of that agency—

Report to Congress.

"(A) when submitting the congressional presentation materials for developing assistance for fiscal year 1980, shall also submit to the Congress a report identifying and describing each contract

in an amount in excess of $100,000 which the agency entered into without competitive selection procedures during the period April 1, 1978, to September 30, 1978, and explaining why each such contract was not the subject of competitive selection procedures; and

"(B) when submitting the congressional presentation materials for development assistance for fiscal year 1981, shall also submit to the Congress a report identifying and describing each contract in an amount in excess of $100,000 which the agency entered into without competitive selection procedures during the fiscal year 1979 and explaining why each such contract was not the subject of competitive selection procedures.". Report to Congress.

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 502. (a) Chapter 2 of part III of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "(c)" in section 634(c) and inserting in lieu thereof "SEC. 633A. FURNISHING INFORMATION.—" and by inserting such redesignated section immediately after section 633; and 22 USC 2394. 22 USC 2393a. 22 USC 2393.

(2) by striking out the remaining provisions of section 634 and inserting in lieu thereof the following: 22 USC 2394.

"SEC. 634. ANNUAL REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding United States development policy, including the amounts and effectiveness of assistance provided by the United States Government to developing countries and international organizations, the Chairman of the Development Coordination Committee shall transmit to the Congress not later than February 1 of each year a report on foreign assistance for the fiscal year ending the previous September 30. The report shall include— Report to Congress.

"(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

"(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of chapter 1 of part I, including the progress developing countries are making toward achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment; and

"(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

"(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

"(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

"(B) as presented to Congress for the immediate preceding fiscal year;

"(C) as obligated during the immediately preceding fiscal year;

"(D) as planned for the fiscal year in which the report is presented; and

"(E) as proposed for the fiscal year following the year in which the report is presented;

"(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

"(4) the status of each loan and each contract of guaranty or insurance theretofore made under this Act, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guarantee in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which their remains outstanding any unpaid obligation or potential liability; the status of each sale of agricultural commodities on credit terms, theretofore made under the Agricultural Trade Development and Assistance Act of 1954 with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transaction listed in this paragraph which is in excess of $1,000,000;

22 USC 2751 note.

7 USC 1691 note.

12 USC 635 note.

"(5)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

"(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

"(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States; and

"(6) such other matters relating to foreign assistance provided by the United States Government under part I as the Chairman of the Development Coordination Committee considers appropriate.

Definitions.

"(b) For purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

"(2) 'provided by the United States Government' includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.".

(b) Part III of the Foreign Assistance Act of 1961 is amended by redesignating section 671 as section 634A and by inserting such redesignated section immediately after section 634. 22 USC 2429b. 22 USC 2394–1.

(c) Part III of such Act, as amended by subsection (b) of this section, is further amended by adding the following new section immediately after new section 634A:

"SEC. 634B. CLASSIFICATION OF REPORTS.—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.". 22 USC 2394–1a. Supplemental reports, national security considerations.

(d)(1) Title XI of chapter 2 of part I and sections 120(d), 222A(j), 495C(e), 620(w), 621A(c), 640B(d), and 657 of the Foreign Assistance Act of 1961 are repealed. Repeal. 22 USC 2220, 2151r, 2182a, 2292i, 2370, 2381a, 2399c, 2417.

(2) Section 640B(g) of such Act is amended by striking out "subsection (d), the President" and inserting in lieu thereof "section 634, the Chairman of the Committee". 22 USC 2399c.

REIMBURSABLE TECHNICAL ASSISTANCE

SEC. 503. Section 607 of the Foreign Assistance Act of 1961 is amended by redesignating subsection (b) as subsection (c) and by inserting the following new subsection (b) immediately after subsection (a): Contract authority. 22 USC 2357.

"(b) When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission.".

AUDITOR GENERAL

SEC. 504. Section 624 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection: Appointment. 22 USC 2384.

"(g)(1) In addition to the officers provided for in subsection (a) of this section, there shall be an Auditor General who shall be appointed by the Administrator of the agency primarily responsible for administering part I of this Act. The Auditor General shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. 22 USC 2151.

"(2) The Auditor General shall report to and be under the direct supervision of the Administrator.

"(3) The Auditor General shall, with respect to the duties and responsibilities of the agency primarily responsible for administering part I of this Act and subject to the authority of the Administrator of such agency, supervise, direct, and control all audit and investigative activities relating to the programs and operations of the agency.

"(4) The Auditor General shall submit an annual report to the Administrator. This report shall be provided to the Congress without Annual reports.

Ante, p. 957.

further clearance or approval as part of the annual report required by section 634 of this Act.

"(5) In the execution of the responsibilities and duties assigned in paragraph (3) of this subsection, the Auditor General shall have (A) access to all records, reports, papers, and documents of the agency and its administrative subdivisions, and (B) authority to request such information or assistance as necessary for carrying out the duties set forth in this subsection from any Federal, State, or local governmental agency or unit thereof, and from contractors, grantees, and loan recipients of the agency.".

MOTOR VEHICLES

22 USC 2396.

SEC. 505. Section 636(a)(5) of the Foreign Assistance Act of 1961 is amended by striking "$3,500" and inserting in lieu thereof "the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price)".

OPERATING EXPENSES

22 USC 2427.

SEC. 506. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) in the text preceding paragraph (1) by striking out "1978" and inserting in lieu thereof "1979"; and

(2) in paragraph (1) by striking out "$220,200,000" and inserting in lieu thereof "$261,000,000".

TITLE VI—MISCELLANEOUS PROVISIONS

REDUCTION OF AUTHORIZATION

22 USC 2151 note.

22 USC 2174.

SEC. 601. The total funds authorized to be appropriated in this Act (excluding funds authorized to be appropriated to carry out section 214 of the Foreign Assistance Act of 1961) shall be reduced by 5 percent.

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, UGANDA, AND CUBA

22 USC 2151 note.

SEC. 602. Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, Uganda, or Cuba.

REPORTS TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a.

SEC. 603. (a)(1) The Secretary of State shall keep the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress fully and currently informed of any negotiations with any foreign government with respect to any cancellation, renegotiations, rescheduling, compromise, or other form of debt relief (including any modification of the terms,

conditions, or manner of repayment), with regard to any debt owed to the United States by such foreign government.

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

International agreements concerning debt relief, transmittal to congressional committees.

(b) Section 4 of the Foreign Disaster Assistance Act of 1974 is repealed.

Repeal. 22 USC 2395 note.

MISCELLANEOUS REPEALS

SEC. 604. Sections 302(d), 302(e), 302(f), 302(g), 302(h), 304, 494A, 495A, 618, 619, 637(a), 649, 651, 655, 656, 658, and 665, and chapters 6 and 7 of part I, of the Foreign Assistance Act of 1961 are repealed.

Repeal. 22 USC 2222, 2224, 2292d, 2292g, 2368, 2369, 2397, 2408, 2410, 2415, 2416, 2418, 2425, 2271, 2281.

EFFECTIVE DATE

SEC. 605. The amendments made by this Act shall take effect on October 1, 1978.

22 USC 2151 note.

Approved October 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1087 (Comm. on International Relations) and No. 95-1545 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 11, 12, 15, considered and passed House.

June 26, considered and passed Senate, amended, in lieu of S. 3074.

Sept. 19, House agreed to conference report.

Sept. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:

Oct. 6, Presidential statement.

Public Law 95-425
95th Congress

An Act

Oct. 6, 1978
[H.R. 11567]

To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes.

Securities and Exchange Commission. Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) by striking out "and" after "September 30, 1977," in the first sentence;

(2) by inserting before the period at the end of the first sentence a comma and the following: "$69,000,000 for the fiscal year ending September 30, 1979, and $79,000,000 for the fiscal year ending September 30, 1980"; and

(3) by striking out "fiscal year 1978" in the last sentence and inserting in lieu thereof "fiscal year 1980".

SEC. 2. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$1,500,000" and inserting in lieu thereof "$2,000,000".

Approved October 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1010 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-1057 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 4, considered and passed House.
Aug. 9, considered and passed Senate, amended.
Sept. 7, House concurred in Senate amendments with an amendment.
Sept. 20, Senate concurred in House amendment.

Public Law 95-426
95th Congress

An Act

To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

Oct. 7, 1978
[H.R. 12598]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Relations Authorization Act, Fiscal Year 1979.

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1979".

TITLE I—DEPARTMENT OF STATE

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1979 to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $849,118,000.

(2) For "International Organizations and Conferences", $412,826,000.

(3) For "International Commissions", $20,773,000.

(4) For "Migration and Refugee Assistance", $116,536,000.

(5) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) Funds authorized to be appropriated for the fiscal year 1979 by paragraphs (1) through (4) of subsection (a) may be appropriated for the fiscal year 1979 for a purpose for which appropriations are authorized by any other of those paragraphs, except that the total amount appropriated for a purpose described in any of those paragraphs may not exceed by more than 10 percent the amount specifically authorized for that purpose by subsection (a).

SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1978 FOR INTERNATIONAL ORGANIZATIONS AND CONFERENCES

SEC. 102. Section 101(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended by striking out "$389,412,000" and inserting in lieu thereof "$426,687,000". 91 Stat. 844.

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

SEC. 103. (a) The Congress find that—

(1) science and technology are keys to eradicating hunger and poverty in developing countries;

(2) the ability of the developing countries to achieve self-sustaining growth has been hindered by the lack of an indigenous scientific and technological base;

(3) this scientific and technological base is vital to the emergence of developing countries as full and equal partners in the international system;

(4) expanded cooperation with respect to science and technology can significantly contribute to an improved North-South relationship; and

(5) the United Nations Conference on Science and Technology for Development offers a valuable forum for the analysis of problems of development that might be alleviated or solved with the aid of scientific and technical expertise.

(b) It is therefore the sense of the Congress that the United States should strongly support the purpose of the United Nations Conference on Science and Technology for Development and that the United States delegation to this conference should actively develop and offer proposals which would facilitate an expansion of mutually beneficial cooperation among developed and developing countries with respect to science and technology, including joint education and research and development programs.

(c) In addition to amounts otherwise available for such purpose, $945,000 of the amount authorized to be appropriated by section 101 (a)(1) of this Act shall be available only for expenses incurred by the Department of State in connection with the United Nations Conference on Science and Technology for Development, including expenses for preparatory conferences and seminars held in the United States.

MEMORIAL STATUTE OF GENERAL MARSHALL

SEC. 104. (a) The Secretary of State is authorized to acquire on behalf of the United States a memorial statue or bust of General George C. Marshall (hereafter in this section referred to as the "memorial") to be placed in an appropriate location within the Department of State.

Commission, establishment.

(b)(1) To assist the Secretary of State in carrying out the provisions of subsection (a), there is established a Commission to be composed of seven members as follows:

(A) The Secretary, who shall be the chairman of the Commission.

(B) Two members appointed by the Secretary.

(C) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(D) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives.

Compensation.

Members of the Commission shall serve without compensation.

(2) The Commission shall operate under the direction of the Secretary of State and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

(3) The Commission shall cease to exist upon completion of its functions under this section, as determined by the Secretary. Termination.

(c)(1) Of the funds authorized to be appropriated by section 101 (a)(1) of this Act, not more than $10,000 may be used for payment of costs incurred in carrying out subsection (a) of this section.

(2) All other costs incurred in carrying out subsection (a) shall be paid by the Secretary of State with funds contributed to the United States for such purpose.

(d) The Secretary of State shall be responsible for maintenance and care of the memorial.

FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

SEC. 105. (a) It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292(a)), in order that— 22 USC 292a.

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 119 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151q), cooperation may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b)(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926. 22 USC 292.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for— Consultation with Secretary of Energy.

(A) the heating and cooling of buildings;

(B) solar thermal electric systems;

(C) solar photovoltaic conversion systems;

(D) wind energy systems; and

(E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to Technical assistance.

projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give priority to projects to be implemented in developing countries.

22 USC 292.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, 1926, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) In addition to amounts otherwise available for such purposes, $4,000,000 of the amount authorized to be appropriated by section 101 (a) (1) of this Act shall be available only to carry out the purposes of this section.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 106. Of the amount authorized to be appropriated by section 101(a)(4) of this Act, $25,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

ASSISTANCE FOR REFUGEES IN AFRICA

SEC. 107. In addition to amounts otherwise available for such purpose, $5,000,000 of the amount authorized to be appropriated by section 101(a)(4) of this Act shall be available only for assistance for refugees in Africa.

AID TO DESTITUTE AMERICANS ABROAD

SEC. 108. (a) Section 3(j) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2670(j)), is amended by inserting "or destitute United States citizens abroad" immediately after "incarcerated abroad".

Effective date. 22 USC 2670 note.

(b) The amendment made by this section shall take effect on October 1, 1978.

WORKING CAPITAL FUND

SEC. 109. (a) Section 13 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2684), is amended—

(1) by striking out "supply" in clause (2) in the first sentence;

(2) by striking out ", and" at the end of clause (2) in the first sentence and inserting in lieu thereof a semicolon;

(3) by inserting immediately before the period at the end of the first sentence "; and (4) medical and health care services";

(4) by striking out the third sentence; and

(5) by inserting "(a)" immediately after "SEC. 13." and by adding the following new subsection at the end of the section:

"(b) The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.".

(b) The amendments made by this section shall take effect on October 1, 1978. Effective date. 22 USC 2684 note.

REPRESENTATION EXPENSES OF THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

SEC. 110. (a) Section 19 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2689), is amended by striking out "not to exceed $1,500 of the".

(b) The amendment made by this section shall take effect on October 1, 1978. Effective date. 22 USC 2689 note.

CONSOLIDATION OF ADMINISTRATIVE SERVICES

SEC. 111. (a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new section:

"SEC. 23. Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the International Communication Agency, the Agency for International Development, and the Arms Control and Disarmament Agency) determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.". 22 USC 2695.

(b) The amendment made by this section shall take effect on October 1, 1978. Effective date. 22 USC 2695 note.

POST EMPLOYEE SERVICES

SEC. 112. (a) Part C of title IX of the Foreign Service Act of 1946 (22 U.S.C. 1139) is amended—

(1) by striking out "COMMISSARY SERVICE" in the heading for that part and inserting in lieu thereof "POST EMPLOYEE SERVICES"; and

22 USC 1139.

(2) by amending subsections (b) and (c) of section 921 to read as follows:

"(b) The Secretary, under such regulations as he may prescribe, may authorize and assist in the establishment, maintenance, and operation by officers and employees of the Service of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by its diplomatic and consular missions. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–300), and section 13 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956 (22 U.S.C. 2684), may be utilized by the Secretary in providing such assistance. Services and facilities established under this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies and their dependents who are stationed abroad. Such services and facilities shall not be established in localities where another United States agency operates similar services or facilities unless the Secretary determines that such additional services or facilities are necessary.

"(c) Charges at any post abroad for a service or facility authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any Government agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.".

Effective date. 22 USC 1139 note.

(b) The amendments made by this section shall take effect on October 1, 1978.

FURNISHING MEDICAL SERVICES ABROAD

SEC. 113. (a) Part E of title IX of the Foreign Service Act of 1946 is amended—

(1) in section 942 (22 U.S.C. 1157) by striking out "(a)" and by striking out subsection (b); and

(2) by adding at the end of that part the following new section:

"FURNISHING MEDICAL SERVICES ABROAD

22 USC 1160.

"SEC. 945. The Secretary may establish medical treatment and health care facilities and provide for the services of physicians, nurses, or other medical or health care personnel at a post at which, in the opinion of the Secretary, sufficient personnel are employed to warrant such facilities or services.".

Effective date. 22 USC 1157 note.

(b) The amendments made by this section shall take effect on October 1, 1978.

UNDER SECRETARY OF STATE FOR MANAGEMENT

SEC. 114. (a)(1) The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "a Deputy Under Secretary of State" and inserting in lieu thereof "an Under Secretary of State for Management".

Deputy Under Secretary of State, assumption of duties. 22 USC 2652 note.

(2) The individual holding the office of Deputy Under Secretary of State on the effective date of this section shall assume the duties of Under Secretary of State for Management and shall not be required to be reappointed by reason of the enactment of this section.

(b) (1) Paragraph (9) of section 5314 of title 5, United States Code, is amended by inserting "and Under Secretary of State for Management" immediately after "Programs".

(2) Paragraph (10) of section 5315 of such title is repealed. Repeal. 5 USC 5315.

(c) The amendments made by this section shall take effect on October 1, 1978. Effective date. 5 USC 5314 note.

ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS MATTERS

SEC. 115. (a) There is established in the Department of State, in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652), an Assistant Secretary of State for International Narcotics Matters, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall be responsible for the overall coordination of the role of the Department of State in the international aspects of narcotics problems. 22 USC 2652a.

(b) (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(122) Assistant Secretary for International Narcotics Matters, Department of State.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1978. Effective date. 5 USC 5315 note.

DEFINITION OF CHIEF OF MISSION

SEC. 116. Paragraph (9) of section 121 of the Foreign Service Act of 1946 (22 U.S.C. 802(9)) is amended by striking out "or diplomatic agent" and inserting in lieu thereof "diplomatic agent, or the head of a United States office abroad which is designated by the Secretary as having a purpose diplomatic in nature".

RESPONSIBILITIES OF A CHIEF OF MISSION

SEC. 117. Section 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680a), is amended—

(1) in paragraph (1) by striking out "Ambassador to" and inserting in lieu thereof "chief of mission (as defined in section 121(9) of the Foreign Service Act of 1946) in"; 22 USC 802.

(2) in paragraph (2) by striking out "Ambassador" and inserting in lieu thereof "chief of mission"; and

(3) in paragraph (3)—

(A) by striking out "Ambassador to" and inserting in lieu thereof "chief of mission in"; and

(B) by striking out "the Ambassador" and inserting in lieu thereof "the chief of mission".

DETAILING OF STATE DEPARTMENT PERSONNEL

SEC. 118. Section 11(a) of the Department of State Appropriations Authorization Act of 1973 (22 U.S.C. 2685(a)) is amended—

(1) by striking out "ninety days" and inserting in lieu thereof "one year"; and

(2) by adding at the end thereof the following new sentence: "Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Execu-

tive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.".

EXCLUSION OF CERTAIN ALIENS FROM THE UNITED STATES

SEC. 119. Section 21 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2691), is amended by adding at the end thereof the following new sentence: "Nothing in this section may be construed as authorizing or requiring the admission to the United States of any alien who is excludible for reasons other than membership in or affiliation with a proscribed organization.".

PUBLICATION OF HISTORICAL DOCUMENTS BY THE DEPARTMENT OF STATE

44 USC 1317 note.

SEC. 120. (a) The Congress finds that the Department of State publication "Foreign Relations of the United States" plays an important role in making the documentary record of United States foreign relations available to the Congress and the American public.

(b) The Secretary of State shall therefore insure that publication of the "Foreign Relations of the United States" volumes is continued in such a manner as will maintain the high standard of comprehensive documentation already established by past volumes.

ASSISTANCE TO BEREAVED UNITED STATES FAMILIES

22 USC 1175 note.

SEC. 121. (a) The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

(b) The Secretary of State shall—

(1) analyze alternative procedures by which the Department of State could, where necessary and appropriate, provide loans or other forms of assistance to facilitate such arrangements; and

Report to Speaker of the House and Senate committee.

(2) not later than January 20, 1979, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely such alternate procedures, including associated costs, and presenting his views and recommendations with respect to such procedures.

SYSTEMATIC INFORMATION-SHARING

22 USC 2680 note.

SEC. 122. (a) The Congress finds that—

(1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policymakers could be similarly valuable to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dis-

semination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized.

(b) Not later than January 20, 1979, the Secretary of State shall transmit to the chairman of the Committee on International Relations of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate recommendations with respect to the establishment of such an information-sharing arrangement. Report to congressional committees.

ASSISTING MINORITY ENTERPRISE

SEC. 123. (a) The Congress finds that the Inter-Agency Council for Minority Enterprise has been created to assist minority owned and operated businesses in establishing broader markets, including markets with respect to procurement by the United States Government.

(b) It is the sense of the Congress that the Secretary of State, in cooperation with such Council, should—

(1) broaden minority business participation in the provision of goods and services for the Department of State; and

(2) establish and expand export markets for minority businesses.

LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS IN UNITED STATES PASSPORTS

SEC. 124. For the purpose of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for the purpose of encouraging other countries which are signatories to the Final Act to comply with those provisions, the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), is amended by adding at the end thereof the following: "Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.".

DIPLOMATIC AND OFFICIAL PASSPORTS

SEC. 125. It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law. 22 USC 211a note.

TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

SEC. 126. (a) For the purpose of implementing general principles of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) emphasizing the lowering of international barriers to the free movement of people and ideas and in accordance with provisions of the Vienna Convention on Diplomatic Relations establishing the legal principles of nondiscrimination and reciprocity, it shall be the general policy of the United States to impose restrictions on travel within the United States by citizens of another country only when the government of that country imposes restrictions on travel by United States citizens within that country. 22 USC 2691 note.

(b) The Secretary of State shall—

(1) insure that this policy is clearly conveyed to any foreign government imposing travel restrictions on United States citizens; and

(2) seek the elimination, on a mutual and reciprocal basis, of travel restrictions imposed by such government and by the Government of the United States on each other's citizens.

Report to Speaker of the House and Senate committee.

(c) Not later than January 20, 1979, and at intervals of one year thereafter for a period of three years, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing—

(1) domestic travel restrictions then being imposed by the United States Government on citizens of other countries and by foreign governments on United States citizens; and

(2) the progress of efforts undertaken pursuant to subsection (b) to achieve the elimination of such restrictions.

(d) Subsection (a) may not be construed as limiting any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 201. (a) There is authorized to be appropriated for the International Communication Agency for fiscal year 1979 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law, $420,577,000, and such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

22 USC 1431 note. 22 USC 2451 note. 5 USC app.; 22 USC 1461 note.

(b) Amounts appropriated under this section are authorized to remain available until expended.

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

22 USC 1461-1.

SEC. 202. The mission of the International Communication Agency shall be to further the national interest by improving United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the International Communication Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of

the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the Agency.

EXPANDED EXCHANGE ACTIVITIES

SEC. 203. The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the International Communication Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress. 22 USC 1461-1 note.

TECHNICAL AND CLARIFYING AMENDMENTS ON PERSONNEL AND OTHER MATTERS

SEC. 204. (a) Section 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(e)(1)) is amended by striking out "President" and inserting in lieu thereof "Director of the International Communication Agency".

(b)(1) The Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968, is amended in the first section, section 2, and section 12 (22 U.S.C. 1221, 1222, and 1232) by striking out "United States Information" and inserting in lieu thereof "International Communication".

(2) Section 4 of that Act (22 U.S.C. 1224) is amended to read as follows:

"AUTHORITY OF THE DIRECTOR

"SEC. 4. Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees of the Agency shall be under the direction and authority of the Director. Authority available to the Secretary of State with respect to Foreign Service officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees of the Department of State shall be available on the same basis to the Director with respect to Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees of the Agency, except as provided in section 11 of this Act.". 22 USC 1231.

(3) Section 10 of that Act (22 U.S.C. 1230) is amended to read as follows:

"OTHER APPLICABLE PROVISIONS OF LAW

22 USC 801 note. "SEC. 10. All provisions of the Foreign Service Act of 1946 or of any other law, which apply to Foreign Service officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees of the Department of State and which are not referred to in sections 6 through 9 of this Act, shall be applicable to Foreign Service information officers, Foreign Service Reserve officers, Foreign Service staff officers and employees, or alien clerks and employees, as the case may be, of the Agency.".

22 USC 1226–1229.

(4) Section 11 of that Act (22 U.S.C. 1231) is amended to read as follows:

"COMMISSIONING AND ASSIGNMENT AS DIPLOMATIC AND CONSULAR OFFICERS

"SEC. 11. (a) The Secretary of State may, upon request of the Director, recommend to the President that Foreign Service information officers or Foreign Service Reserve officers of the Agency be commissioned as diplomatic or consular officers, or both, in accordance with section 512 or 524 of the Foreign Service Act of 1946.

22 USC 907, 924.

"(b) The Secretary of State may, upon request of the Director, assign Foreign Service information officers or Foreign Service Reserve officers of the Agency, commissioned as diplomatic or consular officers, to serve under such commissions in accordance with sections 512 and 514 or section 524 of the Foreign Service Act of 1946.".

22 USC 909.

82 Stat. 810.

(5) (A) The title of the Act of August 20, 1968, is amended to read as follows: "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps.".

(B) Effective October 1, 1978, clause (xv) of paragraph (2) of section 5541 of title 5 of the United States Code, as added by section 412(a)(1)(C) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended by striking out "United States Information" and inserting in lieu thereof "International Communication".

91 Stat. 855.

(6) Paragraph (3) of section 522 of the Foreign Service Act of 1946 (22 U.S.C. 922(3)) is amended by striking out "United States Information" and inserting in lieu thereof "International Communication".

(7) Section 803(a)(4) of that Act (22 U.S.C. 1063(a)(4)) is amended by striking "United States Information" and inserting in lieu thereof "International Communication".

(c) Title VIII of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471–1475a) is amended by adding at the end thereof the following new section:

"SEAL OF THE INTERNATIONAL COMMUNICATION AGENCY

22 USC 1475b. "SEC. 807. The seal of the International Communication Agency shall be the arms and crest of the United States, encircled by the words 'International Communication Agency'. Judicial notice shall be taken of the seal.".

FUNCTIONS RELATING TO THE NATIONAL GALLERY OF ART

SEC. 205. The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 72(a)). 20 USC 72 note.

FUNCTIONS RELATING TO THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SEC. 206. (a) Subsection (b) of section 3 of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended—

(1) in the text preceding paragraph (1) by striking out "fifteen" and inserting in lieu thereof "sixteen";

(2) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) the Secretary of State;

"(2) the Director of the International Communication Agency;".

(b)(1) Subsection (c) of that section (20 U.S.C. 80f(c)) is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Subsection (d) of that section (20 U.S.C. 80f(d)) is amended by striking out "(8)" and inserting in lieu thereof "(9)".

DISTRIBUTION WITHIN THE UNITED STATES OF AN INTERNATIONAL COMMUNICATION AGENCY FILM ON ROY WILKINS

SEC. 207. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "The Right to Dignity", and the Administrator shall make copies of such film available for purchase and public viewing in the United States.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 301. (a) Section 8(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)) is amended—

(1) in the text preceding paragraph (1) by striking out "1978" and inserting in lieu thereof "1979"; and

(2) in paragraph (1), as amended by section 302 of this Act, by striking out "$79,448,000" and "$8,500,000" and inserting in lieu thereof "$88,180,000" and "$5,000,000", respectively.

(b) The amendments made by subsection (a) of this section shall take effect on October 1, 1978. Effective date. 22 USC 2877 note.

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1978

SEC. 302. Section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended by striking out "$68,980,000" and "$5,000,000" and inserting in lieu thereof "$79,448,000" and "$8,500,000", respectively.

COMPOSITION OF BOARD

SEC. 303. Section 3(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2872(b)) is amended—

(1) in paragraph (1)—

(A) by amending the first sentence to read as follows: "The Board shall consist of seven members, two of whom shall be ex officio members."; and

(B) by striking out "of RFE/RL, Incorporated, shall be an ex officio member" in the last sentence and inserting in lieu thereof "and the chairman of the Board of Directors of RFE/RL, Incorporated, shall be ex officio members"; and

(2) by amending paragraph (4) to read as follows:

"(4) TERM OF OFFICE OF EX OFFICIO MEMBERS.—An ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive or as chairman of the Board of Directors of RFE/RL, Incorporated, as the case may be.".

REPRESENTATIONAL EXPENSES

SEC. 304. (a) Section 4(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2873(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting the following new paragraph (8) immediately after paragraph (7):

"(8) to make available for its own use or for the use of RFE/RL, Incorporated, for official reception and representational expenses not to exceed $65,000 of the funds made available to carry out this Act each fiscal year;".

22 USC 2873 note.

(b) The amendment made by subsection (a)(2) of this section does not apply with respect to funds appropriated before the date of enactment of this Act.

DISCLOSURE OF CONTRIBUTIONS

SEC. 305. Section 5(c) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2874(c)) is amended by inserting "(including a contribution made to any corporation or other entity having a principal purpose of receiving private contributions on behalf of RFE/RL, Incorporated)" immediately after "a contribution to RFE/RL, Incorporated,".

TECHNICAL AMENDMENTS

SEC. 306. (a) Section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended by striking out "Radio Free Europe and Radio Liberty" and inserting in lieu thereof "RFE/RL, Incorporated".

(b) Section 8(b) of such Act (22 USC. 2877(b)) is amended by striking out "Radio Free Europe and Radio Liberty" and inserting in lieu thereof "RFE/RL, Incorporated".

USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

SEC. 307. The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871–2877) is amended by adding at the end thereof the following new section:

"USE OF BROADCASTING FACILITIES BY COMMUNIST COUNTRIES

"SEC. 9. No funds or other assistance may be provided by the Board under this Act to RFE/RL, Incorporated, if RFE/RL, Incorporated, permits any Communist country (within the meaning of section 620 (f) of the Foreign Assistance Act of 1961) to use its broadcasting facilities unless that Communist country permits RFE/RL, Incorporated, to use that country's broadcasting facilities on a comparable basis.". 22 USC 2878. 22 USC 2370.

TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

EMPLOYMENT OF FAMILY MEMBERS OVERSEAS

SEC. 401. (a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the President shall— 22 USC 889 note.

(1) seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies; and

(2) direct that at any United States post abroad where a qualified family member is available to be hired, consideration shall be given, when continuity over a long term is not a significant consideration, to converting a vacant alien position to an American position for staffing by that family member.

(b) (1) The section heading of section 444 of the Foreign Service Act of 1946 (22 U.S.C. 889) is amended to read as follows: "LOCAL COMPENSATION PLANS".

(2) Subsection (a) (1) of such section is amended to read as follows: Compensation plans, regulations.

"(a) (1) The Secretary shall, in accordance with such regulations as he may prescribe, establish compensation plans for alien employees of the Service and for United States citizens employed by the Department abroad who are family members of Government personnel serving in the same country. Such compensation plans shall be based upon prevailing wages rates and compensation practices for corresponding types of positions in the locality, to the extent consistent with the public interest. Compensation plans established pursuant to this section may include provision for leave of absence with pay for alien employees in accordance with prevailing law and employment practices in the locality of employment, without regard to section 6310 of title 5, United States Code.".

(3) Subsection (b) of such section is amended by striking out "alien employee programs" and inserting in lieu thereof "employment programs for aliens, and for family members of Government personnel serving abroad,".

(4) Such section is further amended by adding at the end thereof the following new subsection: Regulations.

"(d) The Secretary of State shall prescribe regulations authorizing the employment abroad, and providing for the compensation, of family members of Government personnel.".

Report to Speaker of the House and Senate committee.
22 USC 889 note.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely the actions taken by the Department of State pursuant to this section and section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978.

22 USC 2693.

SPECIAL ALLOWANCES

SEC. 402. (a) Title IV of the Foreign Service Act of 1946 (22 U.S.C. 861–890) is amended by adding at the end thereof the following new part:

"PART F—ADDITIONAL COMPENSATION

"SPECIAL ALLOWANCES

22 USC 896.

"SEC. 451. If he finds it to be in the best interests of the Service, the Secretary may, under such conditions as he may determine, pay special allowances, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.".

Effective date.
22 USC 896 note.

(b) The amendment made by this section shall take effect on October 1, 1978.

ASSIGNMENTS TO PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS

SEC. 403. (a) Section 576 of the Foreign Service Act of 1946 (22 U.S.C. 966) is amended—

(1) in the section heading by inserting "OR PRIVATE NONPROFIT" immediately after "PUBLIC";

(2) in subsection (a)(1)—

(A) by striking out "before their fifteenth year of service as such officers" and inserting in lieu thereof "after their seventh year of service (counting service as a Foreign Service officer and prior service as a Foreign Service Reserve officer)"; and

(B) by inserting "or private nonprofit" immediately after "or other public";

(3) at the end of subsection (a)(2) by inserting the following: "Reimbursement for an assignment to a Member or office of the Senate shall be made at the rate of one-half of the current salary of the Foreign Service officer (who shall continue to be paid his or her full salary by the Department of State)."; and

(4) by striking out subsection (f) and inserting in lieu thereof the following new subsection:

"(f) The Secretary may reimburse a Foreign Service officer for relocation expenses incident to household moves necessitated by an assignment under this section for which the officer is not entitled to be reimbursed under any other provision of law. For purposes of such reimbursement, regulations issued pursuant to section 5724a(a)(3) of title 5, United States Code, shall apply to the same extent as if the officer were entitled to be reimbursed for travel and transportation expenses under section 5724(a) of that title.".

Effective date.
22 USC 966 note.

(b) Section 576(f) of the Foreign Service Act of 1946, as added by subsection (a)(4) of this section, shall take effect on October 1, 1978, but shall apply with respect to relocation expenses incurred after the date of enactment of this Act.

FACILITATING VOLUNTARY RETIREMENTS

SEC. 404. Part D of title VI of the Foreign Service Act of 1946 (22 U.S.C. 1001–1008) is amended by adding at the end thereof the following new section:

"FACILITATING VOLUNTARY RETIREMENTS

"SEC. 639. In order to facilitate their transition from the Service, the Secretary may provide professional career counseling, advice, and placement assistance, by contract or otherwise (subject to the availability of appropriations), to officers and employees of the Service, other than those separated for cause.". Career counseling and assistance. 22 USC 1009.

ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

SEC. 405. (a)(1) Title VII of the Foreign Service Act of 1946 (22 U.S.C. 1041–1047) is amended by adding at the end thereof the following new section:

"ORIENTATION AND LANGUAGE TRAINING FOR FAMILY MEMBERS

"SEC. 708. (a) To facilitate orientation and language training provided to members of families of officers and employees of the Government pursuant to section 701, the Secretary may make grants to family members attending language and orientation programs of study of the Institute. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance, and in no event may any such grant exceed $300 per month per individual. No individual may receive such a grant for more than six months in connection with any one assignment. Grants. 22 USC 1048. 22 USC 1041.

"(b) If a member of the family of an officer or employee of the Government who is assigned abroad is unable to participate in language training provided by the Department at the Institute or elsewhere, the Secretary may partially compensate that family member for language training, related to the assignment abroad, which is undertaken at a public or private institution.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1978. Effective date. 22 USC 1048 note.

(b) Not later than January 1, 1980, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the programs authorized by the amendment made by this section. The Secretary shall include in this report a recommendation with regard to whether those programs should remain in effect, be modified, or be terminated. Report to Speaker of the House and Senate committee. 22 USC 1048 note.

SPECIAL COMPUTATION OF ANNUITIES

SEC. 406. Notwithstanding the first sentence of section 821(a) of the Foreign Service Act of 1946 (22 U.S.C. 1076(a)), the annuity of any participant in the Foreign Service Retirement and Disability System whose salary was or is limited by the provisions of section 5308 of title 5, United States Code, and who retires during the period beginning October 1, 1978, and ending December 31, 1979, shall be equal to 2 per centum of his or her basic salary for the highest year of service for which contributions have been made to the Foreign Service Retirement and Disability Fund multiplied by the number of years, not exceed- 22 USC 1076 note.

ing thirty-five, of service credit obtained in accordance with the provisions of sections 851 and 853 of the Foreign Service Act of 1946 (22 U.S.C. 1091 and 1093).

REST AND RECUPERATION TRAVEL

SEC. 407. (a) Section 911(9) of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)) is amended by inserting "or to the United States" immediately after "serving" the second place it appears.

Effective date. 22 USC 1136 note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

REDUCING FAMILY SEPARATIONS DURING TEMPORARY ASSIGNMENTS

SEC. 408. (a) Section 911(10) of the Foreign Service Act of 1946 (22 U.S.C. 1136(10)) is amended by striking out "his" and inserting in lieu thereof "or from a".

Effective date. 22 USC 1136 note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1978.

PER DIEM AND SUBSISTENCE ALLOWANCES

SEC. 409. (a) Section 911 of the Foreign Service Act of 1946 (22 U.S.C. 1136) is amended—

(1) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(12) without regard to rates provided under the authority of section 5702 of title 5, United States Code, the travel expenses of employees of the Department on protective security missions within the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone, at not to exceed the cost of lodging plus $24 per day.".

Effective date. 22 USC 1136 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1978.

COMPENSATION FOR JUNIOR FOREIGN SERVICE OFFICERS

Repeal. 22 USC 867 note.

SEC. 410. Section 412(b) of the Foreign Relations Authorization Act, Fiscal Year 1978, is repealed.

COMPENSATORY TIME OFF AT CERTAIN POSTS IN FOREIGN AREAS

SEC. 411. (a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

5 USC 5926.

"§ 5926. Compensatory time off at certain posts in foreign areas

5 USC 5541.

"(a) Under regulations prescribed pursuant to this subchapter, and notwithstanding subchapter V of chapter 55 of this title or any other law, the head of an agency may, on request of an employee serving in a foreign area—

"(1) at an isolated post performing functions required to be maintained on a substantially continuous basis, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work; or

"(2) at a post in a locality that customarily observes irregular hours of work or where other special conditions are present, in order to cope with those special circumstances, grant the employee compensatory time off for an equal amount of time spent in regularly scheduled overtime work for use during the pay period in which it is earned.

Credit for compensatory time off earned under paragraph (2) shall not form the basis for any additional compensation.

"(b) Compensatory time earned under this section shall be for use only while the employee is assigned to the post where it is earned. Any such compensatory time not used at the time the employee is reassigned to another post shall be forfeited.".

(b) The section analysis for such chapter is amended by inserting the following new item immediately after the item relating to section 5925:

"5926. Compensatory time off at certain posts in foreign areas.".

TECHNICAL AMENDMENTS CORRECTING PRINTING ERRORS

SEC. 412. (a) Section 444(c)(1)(B) of the Foreign Service Act of 1946 (22 U.S.C. 889(c)(1)(B)) is amended by striking out "chapter 8" and inserting in lieu thereof "chapter 81".

(b) Section 411(a) of the Foreign Relations Authorization Act, Fiscal Year 1978, is amended by striking out "section 824" and inserting in lieu thereof "section 821". 22 USC 1004 note.

(c) The amendments made by this section shall be effective as of August 17, 1977. Effective date. 22 USC 889 note.

REVIEW OF FOREIGN SERVICE PERSONNEL REQUIREMENTS AND COMPENSATION

SEC. 413. (a) The Congress finds that— 22 USC 811a note.

(1) since 1960, the United States has expanded its diplomatic representation abroad from approximately eighty countries to approximately one hundred and thirty countries;

(2) despite such expanded responsibilities, and despite a significantly increased consular workload in all countries in which the United States is represented, the total number of personnel of the Department of State has remained approximately the same; and

(3) although the responsibilities and necessary qualifications for individual Foreign Service positions continue to change, compensation for Foreign Service personnel continues to be linked to compensation for General Schedule employees at a level established years ago.

(b) It is therefore the sense of the Congress that the Secretary of State should conduct a thorough review of the personnel needs of the Foreign Service and of the suitability of the current compensation system.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth fully and completely— Report to Speaker of the House and Senate committee.

(1) the results of such review; and

(2) such recommendations as the Secretary finds appropriate.

TITLE V—SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY

FINDINGS

22 USC 2656a.

SEC. 501. The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial, academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

DECLARATION OF POLICY

22 USC 2656b.

SEC. 502. In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities involving the United States and foreign countries or international organizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

RESPONSIBILITIES OF THE PRESIDENT

SEC. 503. (a) The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall— Consultation. 22 USC 2656c.

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b) The President shall study and not later than January 31, 1980, and not later than January 31 of each year thereafter, shall transmit to the Congress a report containing recommendations with respect to— Presidential report, transmittal to Congress.

(1) personnel requirements, and standards and training for service of officers and employees of the United States Government, with respect to assignments in any Federal agency which involve foreign relations and science or technology; and

(2) the continuation of existing bilateral and multilateral activities and agreements primarily involving science and technology, including (A) an analysis of the foreign policy implications and the scientific and technological benefits of such activities or agreements for the United States and other parties, (B) the adequacy of the funding for and administration of such activities and agreements, and (C) plans for future evaluation of such activities and agreements on a routine basis.

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

RESPONSIBILITIES OF THE SECRETARY OF STATE

SEC. 504. (a) In order to implement the policy set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members. 22 USC 2656d.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations Contracts and grants.

with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

Report to congressional committees.

(e) Not later than January 20, 1979, the Secretary shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, a report on the implementation of the responsibilities of the Secretary under this title. Such report shall include the following information: an assessment of the personnel required in order to carry out such responsibilities; existing and planned programs for research and analysis to support long-range planning for the application of science and technology to foreign policy; existing and planned programs for training officers and employees of the United States Government pursuant to subsection (c) of this section; and existing and planned programs to enter into long-term contracts with academic and other organizations for assistance in training and in obtaining studies, analyses, and recommendations with respect to the application of science or technology to problems of foreign policy.

TITLE VI—POLICY PROVISIONS

INTERNATIONAL COMMUNICATIONS POLICY

SEC. 601. (a) The Congress finds that—

(1) a series of multilateral meetings scheduled to convene in 1978 and 1979 (including the twentieth General Conference of the United Nations Educational, Scientific, and Cultural Organization; the Thirty-second United Nations General Assembly; the United Nations Conference on Science and Technology for Development; and the World Administrative Radio Conference of the International Telecommunications Union) will address a complex variety of international communications and information issues and will likely, through the promulgation of binding agreements relating to such issues, have a significant and lasting effect on the free flow of information and ideas among the countries of the world; and

(2) since the United States is the leading user of communications channels and information in the world, the United States Government should have a comprehensive policy regarding the various communications and information issues that have entered

international discussions and should establish an effective mechanism by which to develop and coordinate United States policy on such issues.

(b) Not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of the Committee on Commerce, Science, and Transportation of the Senate, a report describing fully and completely— Presidential report, transmittal to Speaker of the House and congressional committees.

(1) procedures the President has established by which to develop and maintain a comprehensive United States policy regarding international communications and information issues; and

(2) goals and positions of the United States with regard to anticipated international meetings which will address communications and information issues.

The President shall transmit supplementary reports to the Congress as modifications, if any, occur in such goals and positions.

ACTION CONCERNING RESOURCES

SEC. 602. It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries— 16 USC 1361 note.

(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

(A) the impact of cetaceans on ecologically related human foodstuffs, and

(B) alternative methods of dealing with cetacean problems as they occur;

(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

(4) to adopt comprehensive marine mammal protection legislation.

INTERNATIONAL JOURNALISTIC FREEDOM

SEC. 603. (a) The Congress finds that— 22 USC 2656 note.

(1) news dissemination and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

(b) It is therefore the sense of the Congress that the President should—

(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents, with a view toward gaining multilateral support for the legitimate rights of such correspondents.

Presidential report, transmittal to Speaker of the House and Senate committee.

(c) Not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely actions taken pursuant to subsection (b).

INTERNATIONAL FOOD RESERVE

22 USC 2220 note.

SEC. 604. (a) The Congress finds that—

(1) half a billion people suffer regularly from malnutrition or undernutrition;

(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves:

(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

SPANISH DEMOCRACY

SEC. 605. (a) The Congress finds that—

(1) the Senate, in rendering its advice and consent to ratification of the Treaty of Friendship and Cooperation between the United States and Spain (signed on January 24, 1976), declared

27 UST 3005.

its hope and intent that the Treaty would serve to support and foster Spain's progress toward free institutions;

(2) this declaration reflected the strong desire of the United States Government and the American people to see a restoration of democracy in Spain and an expansion of mutually beneficial relations between Spain and the democracies of America and Europe; and

(3) political developments in Spain during the past two years constitute a major step toward the construction of a stable and lasting Spanish democracy.

"Guernica" by Picasso, transfer to Spain.

(b) The Congress finds further that—

(1) the masterpiece "Guernica", painted by Pablo Picasso, has for four decades been a powerful and poignant symbol of the horror of war;

(2) this treasured painting, while universal in its significance, holds special meaning for the people of Spain by its representation of the tragic civil war which destroyed Spanish democracy;

(3) Pablo Picasso, having painted "Guernica" for the Spanish Republican Government and concerned for Spain's future when that government fell, stipulated that the painting should remain in the custody of the Museum of Modern Art in New York until Spanish democracy had been restored; and

(4) the United States and Spain, in a Supplementary Agreement entered into with the Treaty of Friendship and Cooperation, have committed themselves to expand their cooperation in the fields of education and culture.

(c) It is therefore the sense of the Congress, anticipating the continuance of recent promising developments in Spanish political life, that "Guernica" should, at some point in the near future and through appropriate legal procedures, be transferred to the people and Government of a democratic Spain.

(d) It is further the sense of the Congress that the American people, having long benefited from this treasure and admiring Spain's achievement, would wish, as an expression of appreciation and congratulation upon the transfer of "Guernica" to Spain, to assist in the preparation of facilities for the permanent display of the painting, if such assistance is found to be appropriate by the elected leaders of Spain.

DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS

22 USC 2842 note.

SEC. 606. (a) The Congress finds that those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which affect, directly and significantly, the conduct of the United States foreign relations should be periodically reevaluated by the President and the Congress.

Presidential report, transmittal to Speaker of the House and Senate committees.

(b) Therefore, not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairmen of other appropriate committees of the Senate, a report which—

(1) identifies all statutory provisions which provide for such discriminatory trade practices;

(2) evaluates each such practice; and

(3) recommends, in the form of draft legislation, such amendments to those provisions as the President certifies would in his judgment advance United States foreign policy interests.

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CONDUCT OF DIPLOMATIC RELATIONS

22 USC 2656 note.

SEC. 607. The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not in itself imply approval of that government or of the political-economic system it represents.

NUCLEAR-POWERED SATELLITES

22 USC 2656d note.

SEC. 608. (a) The Congress finds that—

(1) no international regime governs the use of nuclear-powered satellites in space;

(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

Multilateral agreement.

(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

Report to Speaker of the House and Senate committee.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on actions taken by the United States Government pursuant to subsection (b).

WORLD ALTERNATE ENERGY CONFERENCE

SEC. 609. (a) The Congress finds that—

(1) increasing global dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

(2) the uncontrolled spread of nuclear power carries serious dangers due to waste pollution and the possibility of accidents or material diversion;

(3) expanded development and use of alternate, nonconventional, or renewable sources of energy (including solar energy, wind, biomass waste materials, and alcohol fuels) could assist all countries in satisfying rising energy demands, while reducing environmental and economic risk;

(4) no international agency exists at present which assists countries in exchanging information and technical assistance concerning energy-related problems or which promotes the development and use of alternate energy sources; and

(5) an international agency performing these functions could be of benefit to all countries and could be particularly effective in assisting developing countries to become more self-sufficient and thereby to increase their standard of living.

(b) It is therefore the sense of the Congress that the United States should encourage the United Nations to convene a World Alternate Energy Conference in 1981 for the purpose of considering ways to meet the energy needs of the world through the development and use of alternate energy sources. Among proposals considered at such a conference should be the establishment, under United Nations auspices,

of an International Alternate Energy Commission to encourage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means.

(c) Not later than January 20, 1980, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on actions taken pursuant to subsection (b). Report to Speaker of the House and Senate committee.

ATROCITIES IN CAMBODIA AND UGANDA

SEC. 610. (a) The Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers. 22 USC 2151 note.

(b) Recognizing the limited direct influence of the United States in Cambodia and Uganda, the Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring an end to the brutal and inhumane practices of the governments of those two countries.

(c) Not later than January 20, 1979, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely actions taken pursuant to subsection (b). Report to Speaker of the House and Senate committee.

(d) It is the sense of the Congress that the President should— Uganda, prohibitions.

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) direct that the visa application of any official or employee of the Government of Uganda seeking to enter the United States for the purpose of military, paramilitary, or police training, may be approved by a consular officer only after the appropriate official of the Department of State in Washington has reviewed the application and has determined that the Government of Uganda has demonstrated a proper respect for the rule of law and for internationally recognized human rights; and

(3) instruct the Permanent Representative of the United States to the United Nations to submit to the Security Council of the United Nations for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

EQUITABLE TREATMENT OF UNITED STATES CITIZENS LIVING ABROAD

SEC. 611. (a) The Congress finds that— 22 USC 1731 note.

(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progeny, veterans' benefits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

(2) such fair and equitable treatment would be facilitated by a periodic review of statutes and regulations affecting Americans living abroad.

Presidential report, transmittal to Speaker of the House and Senate committee.

(b) Not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which—

(1) identifies all United States statutes and regulations which discriminate against United States citizens living abroad;

(2) evaluates each such discriminatory practice; and

(3) recommends legislation and any other remedial action the President finds appropriate to eliminate unfair or inequitable treatment of Americans living abroad.

UNITED STATES-CANADIAN NEGOTIATIONS ON AIR QUALITY

42 USC 7415 note.

SEC. 612. (a) The Congress finds that—

(1) the United States and Canada share a common environment along a 5,500 mile border;

(2) the United States and Canada are both becoming increasingly concerned about the effects of pollution, particularly that resulting from power generation facilities, since the facilities of each country affect the environment of the other;

(3) the United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

(4) the United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

Cooperative agreement.

(b) It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

(c) It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States, should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source.

CUBAN PRESENCE IN AFRICA

22 USC 2370 note.

SEC. 613. (a) The Congress finds that—

(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

50 USC app. 2401 note.

(2) the President has the authority under the Export Administration Act of 1969 to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year.

(b) It is therefore the sense of the Congress that the President should—

(1) undertake a comprehensive review of United States diplomatic and economic relations with Cuba; and

(2) not later than January 20, 1979, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report based on such review.

Presidential report, transmittal to Speaker of the House and Senate committee.

PALESTINIAN RIGHTS UNITS

SEC. 614. (a) The Congress, noting United Nations General Assembly Resolution 3376(XXX) which established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and noting United Nations General Assembly Resolutions 32/40/A and 32/40/B which continued the mandate of that Committee and requested that the Secretary General establish within the Secretariat of the United Nations a Special Unit on Palestinian Rights, declares that—

(1) the continuation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the creation of the Special Unit on Palestinian Rights are wasteful expenditures of limited United Nations resources at a time when the United Nations is experiencing severe financial difficulties and when the United Nations is under close scrutiny from contributing members;

(2) the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People does not contribute to the process of peacemaking underway at present in the Middle East; and

(3) the United States Ambassador to the United Nations should be instructed to continue to oppose extensions of the mandate of that Committee as well as extensions of the Special Unit on Palestinian Rights.

(b) It is the sense of the Congress that the President should direct the Permanent Representative of the United States to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights.

Termination action.

TITLE VII—MISCELLANEOUS PROVISIONS

ANNUAL REPORT OF THE GORGAS MEMORIAL INSTITUTE

SEC. 701. (a) Section 3 of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial Laboratory", approved May 7, 1928 (22 U.S.C 278a), is amended in the first sentence—

(1) by striking out "annually, on the first Monday in December" and inserting in lieu thereof ", on April 1 of each year"; and

(2) by striking out "up to the first of November next preceding" and inserting in lieu thereof "during the fiscal year ending the preceding September 30".

(b) Title I of the Departments of State, Justice, and Commerce Appropriation Act, 1945, is amended in the first paragraph under the heading "INTERNATIONAL OBLIGATIONS" by striking out ": *Provided*," and all that follows through "each such session" (22 U.S.C. 278b).

58 Stat. 395.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SEC. 702. (a) Section 7(a) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3007(a)), is amended by striking out "$350,000" and inserting in lieu thereof "$550,000".

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 703. (a) Section 6 of the Japan-United States Friendship Act (22 U.S.C. 2905) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code.".

Effective date. 22 USC 2905 note.

(b) The amendments made by this section shall take effect on October 1, 1978.

CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

Effective date.

SEC. 704. Effective October 1, 1978, there is authorized to be appropriated to the President $60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

PROHIBITION ON AID OR REPARATIONS TO VIETNAM

SEC. 705. (a) None of the funds authorized to be appropriated in this Act may be used for the purpose of reparations, aid, or any other form of payment to the Socialist Republic of Vietnam.

Accounting of MIA's. 22 USC 2151 note.

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

USE OF FOREIGN AIR CARRIERS

Transportation funds. 49 USC 1518.

SEC. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communication Agency, the Agency for International Development (or any successor agency), and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

49 USC 1371.

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

SEC. 707. (a) Subsection (a) of section 215 of the Immigration and Nationality Act (8 U.S.C. 1185) is amended by striking out "When the United States" and all that follows through "be unlawful" and insert-

ing in lieu thereof "Unless otherwise ordered by the President, it shall be unlawful".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.".

(c) Subsection (f) of such section is amended by striking out "proclamation," both places it appears.

(d) Such section is further amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(e) The heading of such section is amended to read as follows:

"TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS".

(f) The item relating to section 215 in the table of contents of the Immigration and Nationality Act is amended to read as follows: 8 USC 1185.

"Sec. 215. Travel documentation of aliens and citizens.".

REPORTING AND COORDINATION OF INTERNATIONAL AGREEMENTS

SEC. 708. Section 112b of title 1, United States Code, is amended—

(1) by inserting "(including the text of any oral international agreement, which agreement shall be reduced to writing)" immediately after "international agreement" in the first sentence;

(2) by inserting "(a)" immediately before the first sentence; and

(3) by adding at the end thereof the following new subsections:

"(b) Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal. Presidential report, transmittal to Speaker of the House and Senate committee.

"(c) Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement. Consultation.

"(d) The Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

"(e) The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section.". Rules and regulations.

PANAMA CANAL TREATIES

SEC. 709. None of the funds authorized to be appropriated by this Act may be used directly or indirectly to effect implementation of the Panama Canal Treaty or the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, each signed on September 7, 1977, unless authorized by the Constitution or by Act of Congress. 22 USC 2151 note.

INTERPARLIAMENTARY UNION

SEC. 710. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended by striking out "$45,000" in paragraph (2) and inserting in lieu thereof "$90,000".

COMMISSION ON HUNGER AND MALNUTRITION

22 USC 2220a note.

SEC. 711. There are authorized to be appropriated $1,500,000 for the fiscal year 1979 and $1,500,000 for the fiscal year 1980 for a commission on global hunger and malnutrition to be created by Executive order by the President. This commission shall (1) assess the policies, organization, and structure of current Federal programs which have an impact on hunger and malnutrition; (2) coordinate, sponsor, and oversee such projects, studies, events, and other activities as the commission deems necessary or desirable, making maximum use of past and ongoing related efforts; (3) conduct such studies, inquiries, meetings, and hearings as the commission deems necessary; and (4) make recommendations to the President and the Congress on policies to increase the capacity of the United States to reduce hunger and malnutrition. Funds authorized to be appropriated by this section shall be expended under the direction of the chairman of the commission.

FOREIGN GIFTS AND DECORATIONS RECEIVED BY SENATORS AND SENATE EMPLOYEES

SEC. 712. (a) Section 7342(a)(6) of title 5, United States Code, is amended—

(1) by striking out "(e)" in subparagraph (A) and inserting in lieu thereof "(e)(1)"; and

(2) by inserting before the semicolon at the end of subparagraph (B) the following: ", except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate".

(b)(1) The last sentence of section 7342(c)(2) of such title is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2)".

(2) The last sentence of section 7342(d) of such title is amended—

(A) by striking out "or" and inserting in lieu thereof ", for"; and

(B) by striking out "subsection (e)" and inserting in lieu thereof "subsection (e)(1), or for disposal in accordance with subsection (e)(2)".

(c) Section 7342(e) of such title is amended—

(1) by striking out "Gifts" and inserting in lieu thereof "(1) Except as provided in paragraph (2), gifts";

(2) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United

States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.". 26 USC 501.

(d) In the event that the space and facilities available to the Secretary of the Senate for carrying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate. 5 USC 7342 note.

Approved October 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 95-1160 (Comm. on International Relations) and No. 95-1535 (Comm. of Conference).

SENATE REPORT No. 95-842 accompanying S. 3076 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 31, considered and passed House.

June 5, S. 3076 considered in Senate.

June 28, considered and passed Senate, amended, in lieu of S. 3076.

Sept. 19, House agreed to conference report.

Sept. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:

Oct. 10, Presidential statement.

Public Law 95-427
95th Congress

An Act

Oct. 7, 1978
[H.R. 12841]

To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxes.
Regulations on taxation of fringe benefits, prohibition.
26 USC 61 note.

SECTION 1. FRINGE BENEFIT REGULATIONS.

(a) IN GENERAL.—No fringe benefit regulation shall be issued—

(1) in final form on or after May 1, 1978, and on or before December 31, 1979, or

(2) in proposed or final form on or after May 1, 1978, if such regulation has an effective date on or before December 31, 1979.

(b) DEFINITION OF FRINGE BENEFIT REGULATION.—For purposes of subsection (a), the term "fringe benefit regulation" means a regulation providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Internal Revenue Code of 1954.

26 USC 61.

26 USC 62 note.

SEC. 2. COMMUTING EXPENSES.

With respect to transportation costs paid or incurred after December 31, 1976, and on or before December 31, 1979, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 to transportation expenses in traveling between a taxpayer's residence and place of work shall be determined—

26 USC 62, 162, 262, 3101 *et seq.*, 3301 *et seq.*, 3401 *et seq.*

(1) without regard to Revenue Ruling 76-453 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules in effect before Revenue Ruling 76-453.

26 USC 119 note.

SEC. 3. TREATMENT OF CERTAIN STATUTORY SUBSISTENCE ALLOWANCES OR SUBSISTENCE ALLOWANCES NEGOTIATED IN ACCORDANCE WITH STATE LAW RECEIVED BY STATE POLICE OFFICERS BEFORE JANUARY 1, 1978.

(a) GENERAL RULE.—If—

(1) an individual who was employed as a State police officer received a statutory subsistence allowance or a subsistence allowance negotiated in accordance with State law while so employed,

(2) such individual elects, on or before April 15, 1979, and in such manner and form as the Secretary of the Treasury may prescribe, to have this section apply to such allowance, and

(3) this section applies to such allowance,

26 USC 1 *et seq.*

then, for purposes of the Internal Revenue Code of 1954, such allowance shall not be included in such individual's gross income.

(b) ALLOWANCES TO WHICH SECTION APPLIES.—For purposes of this section, this section applies to any statutory subsistence allowance or subsistence allowance negotiated in accordance with State law which was received—

(1) after December 31, 1969, and before January 1, 1977, to the extent such individual did not include such allowance in gross income on his income tax return for the taxable year in which such allowance was received, or

(2) during the calendar year 1977.

(c) OTHER DEFINITIONS.—For purposes of this section—

(1) STATE POLICE OFFICER.—The term "State police officer" means any police officer (including a highway patrolman) employed by a State (or the District of Columbia) on a full-time basis with the power to arrest.

(2) INCOME TAX RETURN.—The term "income tax return" means the return of the taxes imposed by subtitle A of the Internal Revenue Code of 1954. If an individual filed before November 29, 1977, an amended return for any taxable year, such amended return shall be treated as the return for such taxable year. 26 USC 1 *et seq.*

(d) LIMITATION ON DEDUCTION.—If any individual receives a subsistence allowance which is excluded from gross income under subsection (a), no deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1954 for expenses in respect of which he has received such allowance, except to the extent that such expenses exceed the amount excludable from gross income under subsection (a) and the excess is otherwise allowed as a deduction under such chapter 1.

(e) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 1979, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 1979.

SEC. 4. MEALS FURNISHED FOR THE CONVENIENCE OF THE EMPLOYER.

(a) IN GENERAL.—Section 119 of the Internal Revenue Code of 1954 (relating to meals or lodging furnished for the convenience of the employer) is amended to read as follows: 26 USC 119.

"SEC. 119. MEALS OR LODGING FURNISHED FOR THE CONVENIENCE OF THE EMPLOYER.

"(a) GENERAL RULE.—There shall be excluded from gross income of an employee the value of any meals or lodging furnished to him by his employer for the convenience of the employer, but only if—

"(1) in the case of meals, the meals are furnished on the business premises of the employer, or

"(2) in the case of lodging, the employee is required to accept such lodging on the business premises of his employer as a condition of his employment.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) PROVISIONS OF EMPLOYMENT CONTRACT OR STATE STATUTE NOT TO BE DETERMINATIVE.—In determining whether meals or lodging are furnished for the convenience of the employer, the provisions of an employment contract or of a State statute fixing terms of employment shall not be determinative of whether the meals or lodging are intended as compensation.

"(2) CERTAIN FACTORS NOT TAKEN INTO ACCOUNT WITH RESPECT TO MEALS.—In determining whether meals are furnished for the convenience of the employer, the fact that a charge is made for such meals, and the fact that the employee may accept or decline such meals, shall not be taken into account.

"(3) CERTAIN FIXED CHARGES FOR MEALS.—

"(A) IN GENERAL.—If—

"(i) an employee is required to pay on a periodic basis a fixed charge for his meals, and

"(ii) such meals are furnished by the employer for the convenience of the employer,

there shall be excluded from the employee's gross income an amount equal to such fixed charge.

"(B) APPLICATION OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply—

"(i) whether the employee pays the fixed charge out of his stated compensation or out of his own funds, and

"(ii) only if the employee is required to make the payment whether he accepts or declines the meals."

26 USC 119 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Approved October 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1232 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 28, considered and passed House.
Aug. 2, 4, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendments.

Public Law 95-428
95th Congress

An Act

To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes.

Oct. 7, 1978
[H.R. 10822]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title heading of title II of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is amended to read as follows:

National sea grant program, appropriation authorization.

"TITLE II—NATIONAL SEA GRANT COLLEGE PROGRAM".

SEC. 2. (a) Section 201 of the National Sea Grant Program Act (33 U.S.C. 1121) is amended by inserting "College" immediately before "Program".

33 USC 1121 note.

(b) Sections 202(a)(3), 203(3), 204, and 211 are each amended by striking out "national sea grant program" each place it appears therein and inserting in lieu thereof "national sea grant college program".

33 USC 1121-1123, 1130.

(c) The section heading of such section 204 is amended to read as follows:

"SEC. 204. NATIONAL SEA GRANT COLLEGE PROGRAM."

SEC. 3. The National Sea Grant College Program Act (as redesignated by section 2 of this Act) (33 U.S.C. 1121-1131) is amended—

(1) by amending section 204(d)— 33 USC 1123.

(A) by striking out "and" at the end of paragraph (5),

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting immediately after paragraph (5) the following new paragraph:

"(6) accept funds from other Federal departments, agencies (including agencies within the Administration), and instrumentalities to pay for grants made, and contracts entered into, by the Secretary under section 205(a); and"; 33 USC 1124.

(2) by striking out the period at the end of the last sentence of section 205(a) and inserting in lieu thereof the following: "; except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Secretary under section 204(d)(6)."; 33 USC 1123.

(3) by amending the first sentence of section 206(c) to read as follows: 33 USC 1125.

"There are authorized to be appropriated for purposes of carrying this section not to exceed the following amounts:

"(1) $5,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $7,000,000 for fiscal year 1980.";

(4) by amending section 211— 33 USC 1130.

(A) by striking out "ANNUAL" in the section heading and inserting in lieu thereof "BIENNIAL",

(B) by amending subsection (a) to read as follows:

"(a) BIENNIAL REPORT.—The Secretary shall submit to the Congress and the President, not later than February 15, 1980, and not later than

Report to Congress and the President.

February 15 of every even-numbered year thereafter, a report on the activities of, and the outlook for, the national sea grant program."; and

(C) by amending the last sentence of subsection (b) to read as follows: "Such material shall be submitted to the Secretary not later than February 1 of the year in which the report concerned is to be submitted under subsection (a), and the Secretary shall cause it to be published as a separate section in such report."; and

33 USC 1131. (5) by amending the first sentence in section 212 to read as follows:

"There are authorized to be appropriated for purposes of carrying 33 USC 1125. out the provisions of this title (other than section 206) not to exceed the following amounts:

"(1) $50,000,000 for each of fiscal years 1977 and 1978.

"(2) $55,000,000 for each of fiscal years 1979 and 1980.".

SEC. 4. Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended—

(1) by striking out "National Sea Grant Program Act" each place it appears therein and inserting in lieu therof "National Sea Grant College Program Act";

(2) by amending subsection (a) (2) to read as follows:

"(2) promote the exchange among the United States and foreign nations (including, but not limited to, developing foreign nations) of information and data with respect to the assessment, development, utilization, and conservation of such resources."; and

(3) by amending the first sentence of subsection (c) to read as follows:

"There are authorized to be appropriated for purposes of carrying out this section not to exceed the following amounts:

"(1) $3,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $5,000,000 for fiscal year 1980.".

Approved October 7, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1011 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-887 (Comm. on Commerce, Science, and Transportation) and (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 17, considered and passed House.
June 7, considered and passed Senate, amended.
June 29, House concurred in Senate amendment with amendments.
Sept. 25, Senate concurred in House amendments.

Public Law 95-429
95th Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 10, 1978
[H.R. 12930]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes, namely:

Treasury, Postal Service, and General Government Appropriations Act, 1979.

TITLE I

Treasury Department Appropriations Act, 1979.

DEPARTMENT OF THE TREASURY

Office of the Secretary

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, including the operation and maintenance of the Treasury Building and Annex thereof; hire of passenger motor vehicles; and not to exceed $15,000 for official reception and representation expenses; $31,300,000 of which not to exceed $100,000 shall be available for unforeseen emergencies of a confidential character, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, and of which $1,190,000 shall be for repairs and improvements to Treasury buildings and shall remain available until expended.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including purchase (not to exceed eight for police-type use) and hire of passenger motor vehicles; not to exceed $60,000 for expenses for student athletic and related activities; participation in firearms matches; repair; and services as authorized by 5 U.S.C. 3109; $15,000,000.

Bureau of Government Financial Operations

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Government Financial Operations, $717,000,000.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms including purchase of (not to exceed three hundred and fifty of which three hundred shall be for replacement only, for police-type use), and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; $131,322,000: *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipt and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978.

43 FR 11800.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of four hundred and ninety-seven passenger motor vehicles for replacement only, including four hundred and eighty-seven for police-type use; acquisition (purchase of three), operation, and maintenance of aircraft; hire of passenger motor vehicles and aircraft; and awards of compensation to informers as authorized by the Act of August 13, 1954 (22 U.S.C. 401); $430,600,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $600,000 for research shall remain available until expended.

BUREAU OF THE MINT

SALARIES AND EXPENSES

For necessary expenses of the Bureau of the Mint, including not to exceed $2,500 for the expenses of the annual assay commission; $43,000,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $183,000,000.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided for, including executive direction, management services, and centrally directed legal, technical, and internal audit and security operations; including purchase (not to exceed seventy for replacement only, for police-type use) and hire of passenger motor

vehicles (31 U.S.C. 638a(a)); and services as authorized by 5 U.S.C. 3109 at such rates as may be determined by the Commissioner; $135,000,000.

TAXPAYERS SERVICE AND RETURNS PROCESSING

For necessary expenses of the Internal Revenue Service for processing tax returns; revenue accounting; providing assistance to taxpayers; statistical reporting; and hire of passenger motor vehicles (31 U.S.C. 638a(a)); $694,500,000.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; and hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109 at such rates as may be determined by the Commissioner; $758,000,000.

INVESTIGATIONS AND COLLECTION

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed three hundred and ninety-five for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 638a(a)); securing unfiled tax returns; collecting unpaid accounts; employee plans; exempt organizations; and services as authorized by 5 U.S.C. 3109 at such rates as may be determined by the Commissioner; $458,700,000.

GENERAL PROVISION—INTERNAL REVENUE SERVICE

SEC. 1. Not to exceed one per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation: *Provided*, That such transfers shall not exceed in the aggregate the amount of $5,000,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Secret Service, including purchase (not to exceed two hundred and twelve for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments which may be provided without reimbursement; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be necessary to perform protective functions; and the conducting and participation in firearm matches; $134,800,000, of which not to exceed $2,000,000 shall remain available until expended, for payments to State and local governments for protection of permanent and observer foreign diplomatic missions, pursuant to Public Law 94-196. 3 USC 202, 208.

39-194 O—80—pt. 1——67 : QL3

GENERAL PROVISIONS—TREASURY DEPARTMENT

SEC. 101. Appropriations in this Act to the Treasury Department shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-2) including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

Citation of title.

This title may be cited as the "Treasury Department Appropriations Act, 1979".

Postal Service Appropriation Act, 1979.

TITLE II

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for public service costs and for revenue foregone on free and reduced rate mail, pursuant to 39 U.S.C. 2401 (b) and (c), and for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund and to postal employees for earned and unused annual leave as of June 30, 1971, pursuant to 39 U.S.C. 2004, $1,785,176,000.

Citation of title.

This title may be cited as the "Postal Service Appropriation Act, 1979".

Executive Office Appropriations Act, 1979.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $250,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the Office of Administration, $7,279,000, including hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For expenses necessary for the White House Office as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109, at such per diem rates for individuals as the President may specify and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be accounted for solely on the certificate of the President); and not to exceed $12,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $16,711,000.

EXECUTIVE RESIDENCE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence, to be expended as the President may determine, notwithstanding the provisions of this or any other Act, and official entertainment expenses of the President to be accounted for solely on his certificate, $2,575,000.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, furnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, and for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $129,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For expenses necessary to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS-18, compensation for one position at a rate not to exceed the rate of level II of the Executive Schedule, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, including hire of passenger motor vehicles, $1,280,000.

5 USC 5332 note.
5 USC 5313.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $2,042,000.

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For expenses necessary for the Council on Wage and Price Stability as authorized by the Council on Wage and Price Stability Act of 1974 (Public Law 93-387 as amended by Public Law 94-78 and Public Law 95-121), $1,753,000.

12 USC 1904 note.

DOMESTIC POLICY STAFF

SALARIES AND EXPENSES

For necessary expenses of the Domestic Policy Staff, including services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS–18; and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; $2,500,000.

5 USC 5332 note.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For expenses necessary for the National Security Council, including services as authorized by 5 U.S.C. 3109, $3,400,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For expenses necessary for the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $28,200,000.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109, $3,000,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, and to pay administrative expenses (including personnel, in his discretion and without regard to any provision of law regulating employment and pay of persons in the government service or regulating expenditures of government funds) incurred with respect thereto, $1,000,000.

Citation of title.

This title may be cited as the "Executive Office Appropriations Act, 1979".

Independent Agencies Appropriations Act, 1979.

TITLE IV

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), $1,062,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Act of September 24, 1959, as amended (73 Stat. 703–706), $1,659,000. 42 USC 4271.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306, $232,000.

CIVIL SERVICE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; and advances or reimbursements to applicable funds of the Commission and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $120,500,000 together with not 22 USC 287 note.
to exceed $32,275,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission in amounts determined by the Commission without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds for administrative expenses of effecting statutory annuity adjustments. No part of the appropriation herein made to the Civil Service Commission shall be available for the salaries and expenses of the Legal Examining Unit of the Commission, established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose. 3 CFR 1943–1948 Comp., p. 256.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $606,035,000, to remain available until expended. 5 USC 8901 *et seq.*

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special acts, to be credited to the Civil Service retirement and disability funds, $2,105,283,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (2 C.Z.C. 181), and the Act of August 19, 1950, as amended 33 USC 776.

(33 U.S.C. 771–775), may hereafter be paid out of the Civil Service retirement and disability fund.

FEDERAL LABOR RELATIONS COUNCIL

SALARIES AND EXPENSES

For expenses necessary to carry out functions of the Civil Service Commission under Executive Order No. 11491 of October 29, 1969, as amended, $1,787,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

3 CFR 1966–1970 comp., p. 861.

INTERGOVERNMENTAL PERSONNEL ASSISTANCE

For grants to improve State and local personnel administration, as authorized by the Intergovernmental Personnel Act of 1970, $20,000,000, to remain available until expended.

42 USC 4701 note.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92–28, including hire of passenger motor vehicles, $441,000.

41 USC 46.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1976, $8,000,000, of which $750,000 shall be available only for activities, including contract support, of the National Clearinghouse of the Federal Election Commission.

2 USC 431 note.

GENERAL SERVICES ADMINISTRATION

DISPOSAL OF SURPLUS REAL AND RELATED PERSONAL PROPERTY

OPERATING EXPENSES

Not to exceed $7,549,000 of any proceeds received by the General Services Administration during the current fiscal year from transfers of excess property and the disposal of surplus real and related personal property shall be deposited to this appropriation, and shall be available for necessary expenses in carrying out surplus property functions, pursuant to the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460 1–5).

16 USC 460*l*–4 note.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purposes of the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $21,150,000 to be deposited into said fund. The revenues and collections deposited into said fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract: in the aggregate amount of $1,460,962,000, of which (1) not to exceed $113,978,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:
Arkansas:
Little Rock, Post Office and Courthouse (Extension), $2,794,000 and Acquisition and Improvements of United States Postal Service Properties, $14,836,000
Georgia:
Savannah, Federal Office Building and Parking Facility, $21,150,000
Massachusetts:
Boston, Federal Office Building, $75,198,000:

Provided, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: (2) not to exceed $200,000,000, which shall remain available until expended, for alterations and major repairs; (3) not to exceed $100,473,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $506,137,000 for rental of space; (5) not to exceed $472,874,000 for real property operations; and (6) not to exceed $67,500,000 for program direction and centralized services: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of General Services Administration shall be considered

40 USC 601 note.

to be federally owned buildings: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That $2,000,000 by the United States as a gift from the Commonwealth of Massachusetts pursuant to Chapter 298 of the 1976 Acts of the legislature of the Commonwealth shall accrue to the fund, and not to exceed $2,000,000 authorized herein for alterations and major repairs of public buildings shall be available in advance of receipt of said gift to be applied for the purpose of the gift: *Provided further*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1979, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of $1,460,962,000, shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement, inspection, standardization, and supply management activities as authorized by law, transportation, public utilities, the utilization of excess property, the disposal of surplus property, the rehabilitation of personal property, the national stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h), the supplemental stockpile established by section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607) and the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. 2061–2166), including services as authorized by 5 U.S.C. 3109; $165,350,000: *Provided*, That during the current fiscal year the General Services Administration is authorized to acquire leasehold interests in property, for periods not in excess of twenty years, for the storage, security, and maintenance of strategic, critical, and other materials in the national and supplemental stockpiles, provided said leasehold interests are at nominal cost to the Government: *Provided further*, That during the current fiscal year there shall be no limitation on the value of surplus strategic and critical materials which, in accordance with section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e), may be transferred without reimbursement to the national stockpile: *Provided further*, That during the current fiscal year materials in the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061–2166), and excess materials in the national stockpile and supplemental stockpile, the disposition of which is authorized by law, shall be available, without reimbursement, for transfer at fair market value to contractors as payment for expenses (including transportation and other accessorial expenses) of

7 USC 1704.
50 USC app. 2061.

acquisition of materials, or of refining, processing, or otherwise beneficiating materials, or of rotating materials, pursuant to section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), and of processing and refining materials pursuant to section 303(d) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093(d)).

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For necessary expenses in connection with Federal records management and related activities, as provided by law, including reimbursement for security guard services, contractual services incident to movement or disposal of records, and acceptance and utilization of voluntary and uncompensated services, $74,000,000, of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

RECORDS DECLASSIFICATION

For expenses necessary for the review and declassification of documents, and related records management activities, pursuant to 44 U.S.C. 2104, 2108, and 2904 and implementing provisions of Executive Order 11652, directives issued pursuant thereto, and other applicable authorities, including expenses not otherwise provided for, and acceptance and utilization of voluntary and uncompensated services, $1,565,000. 50 USC 401 note.

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

OPERATING EXPENSES

For expenses, not otherwise provided for, necessary for carrying out Government-wide responsibilities relating to automated data management, telecommunications and related activities, as authorized by law, including services as authorized by 5 U.S.C. 3109, $8,500,000.

FEDERAL PREPAREDNESS AGENCY

SALARIES AND EXPENSES

For expenses necessary for emergency preparedness functions, including activities authorized by 50 U.S.C. 404(b)(3), and 50 U.S.C. App. 2251–2297, and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h), section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607), and the Defense Production Act of 1950, as amended (50 U.S.C. 2061–2166), including services as authorized by 5 U.S.C. 3109 and expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency planning, and the provision of transportation in connection with the continuity of Government program, to the same extent and in the same manner as permitted the Secretary of a military department under 10 U.S.C. 2632. $39,245,000. 7 USC 1704. 50 USC app. 2061.

GENERAL MANAGEMENT AND AGENCY OPERATIONS

SALARIES AND EXPENSES

For expenses of general management and agency operations of activities under the control of the General Services Administration, $14,800,000: *Provided*, That not to exceed $2,500 shall be available for reception and representation expenses.

INDIAN TRUST ACCOUNTING

For expenses necessary to provide accounting, records management, and other support incident to adjudication of Indian Tribal claims by the United States Court of Claims, $2,600,000: *Provided*, That none of these funds shall be available for transfer to any other account.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138, $771,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

91 Stat. 1170.

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

SALARIES AND EXPENSES

For administrative expenses necessary in providing general administrative and staff support services within the General Services Administration, not otherwise provided for, $90,000,000: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to section 601 of the Economy Act of 1932, as amended (31 U.S.C. 686).

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff), and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

50 USC 451 *et seq.*

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. None of the funds available under this Act or under section 111 of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended for the procurement by purchase, lease or any other arrangement, in whole or in part, of any or all the automatic data processing system, data communications network, or related software and services for the joint General Services Administration-Department of Agriculture MCS project 97-72 contained in the

40 USC 759.

Request for Proposal CDPA 74-14, any successor to such project, or any other common user shared facilities authorized under section 111 of the Federal Property and Administrative Services Act of 1949. 40 USC 759.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $8,715,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge. 26 USC 7443 note.

DEFENSE CIVIL PREPAREDNESS AGENCY

OPERATION AND MAINTENANCE

For expenses, not otherwise provided for, necessary for carrying out civil defense activities including the hire of motor vehicles; and financial contributions to the States for civil defense purposes, as authorized by law; $77,000,000: *Provided*, That not to exceed $35,000,000 shall be available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended. 50 USC app. 2286.

RESEARCH, SHELTER SURVEY, AND MARKING

For expenses, not otherwise provided for, necessary for studies and research to develop measures and plans for civil defense; continuing shelter surveys, marking, and equipping surveyed spaces; and financial contributions to the States under section 201(i) of the Federal Civil Defense Act, which shall be equally matched, for emergency operating centers and civil defense equipment; $19,500,000. 50 USC app. 2281.

GENERAL PROVISIONS—CIVIL DEFENSE

SEC. 1. Appropriations contained in this Act for carrying out civil defense activities shall not be available in excess of the limitations on appropriations contained in section 408 of the Federal Civil Defense Act, as amended (50 U.S.C. App. 2260).

SEC. 2. No part of any appropriation in this Act shall be available for the construction of warehouses or for the lease of warehouse space in any building which is to be constructed specifically for civil defense activities.

This title may be cited as the "Independent Agencies Appropriations Act, 1979". Citation of title.

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Travel expenses.

Administration; or to payments to interagency motor pools where separately set forth in the budget schedules.

Employees, military leave, position restoration.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Civil Service Commission as still qualified to perform the duties of his former position and has not been restored thereto.

Offices outside D.C., limitation.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

Fiscal year limitation.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Foreign made tools, procurement restriction.

SEC. 505. No part of any appropriation contained in this Act shall be available for the procurement of or for the payment of the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions or except in accordance with procedures prescribed by section 6–104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970. This section shall be applicable to all solicitations for bids opened after its enactment.

32 CFR 6.104–4.

Stainless steel flatware, procurement.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

32 CFR 6.104–4.

Transfers.

SEC. 507. None of the funds available under this Act shall be available for administrative expenses in connection with the transfer of any functions, personnel, facilities, equipment, or funds out of the United States Customs Service unless such transfers have been specifically authorized by the Congress.

Border control activities.

SEC. 508. None of the funds available under this Act shall be available for administrative expenses for the purpose of transferring the

border control activities of the United States Customs Service to any other agency of the Federal Government.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

Motor vehicle purchase.
31 USC 638c.
31 USC 638a.

SEC. 601. Unless otherwise specifically provided the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $3,400 except station wagons for which the maximum shall be $3,800: *Provided*, That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3,600 for special heavy-duty vehicles.

Police-type vehicles.

Citizenship requirement for employees.
31 USC 699b.

SEC. 602. Unless otherwise specified and during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Quarters allowances.

SEC. 603. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

Nominees not approved, compensation restriction.

SEC. 604. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the

filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

Administrative expense funds.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to the Government Corporation Control Act, as amended (31 U.S.C. 841) shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

Foreign credits. 31 USC 724.

SEC. 606. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

Publicity or propaganda.

SEC. 607. (a) No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress.

U.S. Postal Service employees, communication with Congress.

(b) No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance or efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

Interdepartmental groups, expenses.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available to finance interdepartmental boards, com-

missions, councils, committees, or similar groups under section 214 of the Independent Offices Appropriations Act, 1946 (31 U.S.C. 691) which do not have prior and specific congressional approval of such method of financial support.

Space and service charges and building improvements.

SEC. 609. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law. 40 USC 601 note.

U.S. or Postal Service guards.

SEC. 610. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Buildings Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

Rental of space and services.

SEC. 611. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted. 40 USC 490.

SEC. 612. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Buildings Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1979. 40 USC 602a.

5 USC 5318 note.

SEC. 613. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or

maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1978, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

5 USC 5305 note.

SEC. 614. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

(1) section 5305 of title 5, United States Code;

(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

(b) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate

of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1979". Short title.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1249 (Comm. on Appropriations) and No. 95-1673 (Comm. of Conference).
SENATE REPORT No. 95-939 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 7, considered and passed House.
June 27, considered and passed Senate, amended.
Oct. 4, House and Senate agreed to conference report; resolved amendments in disagreement.

39-194 O—80—pt. 1——68 · QL3

Public Law 95-430
95th Congress

An Act

Oct. 10, 1978
[H.R. 11005]

To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979.

United States International Trade Commission. Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 330 of the Tariff Act of 1930 (19 U.S.C. 1330(e)) is amended—

(1) by striking paragraph (2) thereof; and

(2) by adding new paragraph (2), as follows:

"(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1979 an amount not to exceed $12,963,000.".

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1060 (Comm. on Ways and Means).
SENATE REPORT No. 95-914 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 15, considered and passed House.
June 28, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendment with an amendment.
Sept. 28, Senate concurred in House amendment.

Public Law 95-431
95th Congress

An Act

Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 10, 1978
[H.R. 12934]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, namely:

Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979.

TITLE I—DEPARTMENT OF STATE

Department of State Appropriation Act, 1979.

Administration of Foreign Affairs

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including allowances as authorized by 5 U.S.C. 5921–5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany); expenses of the National Commission on Educational, Scientific, and Cultural Cooperation, as authorized by sections 3, 5, and 6 of the Act of July 30, 1946 (22 U.S.C. 287o, 287q, 287r); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; refund of fees erroneously charged and paid for passports; radio communications; payment in advance for subscriptions to commercial information, telephone and similar services abroad; expenses necessary to provide maximum physical security in Government-owned and leased properties abroad; and procurement by contract or otherwise, of services, supplies, and facilities, as follows: (1) translating, (2) analysis and tabulation of technical information, and (3) preparation of special maps, globes, and geographic aids; $660,945,000: *Provided*, That passenger motor vehicles in possession of the Foreign Service abroad may be replaced in accordance with section 7 of the Act of August 1, 1956 (22 U.S.C. 2674), and the cost, including exchange allowance, of each such replacement shall not exceed $6,500 in the case of the chief of mission automobile at each diplomatic mission (except that four such vehicles may be purchased at not to exceed $9,000 each) and such amounts as may be otherwise provided by law for all other such vehicles, except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further*, That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement,

rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131), $2,900,000.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses of carrying into effect the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292–300), including personal services in the United States and abroad; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; and services as authorized by 5 U.S.C. 3109: $125,000,000, to remain available until expended: *Provided*, That not to exceed $2,544,000 may be used for administrative expenses during the current fiscal year.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for the purposes authorized by section 4 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 295), $6,025,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of section 291 of the Revised Statutes (31 U.S.C. 107), $2,350,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $38,107,000.

22 USC 269a, 269b, 269f, 269g–1, 269h, 272a, 273–276, 279a, 280b, 280i, 280k, 287e, 287r, 290b, 1896b, 1928, 1928b, 2673 notes.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $327,676,000, of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, $27,000,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For expenses necessary for permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress, including expenses authorized by the pertinent Acts and conventions provided for such representation; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances, as authorized by 5 U.S.C. 5921–5925; and expenses authorized by section 2 (a) and (e) and section 17 of the Act of August 1, 1956, as amended (22 U.S.C. 2669); $12,000,000. 22 USC 2687.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses of participation by the United States, upon approval by the Secretary of State, in international activities which arise from time to time in the conduct of foreign affairs and for which specific appropriations have not been provided pursuant to treaties, conventions, or special Acts of Congress, including personal services without regard to civil service and classification laws; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; contributions for the share of the United States in expenses of international organizations; and expenses authorized by section 2(a) of the Act of August 1, 1956, as amended (22 U.S.C. 2669); $8,000,000, to remain available until expended, of which not to exceed a total of $175,000 may be expended for representation allowances as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment.

INTERNATIONAL TRADE NEGOTIATIONS

For necessary expenses of participation by the United States in international trade negotiations, including not to exceed $25,000 for representation allowances, as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment, $4,717,000: *Provided*, That this appropriation shall be available in accordance with the authority provided in the current appropriation for "International conferences and contingencies".

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO 22 USC 277 note.

For expenses necessary to enable the United States to meet its obligations under the treaties of 1889, 1906, 1933, 1944, 1963, and 1970 between the United States and Mexico, and to comply with the other laws applicable to the United States Section, International Boundary and Water Commission, United States and Mexico, including operation and maintenance of the Rio Grande rectification, canalization, flood control, bank protection, water supply, power, irrigation, boundary demarcation, and sanitation projects; detailed plan preparation and construction (including surveys and operation and maintenance and protection during construction); Rio Grande emergency flood 26 Stat. 1512, 34 Stat. 2953, 48 Stat. 1621, 59 Stat. 1219. 15 UST 21. 23 UST 371.

protection; expenditures for the purposes set forth in sections 101 through 104 of the Act of September 13, 1950 (22 U.S.C. 277d–1–277d–4); purchase of planographs and lithographs; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses not otherwise provided for, including examination, preliminary surveys, and investigations, and operation and maintenance of projects or parts thereof, as enumerated above, including gaging stations, $6,800,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of projects authorized by the convention concluded February 1, 1933, between the United States and Mexico, the Acts approved August 19, 1935, as amended (22 U.S.C. 277–277f), August 29, 1935 (49 Stat. 961), June 4, 1936 (49 Stat. 1463), June 28, 1941 (22 U.S.C. 277f), September 13, 1950 (22 U.S.C. 277d–1–9), October 10, 1966 (80 Stat. 884), October 25, 1972 (86 Stat. 1161), and the project stipulated in the treaty between the United States and Mexico signed at Washington on February 3, 1944, to remain available until expended, $3,900,000: *Provided*, That no expenditures shall be made for the Lower Rio Grande flood control project for construction on any land, site, or easement in connection with this project except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States: *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State.

22 USC 277d–32.
22 USC 277d–34 note.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For expenses necessary to enable the President to perform the obligations of the United States pursuant to treaties between the United States and Great Britain, in respect to Canada, signed January 11, 1909 (36 Stat. 2448), and February 24, 1925 (44 Stat. 2102); and the treaty between the United States and Canada, signed February 27, 1950; including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; $2,500,000, to be disbursed under the direction of the Secretary of State and to be available also for additional expenses of the American Sections, International Commissions, as hereinafter set forth:

Regulations.

International Joint Commission, United States and Canada, the salary of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of clerks and other employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel

expenses and compensation of witnesses in attending hearings of the Commission at such places in the United States and Canada as the Commission or the American Commissioners shall determine to be necessary; not to exceed $2,000 for representation expenses, in accordance with such regulations as the President may prescribe, and official entertainment; and special and technical investigations in connection with matters falling within the Commission's jurisdiction: *Provided*, That transfers of funds may be made to other agencies of the Government for the performance of work for which this appropriation is made.

International Boundary Commission, United States and Canada, the completion of such remaining work as may be required under the award of the Alaskan Boundary Tribunal and the existing treaties between the United States and Great Britain; commutation of subsistence to employees while on field duty at not to exceed the authorized prevailing daily rate; hire of freight and passenger motor vehicles from temporary field employees; and payment for timber necessarily cut in keeping the boundary line clear.

INTERNATIONAL FISHERIES COMMISSIONS

For expenses, not otherwise provided for, necessary to enable the United States to meet its obligations in connection with participation in international fisheries commissions pursuant to treaties or conventions, and implementing Acts of Congress, $6,600,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Security guard service.

SEC. 102. Appropriations under this title for "Salaries and expenses", "International conferences and contingencies", and "Missions to international organizations" are available for reimbursement to the General Services Administration for security guard services for protection of confidential files.

One-world government advocates.

SEC. 103. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

Citation of title.

This title may be cited as the "Department of State Appropriation Act, 1979".

TITLE II—DEPARTMENT OF JUSTICE

Department of Justice Appropriation Act, 1979.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; $28,474,000, of which $5,111,000 is for the United States Parole Commission and $1,700,000 is for the Federal justice research program, the latter amount to remain available until expended.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); $90,550,000: *Provided*, That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, including $10,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $46,377,000: *Provided*, That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

42 USC 3701 note.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For necessary expenses of the offices of the United States attorneys and marshals, including purchase of firearms and ammunition and supervision of United States prisoners in non-Federal institutions, and bringing to the United States from foreign countries persons charged with crime, and for lease of not more than 800 passenger motor vehicles from the General Services Administration, of which not more than five hundred and seventy shall be for police-type use, $196,700,000: *Provided*, That, in order to equip the U.S. Marshals Service with police-type vehicles, the General Services Administration may purchase not more than one hundred replacement vehicles without regard to the purchase price limitation for the current fiscal year.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursement to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by law (24 U.S.C. 168a), $25,100,000.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $20,000,000: *Provided*, That no part of the sum herein appropriated shall be used to pay any witness more than one attendance fee for any one calendar day.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service established by title X of the Civil Rights Act of 1964 (42 U.S.C. 2000g–2000g–2), $5,353,000.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand three hundred and seventy-four for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11) and 22 U.S.C. 1157, under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $561,341,000.

None of the funds appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of $1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies; payment of rewards; not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred seven, of which two hundred ninety-eight shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; firearms and ammunition, attendance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of

fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for enforcement fence and construction incident to such fence; reimbursement to the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157 under regulations prescribed by the Secretary of State; research related to immigration enforcement; $299,350,000, of which not to exceed $400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed $50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including hire of passenger motor vehicles; payment in advance for special tests and studies by contract; payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed three hundred seventy-five passenger motor vehicles (for replacement only) for police-type use without regard to the general purchase price limitation for the current fiscal year; payment of rewards; payment for publication of technical and informational material in professional and trade journals; purchase of chemicals, apparatus, and scientific equipment; payment for necessary accommodations in the District of Columbia for conferences and training activities; acquisition, lease, maintenance, and operation of aircraft; employment of aliens by contract for services abroad; research related to enforcement and drug control; benefits in accordance with those provided under 22 U.S.C. 1136(9)-(11), under regulations prescribed by the Secretary of State; $192.953,000, of which not to exceed $4,500,000 for research shall remain available until expended.

21 USC 873.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES, BUREAU OF PRISONS

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of (not to exceed thirty-two of which twenty-four are for replacement only) and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; $315,200,000: *Provided*, That

42 USC 250a.

there may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $9,920,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $35,280,000, to remain available until expended: *Provided*, That labor of the United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles, except as hereinafter provided. 31 USC 849.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,041,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $3,040,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis and to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and shall be exclusive of depreciation, payment of claims, expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SALARIES AND EXPENSES

For grants, contracts, loans, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses 42 USC 3701 note. 42 USC 5601 note.

in connection therewith, $646,488,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

Attorneys, qualification.

SEC. 202. None of the funds appropriated by this title may be used to pay the compensation of any person hereafter employed as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

Experts and consultants.

SEC. 203. Appropriations and authorizations made in this title for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

Uniforms.

SEC. 204. Appropriations for "Salaries and expenses, general administration", "Salaries and expenses, United States attorneys and marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901–5902).

Government motor vehicles, insurance.

SEC. 205. Appropriations made in this title shall be available for the purchase of insurance for motor vehicles operated on official Government business in foreign countries.

Dependents' schooling.

SEC. 206. Funds appropriated under this title shall be available for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of said dependents between their places of residence and schools serving the area which they would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

SEC. 207. A total of not to exceed $18,500 from funds appropriated to the Department of Justice shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 208. Appropriations and authorizations made in this title which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

Citation of title.

This title may be cited as the "Department of Justice Appropriation Act, 1979".

Department of Commerce Appropriation Act, 1979.

TITLE III—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $24,900,000, of which $2,000,000 shall be available for the Secretary's Special Initiatives Fund.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $49,286,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to prepare for taking, compiling, and publishing the censuses of business, transportation, manufactures, and mineral industries; the census of governments; the census of agriculture; the census of population and housing; and periodic surveys, as provided for by law; $196,800,000, to remain available until expended: *Provided*, That certain enumerators for the 1980 Decennial Census may be paid on a piece rate basis without regard to the provisions of 29 U.S.C. 206 and 207.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Economic Analysis, the Office of Federal Statistical Policy and Standards, the Office of Industrial Economics, and the Office of Economic Affairs, $16,430,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS (INCLUDING TRANSFER OF FUNDS)

For economic development assistance as authorized by titles I, II, III, IV and IX of the Public Works and Economic Development Act of 1965, as amended, and title II of the Trade Act of 1974, $507,525,000: *Provided*, That any unobligated balance remaining in the account entitled "Financial and Technical Assistance" as of September 30, 1978, shall be merged with this appropriation: *Provided further*, That total obligations for new loans and guarantees under the "Economic Development Revolving Fund" shall not exceed $75,000,000. 42 USC 3131, 3141, 3151, 3161, 3241. 19 USC 2251.

LOCAL PUBLIC WORKS PROGRAM

For administrative expenses, including expenses for program evaluation by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94-369), $10,600,000. 42 USC 6701 note.

ADMINISTRATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For necessary expenses of administering the economic development assistance programs, not otherwise provided for, $29,300,000, of which not to exceed $300,000 may be advanced to the Small Business Administration for processing of loan applications.

REGIONAL ACTION PLANNING COMMISSIONS

REGIONAL DEVELOPMENT PROGRAMS

For expenses necessary to carry out the programs authorized by title V of the Public Works and Economic Development Act of 1965, as amended, $62,800,000, to remain available until expended.

42 USC 3181.

INDUSTRY AND TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for domestic business activities of the Department of Commerce; necessary expenses for international business activities, including trade promotional activities abroad without regard to the provisions of law set forth in 41 U.S.C. 5 and 13, and 44 U.S.C. 501, 3702, and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; purchase of commercial and trade reports; employment of aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; and not to exceed $4,200 for official representation expenses abroad; necessary expenses to carry out the provisions of the Defense Production Act of 1950, as amended; and necessary expenses for carrying out the Export Administration Act of 1969, as amended, including awards of compensation to informers under said Act and as authorized by 22 U.S.C. 401(b); $71,775,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out the activities concerned with international business activities.

50 USC app. 2061.

50 USC app. 2401 note.

MINORITY BUSINESS ENTERPRISE

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, or other agreements with public or private organizations, $57,965,000, of which $44,950,000 shall remain available until expended: *Provided*, That not to exceed $13,015,000 shall be available for program development and management.

UNITED STATES TRAVEL SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Travel Service as provided for by law; including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner

authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $5,000 for representation expenses abroad; $13,500,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the National Oceanic and Atmospheric Administration, including research and development; maintenance, operation, and hire of aircraft; expenses of an authorized strength of 399 commissioned officers on the active list; pay of commissioned officers retired in accordance with law and payments under the Retired Serviceman's Family Protection and the Survivors Benefit plans; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisiton of land for facilities; $660,650,000, to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands Fund; and, in addition, $5,000,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries": *Provided*, That this appropriation shall be available for payment to the National Aeronautics and Space Administration for procurement, in accordance with the authority available to that Administration, of such equipment or facilities as may be necessary, for the purposes of this appropriation. 33 USC 851.

COASTAL ZONE MANAGEMENT

For carrying out the provisions of Public Law 92-583, as amended, and the provisions of Title III of Public Law 92-532, as amended, $57,200,000, to remain available until expended. 16 USC 1451 note. 16 USC 1431-1434.

COASTAL ENERGY IMPACT FUND

Obligations under the Coastal Energy Impact Fund for payments pursuant to subsections 308 (c), (d), and (f) of the Coastal Zone Management Act of 1972, as amended, shall not exceed $200,000,000. 16 USC 1456a.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

OPERATIONS, RESEARCH, AND ADMINISTRATION

For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, as amended, $17,395,000, to remain available until expended. 15 USC 2201 note.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $93,600,000.

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; and the National Technical Information Service; $87,700,000, to remain available until expended, of which not to exceed $3,300,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $11,500,000, to remain available until expended.

MARITIME ADMINISTRATION

SHIP CONSTRUCTION

For construction-differential subsidy incident to construction, reconstruction, and reconditioning of ships and acquisition of used ships under title V of the Merchant Marine Act, 1936, as amended; and for the cost of national defense features on ships, $157,000,000, to remain available until expended.

46 USC 1151.

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,000,000, to remain available until expended.

46 USC 1245.

RESEARCH AND DEVELOPMENT

For expenses necessary for research, development, fabrication, and test operation of experimental facilities and equipment; collection and dissemination of maritime technical and engineering information; and studies to improve water transportation systems; $17,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For expenses necessary for carrying out the Merchant Marine Act, 1936, as amended, and the training of cadets as officers of the Merchant Marine, including not to exceed $2,500 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed $2,500 for representation allowances; not to exceed $2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; $57,150,000, to remain available until expended: *Provided*, That reimbursement may be made to this appropriation for expenses in support

of activities for National Maritime Research Centers financed from the appropriation for "Research and development": *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts. 46 USC 1245.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 302. During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

SEC. 303. During the current fiscal year appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 304. No part of any appropriation contained in this title shall be used for construction of any ship in any foreign country.

SEC. 305. No part of any appropriation contained in this title shall be obligated or expended for promoting or conducting trade relations with Cuba.

This title may be cited as the "Department of Commerce Appropriation Act, 1979". Citation of title.

TITLE IV—THE JUDICIARY

Judiciary Appropriation Act, 1979.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice, hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and for mis-

cellaneous expenses, to be expended as the Chief Justice may approve; $9,690,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without reference to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $1,450,000, of which $66,000 shall remain available until expended: *Provided*, That section 1 of the Act of May 7, 1934 (40 U.S.C. 13a–13b) is amended by adding thereto the following subsection:

5 USC 5101 *et seq.*, 8331 *et seq.*

"(b) In addition to the foregoing, any funds hereafter appropriated under authority of this Act shall be available also for expenses of heating and air-conditioning refrigeration supplied by the Capitol Power Plant, advancements for which shall be made and deposited in the Treasury to the credit of appropriations hereafter provided for the Capitol Power Plant; and for the purchase of electrical energy: *Provided further*, That subsection 2 of such Act is amended by striking the words 'the foregoing' and inserting in lieu thereof the words 'section 1(a)'".

COURT OF CUSTOMS AND PATENT APPEALS

SALARIES AND EXPENSES

For salaries of the chief judge, associate judges, and other officers and employees, and for all necessary expenses of the court, $1,099,000.

CUSTOMS COURT

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $3,055,000: *Provided*, That travel expenses of judges of the Customs Court shall be paid upon written certificate of the judge.

COURT OF CLAIMS

SALARIES AND EXPENSES

For salaries of the chief judge, associate judges, and other officers and employees, and for all necessary expenses of the court, $3,520,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF JUDGES

For salaries of circuit judges; district judges (including judges of the district courts of the Virgin Islands, the Panama Canal Zone, Guam, and the Northern Mariana Islands); justices and judges retired or resigned under title 28, United States Code, sections 371, 372, and

373; and annuities of widows of Justices of the Supreme Court of the United States in accordance with title 28, United States Code, section 375; $40,258,000.

SALARIES OF SUPPORTING PERSONNEL

For salaries of all officials and employees of the Federal Judiciary, not otherwise specifically provided for, $166,195,000: *Provided*, That the salaries of secretaries and law clerks to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code, for General Schedule grade (GS) 11 and grade (GS) 12, respectively: *Provided further*, That (exclusive of step increases corresponding with those provided for by chapter 53 of title 5 of the United States Code, post differential and allowances for employees stationed outside the continental United States and in Alaska and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by each of the circuit and district judges shall not exceed $73,489 and $45,272 per annum, respectively, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges, in which case the aggregate salaries shall not exceed $91,747 and $57,608 per annum, respectively: *Provided further*, That the chief judge of each circuit may appoint a senior staff attorney to the court at a rate of compensation not to exceed General Schedule grade (GS) 15, without regard to the limitations referred to above.

28 USC 604 note.

5 USC 5101, 5332 note.

5 USC 5301.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, and the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, $24,800,000, to remain available until expended.

18 USC 3006A note.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $20,750,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

TRAVEL AND MISCELLANEOUS EXPENSES

For necessary travel and miscellaneous expenses, not otherwise provided for, incurred by the Judiciary, including the purchase of firearms and ammunition, $31,914,000.

SALARIES AND EXPENSES OF MAGISTRATES

For compensation and expenses of United States magistrates, including secretarial and clerical assistance, as authorized by 28 U.S.C. 634–635, $19,441,000.

SALARIES AND EXPENSES OF REFEREES

For salaries and expenses of referees as authorized by the Act of June 28, 1946, as amended (11 U.S.C. 68, 102), not to exceed $35,300,000, to be derived from the Referees' salary and expense fund established in pursuance of said Act, and, to the extent of any deficiency in said fund, from any monies in the Treasury not otherwise appropriated.

SPACE AND FACILITIES

For the rental of space, tenant alterations, and related services for the United States Courts of Appeals and District Courts, the Court of Customs and Patent Appeals, the Customs Court, the Court of Claims, the Administrative Office of the United States Courts and the Federal Judicial Center, pursuant to the Public Buildings Amendments of 1972, Public Law 92-313, June 16, 1972 (86 Stat. 216), $98,400,000.

40 USC 603 note.

FURNITURE AND FURNISHINGS

For furniture and furnishings of the United States Courts of Appeals and District Courts, including transportation, installation, and other related expenses, $8,500,000; to be procured directly, or by the General Services Administration to the extent funds are transferred for that purpose, in compliance with guidelines prescribed by the Director of the Administrative Office of the United States Courts.

PRETRIAL SERVICES AGENCIES

For salaries and expenses of pretrial services agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $5,000,000, to remain available until expended.

18 USC 3152-3156.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, and rent in the District of Columbia and elsewhere, $12,250,000.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $8,025,000.

28 USC 620.

BICENTENNIAL EXPENSES, THE JUDICIARY

BICENTENNIAL ACTIVITIES

Funds appropriated under this heading in the Judiciary Appropriation Act, 1976, shall be available for expenses incurred by the Judiciary in planning for the observance of the Bicentennial of the Constitution of the United States.

89 Stat. 633.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 402. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 403. Not to exceed $120,000 of the appropriations contained in this title shall be available for the study of rules of practice and procedure.

SEC. 404. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210.

12 USC 1904 note.

This title may be cited as the "Judiciary Appropriation Act, 1979".

Citation of title.

TITLE V—RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $15,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $16,395,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $85,000,000, of which $2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $52,000 shall be available for official reception and representation expenses.

22 USC 2877.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $10,752,000.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For expenses necessary for the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $521,000, to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

22 USC 3001 *et seq.*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended, including services as authorized by 5 U.S.C. 3109; hire

42 USC 2000e.

of passenger motor vehicles; and not to exceed $15,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended; $107,000,000.

42 USC 2000e.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Federal Communications Commission, as authorized by law, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); not to exceed $325,000 for land and structures; not to exceed $65,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed six) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; not to exceed $35,000 to provide commemorative stamp albums to delegates attending the 1979 World Administrative Radio Conference; $70,446,000: *Provided*, That not to exceed $500,000 of the foregoing amount shall remain available until September 30, 1980 for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; $10,550,000: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $64,750,000.

FOREIGN CLAIMS SETTLEMENT COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For expenses necessary to carry on the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended, as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances

22 USC 1131.

of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $1,015,000, to be derived by transfer from the account entitled "Payment of Vietnam Prisoners of War Claims".

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the International Communication Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to the civil service and classification laws, of persons on a temporary basis (not to exceed $20,000), and aliens within the United States; expenses authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158) and living quarters as authorized by 5 U.S.C. 5912; entertainment within the United States not to exceed $6,500; purchase for use abroad of passenger motor vehicles (of which not to exceed twenty-five may be for purposes other than replacement); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; advance of funds notwithstanding section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 804(14) of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1474); radio activities and acquisition and production of motion pictures and visual materials and purchase or rental of technical equipment and facilities therefor, narration, scriptwriting, translation, and engineering services, by contract or otherwise; and purchase of objects for presentation to foreign governments, schools, or organizations; $368,000,000, of which not to exceed $7,941,000 of the amounts allocated by the International Communication Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451), shall remain available until expended: *Provided*, That not to exceed $410,000 may be used for representation abroad: *Provided further*, That passenger motor vehicles used abroad exclusively for the purposes of this appropriation may be replaced in accordance with section 806 of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1475a), and the cost, including the exchange allowance, of each such replacement, shall not exceed such amounts as may be otherwise provided by law (except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law): *Provided further*, That notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), the International Communication Agency is authorized, in making contracts for the use of international shortwave radio stations and facilities, to agree on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be hereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

5 USC app.

22 USC 2452.

22 USC 1461b.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the International Communication Agency, as authorized by law, including Section 804(14) of the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1474), $9,824,000, to remain available until expended.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

22 USC 2054 note.

To enable the Director of the International Communication Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $13,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

63 Stat. 954.

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception, purchase and installation of necessary equipment for radio transmission and reception, without regard to the provisions of the Act of June 30, 1932 (40 U.S.C. 278a), and acquisition of land and interests in land by purchase, lease, rental, or otherwise, $19,685,000, to remain available until expended: *Provided*, That this appropriation shall be available for acquisition of land outside the continental United States without regard to section 355 of the Revised Statutes (40 U.S.C. 255) and title to any land so acquired shall be approved by the Director of the International Communication Agency.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $12,950,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

22 USC 2901 note.

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,500,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,000,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of $2,000 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $270,000,000: *Provided*, That no part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State Legislature. 42 USC 2996 note.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $702,000. 16 USC 1401.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SALARIES AND EXPENSES

For expenses necessary for the Office of the Special Representative for Trade Negotiations, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, $2,665,000: *Provided*, That not to exceed $15,000 shall be available for official reception and representation expenses.

COMMISSION ON GLOBAL HUNGER AND MALNUTRITION

SALARIES AND EXPENSES

For necessary expenses of the Commission on Global Hunger and Malnutrition, including services as authorized by 5 U.S.C. 3109, $1,300,000.

RENEGOTIATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Renegotiation Board, including termination or cessation of the activities of the Board, and including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $5,260,000, to be available only until March 31, 1979: *Provided*, That all property (including records) of the Board shall be transferred to the Administrator, General Services Administration, upon cessation of the Board's activities, or on March 31, 1979, whichever first occurs.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, $64,650,000.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles, not to exceed $1,500 for official reception and representation expenses,

$187,000,000, and in addition $13,000,000 for disaster loanmaking activities shall be transferred to this appropriation from the "Disaster Loan Fund": *Provided*, That no part of this appropriation shall be used to fund any small business development center or university business development center pilot program, or any combination thereof, in any State in excess of $300,000 per State until enactment into law of H.R. 11445, or similar legislation.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business, $4,000,000, to remain available until expended.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the following funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", the "Pollution control equipment contract guarantees revolving fund" and the "Surety bond guarantees revolving fund".

31 USC 849.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business loan and investment fund", authorized by the Small Business Act, as amended, $520,500,000, to remain available without fiscal year limitation.

15 USC 633.

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, $230,000,000, to remain available without fiscal year limitation.

LEASE GUARANTEES REVOLVING FUND

For additional capital for the "Lease Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $4,000,000, to remain available without fiscal year limitation.

15 USC 694.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $35,000,000, to remain available without fiscal year limitation.

15 USC 694c.

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $1,575,000.

TITLE VI—GENERAL PROVISIONS

Publicity or propaganda.

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Foreign currency funded programs.

SEC. 602. No part of any appropriation contained in this Act shall be used to administer any program which is funded in whole or in part from foreign currencies or credits for which a specific dollar appropriation therefor has not been made.

Fiscal year limitation.

SEC. 603. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 604. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended to make a commitment to provide any reparations, aid, or credits to Vietnam, Cambodia, or Laos.

8 USC 1182 note.

SEC. 605. It is the sense of the Congress that—

(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

8 USC 1182.

(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act to parole into the United States—

(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

(B) for the fiscal year 1980, 7,500 such aliens.

SEC. 606. None of the funds appropriated or otherwise made available by this Act shall be available for the Advisory Committee on the Bureau of the Census or for any other advisory committee to the Department of Commerce which would perform similar duties and responsibilities, other than a committee which has, before July 1, 1978, filed a charter in accordance with section 9 of the Federal Advisory Committee Act.

5 USC app.

Short title.

This Act may be cited as the "Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979".

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1253 (Comm. on Appropriations) and No. 95-1565 (Comm. of Conference).

SENATE REPORT No. 95-1043 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 12, 14, considered and passed House.

Aug. 3, 7, considered and passed Senate, amended.

Sept. 28, House agreed to conference report; receded and concurred in certain Senate amendments, receded and concurred in others with amendment.

Sept. 29, House receded and concurred in Senate amendment No. 9; receded and concurred in Senate amendment No. 123, with amendment.

Sept. 30, Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:

Oct. 10, Presidential statement.

Public Law 95-432
95th Congress

An Act

Oct. 10, 1978
[H.R. 13349]

To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (b), (c), and (d) of section 301 and section 350 of the Immigration and Nationality Act are hereby repealed, effective as of the date of enactment of this Act.

Immigration and Nationality Act, amendment. Repeals. 8 USC 1401, 1482. 8 USC 1481, 1484–1487.

SEC. 2. Paragraphs (5) and (8) of section 349 and sections 352, 353, 354, and 355 of the Immigration and Nationality Act are hereby repealed.

8 USC 1401.

SEC. 3. Section 301 of the Immigration and Nationality Act is amended by striking out "(a)" after "SEC. 301.", and by redesignating paragraphs (1) through (7) as subsections (a) through (g), respectively.

8 USC 1481.

SEC. 4. Section 349 of the Immigration and Nationality Act is amended by inserting "(a)" after "SEC. 349.", and by renumbering paragraphs (6), (7), and (9) as paragraphs (5), (6), and (7), respectively.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1493 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 19, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 95-433
95th Congress

An Act

Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes.

Oct. 10, 1978
[H.R. 10581]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term—

Indians.
Judgment funds to certain Indian tribes.
Definitions.
25 USC 609c.

(1) "tribe" means the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation;

(2) "tribal governing body" means the governing body of a tribe or a committee of the members of such body designated by such body for purposes of this Act;

(3) "Secretary" means the Secretary of the Interior acting through (unless otherwise determined by the Secretary) the Superintendent of the Bureau of Indian Affairs Agency serving the tribe involved;

(4) "minor" means a member of a tribe, or descendant of a member of a tribe, who has not attained the age of eighteen years and who has a minor's share;

(5) "minor's share" means the per capita share of a judgment award, and the investment income accruing thereto, which is held in trust by the Secretary for a minor; and

(6) "parent" means the biological or adoptive parent or parents, or other legal guardian, of a minor.

(b) Notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), the Act of March 12, 1968 (82 Stat. 47), or any other law, or any regulation or plan promulgated pursuant thereto, the minor's share of judgment funds heretofore or hereafter awarded by the Indian Claims Commission or the United States Court of Claims to a tribe may be disbursed to a parent of such minor pursuant to this Act.

25 USC 1401-1407.

(c) The minor's share of judgment funds may be disbursed in such amounts deemed necessary by such parent for the best interest of the minor for the minor's health, education, welfare, and emergencies under a plan governing such funds for each minor (or a plan governing funds of all minors in a family) approved by the Secretary and the tribal governing body of the minor's tribe.

(d) The Secretary shall provide a monthly report to each tribal governing body which has approved one or more plans pursuant to subsection (c). Each such report shall include the amount and purpose of every disbursement made during each month under such plans.

Report.

SEC. 2. Any part of any of the judgment funds referred to in the first section of this Act that may be distributed per capita to, or held in

25 USC 609c-1.

trust for the benefit of, the members of a tribe, including minor's shares, shall not be subject to Federal or State income tax, and the per capita payment shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, or any other Federal or federally assisted program.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1304 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1193 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 17, considered and passed House.
Sept. 20, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendments.

Public Law 95-434
95th Congress

An Act

To authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds.

Oct. 10, 1978
[H.R. 11400]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1979".

National Science Foundation Authorization Act for Fiscal Year 1979.

SEC. 2. (a) There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year 1979 for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $265,700,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $224,700,000.

(3) United States Antarctic Program, $51,200,000.

(4) Biological, Behavioral, and Social Sciences, $157,000,000.

(5) Science Education Programs, $84,800,000.

(6) Applied Science and Research Applications, $69,700,000.

(7) Scientific, Technological, and International Affairs, $23,500,000.

(8) Program Development and Management, $53,300,000.

(b) Of the total amount authorized under subsection (a)(6)—

(1) $2,000,000 is authorized for a "Handicapped Research Program";

(2) $200,000 is authorized for the design of a program in Appropriate Technology; and

(3) not less than 12.5 per centum shall be expended to small business concerns.

SEC. 3. Appropriations made under the authority provided in sections 2 and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses upon the determination of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

Limitation.

SEC. 5. In addition to the sums authorized by section 2, not more than $4,500,000 is authorized to be appropriated for the fiscal year 1979 for expenses of the National Science Foundation incurred outside the United States, to be paid for in foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2, unless—

Transfer of funds.

(1) thirty legislative days have passed after the Director of the National Science Foundation or his designee has transmitted to

the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty legislative days both the Committee on Science and Technology of the House and the Committee on Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

42 USC 1882.

SEC. 7. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Human Resources of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

Feasibility study.
42 USC 1864 note.

SEC. 8. (a) The Director of the National Science Foundation, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and technical experts in public agencies, private organizations, and academic institutions, is authorized to determine the need to provide support under this Act for a study of the feasibility of transmitting solar energy to Earth by using orbital structures manufactured from lunar or asteroidal materials, and the impact of such a feasibility study, if any, on existing National Science Foundation programs.

(b)(1) If the Foundation determines that such a feasibility study is necessary, the Foundation is authorized to conduct such a study directly or by grants or contracts with public agencies, private organizations, or academic institutions.

(2) At the conclusion of any such study the Foundation shall prepare and submit to the President and to the Congress a report of the study, together with such recommendations as the Foundation deems appropriate.

(3) Of the funds authorized in section 2, $500,000 shall be available to carry out the provisions of this subsection.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-993 (Comm. on Science and Technology).
SENATE REPORTS: No. 95-851 accompanying S. 2549 and No. 95-853 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 18, considered and passed House.
June 28, considered and passed Senate, amended, in lieu of S. 2549.
Sept. 19, House concurred in Senate amendment with an amendment.
Sept. 29, Senate concurred in House amendment.

Public Law 95-435
95th Congress

An Act

To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

Oct. 10, 1978
[H.R. 9214]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286—286k-2) is amended by adding at the end thereof the following new section:

Bretton Woods Agreements Act, amendments. 22 USC 286e-7.

"SEC. 28. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the 'facility') established by the decision numbered 5508-(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509-(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a), for any adjustment in the value of monetary assets held by the United States in respect of United States participation in the facility.

"(c) Notwithstanding any other provision of this section, the authority of the Secretary to enter into agreements making resources available under this section shall be limited to such amounts as are appropriated in advance in appropriation Acts. Effective October 1, 1978, there are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as are necessary to carry out subsection (a) of this section, but not to exceed an amount of dollars equivalent to 1,450 million Special Drawing Rights.".

Appropriation authorization.

SEC. 2. Section 3(d) of the Bretton Woods Agreements Act (22 U.S.C. 286a(d)) is redesignated as section 3(d)(1) and amended by adding at the end thereof the following new paragraphs:

"(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979.".

Report to Congress.

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SEC. 3. The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended by adding at the end thereof the following new section:

22 USC 286e–8.

"SEC. 29. The Secretary of the Treasury shall instruct the United States executive director to seek to assure that no decision by the International Monetary Fund on the use of the facility undermines or departs from United States policy regarding the comparability of treatment of public and private creditors in cases of debt rescheduling where official United States credits are involved.".

SEC. 4. The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended by adding at the end thereof the following:

Consultation. 22 USC 286e–9.

"SEC. 30. (a) The Secretary of the Treasury shall instruct the United States executive director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the managing director of the Fund and other member country executive directors with regard to encouraging the staff of the Fund to formulate stabilization programs entered into pursuant to loans from the Supplementary Financing Facility which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

Report to Congress.

"(b) In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs entered into pursuant to loans from the Supplementary Financing Facility on borrowing countries, especially as it relates to the poor majority within those countries, the United States Governor of the Fund shall prepare and submit, not later than 180 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, to the maximum extent feasible, with respect to countries to which loans are made by the Supplementary Financing Facility during each year, the effects of policies of those countries which result from the standby agreements on basic human needs in such countries.

Report to Congress. 22 USC 286e–10. 22 USC 2151n.

"SEC. 31. The Secretary of the Treasury shall in consultation with the Secretary of State prepare and submit to the Congress an annual report on the status of internationally recognized human rights, as defined in section 116(a) of the Foreign Assistance Act of 1961, in each country which draws on funds made available under the Supplementary Financing Facility of the International Monetary Fund.".

Uganda. 22 USC 2151 note.

SEC. 5. (a) The Congress finds that—

(1) the Government of Uganda, under the regime of General Idi Amin, has committed genocide against Ugandans;

(2) the United States maintains substantial trade with the Republic of Uganda; and

(3) the relationship of the United States with Uganda is unique and justifies an exceptional response by the United States to the actions of the Government of Uganda.

(b) It is the sense of the Congress that the Government of the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide.

Presidential certification to Congress.

(c) Notwithstanding any other provision of law, after date of enactment of this section, no corporation, institution, group or individual may import, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistant pattern of gross violations of human rights.

50 USC app. 2403.

(d) Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistant pattern of gross violations of human rights.". Presidential certification to Congress.

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda. 22 USC 2151 note.

SEC. 6. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which— 22 USC 286e-11.

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

SEC. 7. Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts. 31 USC 27.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-853 (Comm. on Banking, Finance and Urban Affairs) and No. 95-1613 (Comm. of Conference).

SENATE REPORTS: No. 95-603 accompanying S. 2152 (Comm. on Foreign Relations) and No. 95-698 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Feb. 22, 23, considered and passed House.

July 31, considered and passed Senate, amended, in lieu of S. 2152.

Sept. 25, Senate agreed to conference report.

Sept. 28, House agreed to conference report.

Public Law 95-436
95th Congress

An Act

Oct. 10, 1978
[S. 409]

To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center".

Roman L. Hruska Meat Animal Research Center, Nebr. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, is designated as the "Roman L. Hruska Meat Animal Research Center", in honor of former Senator Roman L. Hruska.

SEC. 2. Any reference to such facility in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such facility by the first section of this Act.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1547 (Comm. on Agriculture).
SENATE REPORT No. 95-321 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 12, considered and passed Senate.
Vol. 124 (1978): Sept. 26, considered and passed House.

Public Law 95-437
95th Congress

An Act

To amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service.

Oct. 10, 1978
[H.R. 10126]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Federal Employees Part-Time Career Employment Act of 1978.
5 USC 3391 note.

SECTION 1. This Act may be cited as the "Federal Employees Part-Time Career Employment Act of 1978".

CONGRESSIONAL FINDINGS AND PURPOSE

5 USC 3391 note.

SEC. 2. (a) The Congress finds that—

(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

(2) part-time permanent employment—

(A) provides older individuals with a gradual transition into retirement;

(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(C) provides parents opportunities to balance family responsibilities with the need for additional income;

(D) benefits students who must finance their own education or vocational training;

(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(b) The purpose of this Act is to provide increased part-time career employment opportunities throughout the Federal Government.

PART-TIME CAREER EMPLOYMENT PROGRAM

SEC. 3. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

5 USC 3391.

"§ 3391. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) an agency in the judicial branch;

"(D) the Library of Congress;

"(E) the Botanic Garden; and

"(F) the Office of the Architect of the Capitol; but does not include—

"(i) a Government controlled corporation;

"(ii) the Tennessee Valley Authority;

"(iii) the Alaska Railroad;

"(iv) the Virgin Island Corporation;

"(v) the Panama Canal Company;

"(vi) the Federal Bureau of Investigation, Department of Justice;

"(vii) the Central Intelligence Agency; and

"(viii) the National Security Agency, Department of Defense; and

"(2) 'part-time career employment' means part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

5 USC 3392.

"§ 3392. Establishment of part-time career employment programs

Regulations.

"(a) (1) In order to promote part-time career employment opportunities in all grade levels, the head of each agency, by regulation, shall establish and maintain a program for part-time career employment within such agency. Such regulations shall provide for—

"(A) the review of positions which, after such positions become vacant, may be filled on a part-time career employment basis (including the establishment of criteria to be used in identifying such positions);

"(B) procedures and criteria to be used in connection with establishing or converting positions for part-time career employment, subject to the limitations of section 3393 of this title;

"(C) annual goals for establishing or converting positions for part-time career employment, and a timetable setting forth interim and final deadlines for achieving such goals;

"(D) a continuing review and evaluation of the part-time career employment program established under such regulations; and

"(E) procedures for notifying the public of vacant part-time positions in such agency, utilizing facilities and funds otherwise available to such agency for the dissemination of information.

"(2) The head of each agency shall provide for communication between, and coordination of the activities of, the individuals within such agency whose responsibilities relate to the part-time career employment program established within that agency.

"(3) Regulations established under paragraph (1) of this subsection may provide for such exceptions as may be necessary to carry out the mission of the agency.

"(b)(1) The Civil Service Commission, by regulation, shall establish and maintain a program under which it shall, on the request of an agency, advise and assist such agency in the establishment and maintenance of its part-time career employment program under this subchapter. Regulations.

"(2) The Commission shall conduct a research and demonstration program with respect to part-time career employment within the Federal Government. In particular, such program shall be directed to— Research and demonstration program.

"(A) determining the extent to which part-time career employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;

"(B) determining the extent to which job-sharing arrangements may be established for various occupations and positions; and

"(C) evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its various sociological effects as a mode of employment.

"§ 3393. Limitations 5 USC 3393.

"(a) An agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

"(b) Any person who is employed on a full-time basis in an agency shall not be required to accept part-time employment as a condition of continued employment.

"§ 3394. Personnel ceilings 5 USC 3394.

"In administering any personnel ceiling applicable to an agency (or unit therein), an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek. This section shall become effective on October 1, 1980. Effective date.

"§ 3395. Nonapplicability 5 USC 3395.

"(a) If, on the date of enactment of this subchapter, there is in effect with respect to positions within an agency a collective-bargaining agreement which establishes the number of hours of employment a week, then this subchapter shall not apply to those positions.

"(b) This subchapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate fixed for GS-16 of the General Schedule. 5 USC 5332 note.

"§ 3396. Regulations 5 USC 3396.

"Before any regulation is prescribed under this subchapter, a copy of the proposed regulation shall be published in the Federal Register and an opportunity provided to interested parties to present written comment and, where practicable, oral comment. Initial regulations Publication in Federal Register.

shall be prescribed not later than 180 days after the date of the enactment of this subchapter.

5 USC 3397.

"§ 3397. Reports

"(a) Each agency shall prepare and transmit on a biannual basis a report to the Civil Service Commission on its activities under this subchapter, including—

"(1) details on such agency's progress in meeting part-time career employment goals established under section 3392 of this title; and

"(2) an explanation of any impediments experienced by such agency in meeting such goals or in otherwise carrying out the provisions of this subchapter, together with a statement of the measures taken to overcome such impediments.

"(b) The Commission shall include in its annual report under section 1308 of this title a statement of its activities under this subchapter, and a description and evaluation of the activities of agencies in carrying out the provisions of this subchapter.

5 USC 3398.

"§ 3398. Employee organization representation

"If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee organization shall be entitled to represent all employees within that unit employed on a part-time career employment basis.".

(b) Subpart B of the table of chapters of part III of the analysis of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec.
"3391. Definitions.
"3392. Establishment of part-time career employment programs.
"3393. Limitations.
"3394. Personnel ceilings.
"3395. Nonapplicability.
"3396. Regulations.
"3397. Reports.
"3398. Employee organization representation.".

SEC. 4. (a) Section 8347(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, the Commission may not exclude any employee who occupies a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

Ante, p. 1056.

(b) Section 8716(b) of such title 5 is amended—

(1) by striking out of the second sentence "or part-time";

(2) by striking out "or" at the end of clause (1);

(3) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(c)(1) Section 8913(b) of such title 5 is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).". *Ante*, p. 1056.

(2)(A) Section 8906(b) of such title 5 is amended—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end thereof the following new paragraph:

"(3) In the case of an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title), the biweekly Government contribution shall be equal to the percentage which bears the same ratio to the percentage determined under this subsection (without regard to this paragraph) as the average number of hours of such employee's regularly scheduled workweek bears to the average number of hours in the regularly scheduled workweek of an employee serving in a comparable position on a full-time career basis (as determined under regulations prescribed by the Commission)".

(B) The amendments made by subparagraph (A) shall not apply with respect to any employee serving in a position on a part-time career employment basis on the date of the enactment of this Act for such period as the employee continues to serve without a break in service in that or any other position on such part-time basis. 5 USC 8906 note.

SEC. 5. Each report prepared by an agency under section 3397(a) of title 5, United States Code (as added by this Act), shall, to the extent practicable, indicate the extent to which part-time career employment opportunities have been extended by such agency during the period covered by such report to each group referred to in subparagraphs (A), (B), (C), and (D) of section 2(a)(2) of this Act. Agency report. 5 USC 3397 note.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-932 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1116 accompanying S. 518 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Mar. 13, considered and passed House.
Aug. 25, considered and passed Senate, amended, in lieu of S. 518.
Sept. 22, House concurred in Senate amendments with an amendment.
Sept. 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:
Oct. 10, Presidential statement.

Public Law 95-438
95th Congress

An Act

Oct. 10, 1978
[S. 425]

To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired).

Lt. Gen. Ira C. Eaker. Medal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is hereby authorized to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, United States Air Force (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Air Force with the approval of the Secretary of the Treasury. There are authorized to be appropriated not to exceed $5,000 to carry out the provisions of this subsection.

Appropriation authorization.

Duplicates.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation then current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary: *Provided*, That any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to fully indemnify the United States for the payment required by this section.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1603 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORT No. 95-139 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 13, considered and passed Senate.
Vol. 124 (1978): Sept. 26, considered and passed House.

Public Law 95-439
95th Congress

An Act

To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes.

Oct. 10, 1978
[S. 286]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of May 29, 1884 (23 Stat. 32, as amended; 21 U.S.C. 117), is further amended to read as follows: "Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall knowingly violate the provisions of section 6 of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.".

Animal and plant quarantines, certain requirements repealed. Penalty.

21 USC 115.

SEC. 2. Section 1 of the Act of March 3, 1905 (33 Stat. 1264, as amended; 21 U.S.C. 123), is further amended to read as follows: "The Secretary of Agriculture is authorized to quarantine by regulation any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he shall determine the fact that any animals or live poultry in such State or Territory or District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry or that the contagion of any such disease exists or that vectors which may disseminate any such disease exist in such State or Territory or the District of Columbia.".

SEC. 3. Section 3 of the Act of March 3, 1905 (33 Stat. 1265, as amended; 21 U.S.C. 125), is further amended to read as follows: "It shall be the duty of the Secretary of Agriculture, and he is authorized and directed, when the public safety will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of quarantined animals or live poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.".

Rules and regulations.

SEC. 4. Section 8 of the Act of August 20, 1912 (37 Stat. 318, as amended; 7 U.S.C. 161), is further amended by:

(a) deleting the following from the first sentence thereof: "; and the Secretary of Agriculture is directed to give notice of the establishment of such quarantine to common carriers doing business in or through such quarantined area, and shall publish in such newspapers in the quarantined area as he shall select notice of the establishment of quarantine"; and

(b) deleting the following from the fourth sentence thereof: "; and the Secretary of Agriculture shall give notice of such rules and regulations as hereinbefore provided in this section for the notice of the establishment of quarantine".

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1606 (Comm. on Agriculture).
SENATE REPORT No. 95-804 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 18, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 95-440
95th Congress

An Act

To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents.

Oct. 10, 1978
[S. 1267]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3303a of chapter 33, title 44, United States Code, is amended:

General Records Schedules to all Federal agencies, mandatory application.

(a) by deleting subsection (b) of section 3303a in its entirety, and substituting in lieu thereof:

"(b) Authorizations granted under lists and schedules submitted to the Administrator under section 3303 of this title, and schedules promulgated by the Administrator under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Administrator under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.";

(b) by striking out the word "may" and substituting in lieu thereof the word "shall" in the first sentence of subsection (d); and

(c) by inserting immediately after the last sentence of subsection (d) the following new sentence: "A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.".

Federal Register documents, disposal.

SEC. 2. Section 1503 of chapter 15, title 44, United States Code, is amended by deleting the fifth sentence and substituting in lieu thereof the following sentence: "The original shall be retained by the General Services Administration and shall be available for inspection under regulations prescribed by the Administrator, unless such original is disposed of in accordance with disposal schedules submitted by the Administrative Committee of the Federal Register and authorized by the Administrator pursuant to regulations issued under chapter 33 of this title; however, originals of proclamations of the President and Executive orders shall be permanently retained by the Administration as part of the National Archives of the United States.".

44 USC 3301 *et seq.*

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1263 (Comm. on House Administration).
SENATE REPORT No. 95-711 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 3, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 95-441
95th Congress

An Act

Oct. 10, 1978
[S. 2946]

To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control.

Public lands relinquishment.
7 USC 2268.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1552 (Comm. on Agriculture).
SENATE REPORT No. 95-882 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 8, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 95-442
95th Congress

An Act

To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs.

Oct. 10, 1978
[S. 2951]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this Act shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this Act, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture. The Secretary of Agriculture may promulgate regulations to carry out the provisions of this Act.

Gifts and property, acceptance and administration by Secretary of Agriculture.
7 USC 2269.

Regulations.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1553 (Comm. on Agriculture).
SENATE REPORT No. 95-883 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 26, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 95-443
95th Congress

An Act

Oct. 10, 1978
[S. 3045]

To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products.

Farm credit loans, repayment, extension.
12 USC 2075.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Farm Credit Act of 1971 is amended by inserting in the first sentence of section 2.4, after the words "seven years", the following: "(fifteen years if made to producers or harvesters of aquatic products)".

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1550 accompanying H.R. 11079 (Comm. on Agriculture).
SENATE REPORT No. 95-849 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 22, considered and passed Senate.
Sept. 26, H.R. 11079 considered and passed House; passage vacated and S. 3045 passed in lieu.

Public Law 95-444
95th Congress

An Act

To extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes.

Oct. 10, 1978
[S. 3067]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Act of 1978".

Civil Rights Commission Act of 1978. 42 USC 1975 note.

SEC. 2. (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a)) is amended by striking out "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2; 60 Stat. 808)." and inserting in lieu thereof the following: "section 5703 of title 5 of the United States Code.".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975 (b)) is amended by striking out "the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835-42; 63 Stat. 166)" and inserting in lieu thereof the following: "subchapter I of chapter 57 of title 5 of the United States Code". 42 USC 1975b.

SEC. 3. (a) Section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c) is amended—

(1) in each of subsections (a)(1) and (a)(2), by inserting "age, handicap," after "sex,";

(2) in each of subsections (a)(3) and (a)(4), by inserting ", age, handicap," after "sex";

(3) in subsection (a)(2) by inserting "discrimination or" before "a denial";

(4) in each of subsections (a)(3) and (a)(4), by inserting "discrimination or" before "denials";

(5) by redesignating paragraph (6) of subsection (a) as subsection (b);

(6) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(7) by adding at the end the following:

"(e) As used in this section, the term 'handicap' means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)). "Handicap".

"(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.". Abortion. Limitation of Commission authority.

(b) Subsection (b) (which is redesignated as subsection (c) by this Act) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c (b)) is amended by striking out "fiscal year 1978" and inserting in lieu thereof "the fiscal year ending September 30, 1983".

SEC. 4. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a)) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(c)) is amended—

(1) by inserting after "within States" the following: "as it deems advisable, but the Commission shall constitute at least one advisory committee within each State"; and

(2) by striking out "and may consult" and inserting in lieu thereof the following: ". The Commission may consult".

SEC. 6. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975(d)) is amended by striking out "sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and inserting in lieu thereof the following: "sections 203, 205, 207, 208, and 209 of title 18 of the United States Code".

SEC. 7. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act for the fiscal year ending September 30, 1979.".

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1140 accompanying H.R. 12432 (Comm. on the Judiciary) and No. 95-1626 (Comm. of Conference).

SENATE DOCUMENT No. 94-114 published in lieu of a Senate Report on S. 3067.

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 27, considered and passed Senate.

June 26, July 28, Sept. 6, H.R. 12432 considered in House.

Sept. 6, considered and passed House, amended, in lieu of H.R. 12432.

Sept. 28, House and Senate agreed to conference report.

Public Law 95-445
95th Congress

An Act

To amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.

Oct. 10, 1978
[S. 3092]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Humane Methods of Slaughter Act of 1978".

Humane Methods of Slaughter Act of 1978.
21 USC 601 note.

SEC. 2. Section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) is amended by inserting "(a)" immediately before the first sentence and adding at the end thereof a new subsection (b) as follows:

"(b) For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.".

SEC. 3. Section 10 of the Federal Meat Inspection Act (21 U.S.C. 610) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection (b) as follows:

"(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) ;".

SEC. 4. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by inserting after the first sentence a new sentence as follows: "No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906).".

SEC. 5. The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) is amended by—

(a) inserting before the period at the end of section 2(b) "and handling in connection with such slaughtering"; 7 USC 1902.

(b) repealing sections 3, 4(c), and 5; Repeals. 7 USC 1903–1905.

(c) striking out "for purposes of section 3 hereof" in section 4(b); 7 USC 1904.

(d) inserting "and" after the semicolon at the end of section 4(a); and

(e) striking out the semicolon at the end of section 4(b) and inserting a period in lieu thereof.

21 USC 603 note.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902(b)).

"Ritual slaughter."

Effective date.
21 USC 603 note.

SEC. 7. The provisions of this Act shall become effective one year after the date of enactment. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time, not to exceed eighteen months, as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1336 accompanying H.R. 1464 (Comm. on Agriculture).
SENATE REPORT No. 95-1059 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 7, considered and passed Senate.
Sept. 19, H.R. 1464 considered and passed House; passage vacated and S. 3092, amended, passed in lieu.
Sept. 28, Senate concurred in House amendments.

Public Law 95-446
95th Congress

An Act

To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center".

Oct. 10, 1978
[S. 3274]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, shall hereafter be known and designated as the "Carl Hayden Bee Research Center". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Carl Hayden Bee Research Center.

Carl Hayden Bee Research Center, Ariz. Designation.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1548, accompanying H.R. 7432 (Comm. on Agriculture).
SENATE REPORT No. 95-1115 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 18, considered and passed Senate.
Sept. 26, H.R. 7432 considered and passed House; passage vacated and S. 3274 passed in lieu.

Public Law 95-447
95th Congress

An Act

Oct. 10, 1978
[S. 3036]

To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Susan B. Anthony Dollar Coin Act of 1978. 31 USC 324b-1 note.

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.1".

Design. 31 USC 324b-1.

SEC. 3. The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony, and shall bear on the other side a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

31 USC 391 note.

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.

Approved October 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1576, accompanying H.R. 12728 (Comm. on Banking, Finance, and Urban Affairs).
SENATE REPORT No. 95-1120 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 22, considered and passed Senate.
Sept. 26, H.R. 12728 considered and passed House; passage vacated and S. 3036 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:
Oct. 10, Presidential statement.

Public Law 95-448
95th Congress

An Act

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 11, 1978
[H.R. 13125]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes; namely:

Agriculture, rural development, and related agencies appropriations, fiscal year 1979.

TITLE I—AGRICULTURAL PROGRAMS

Production, Processing and Marketing

Office of the Secretary

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $4,310,000: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: *Provided further*, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

Departmental Administration

For Budget, Planning and Evaluation, $2,923,000; for Operations and Finance, $2,947,650; for Public Participation, $220,000; for Personnel, $2,790,530; for Equal Opportunity, $1,844,650; for Governmental and Public Affairs, including the dissemination of agricultural information and the coordination of informational work and programs authorized by Congress in the Department, $7,871,170; making a total of $18,597,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture, and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, of which not to exceed $10,000 for employment under 5 U.S.C. 3109 and, not to exceed $1,950,000 may be used for farmers' bulletins and not less than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE INSPECTOR GENERAL

Funds, transfer.

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000, for employment under 5 U.S.C. 3109, $22,945,000, and in addition, $8,619,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses, including payment of fees or dues for the use of law libraries by attorneys in the field service, $10,251,000.

FEDERAL GRAIN INSPECTION SERVICE

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109, $22,680,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require non-export, non-termial interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

7 USC 71.

7 USC 1621 note.

7 USC 71 note.

AGRICULTURAL RESEARCH SERVICE

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $338,416,000: *Provided*, That appropriations hereunder shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only and for the acquisition without cost of not to exceed one to be obtained by transfer: *Provided further*, That of the appropriations hereunder, not less than $10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building (except headhouses connecting greenhouses) shall not exceed $70,000, except for nine buildings to be constructed or improved at a cost not to exceed $135,000 each, and the cost

7 USC 2254.

Construction costs.

7 USC 2254.

of altering any one building during the fiscal year shall not exceed 9 per centum of the current replacement value of the building: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $100,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a).

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at research installations in the field, not more than $2,000,000 of the amount appropriated under this head for the previous fiscal year may be used by the Administrator of the Agricultural Research Service in departmental research programs in the current fiscal year, the amount so used to be transferred to and merged with the appropriation otherwise available under "Agricultural Research Service". Special fund.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Agricultural Research Service, where not otherwise provided, $35,720,000.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAMS)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $5,750,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed, and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c) necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $232,141,000, of which $3,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions and $5,713,000 may be for repayment to the Commodity Credit Corporation of advances (and interest thereon) made in accordance with authorities contained in the provisions of the appropriation items for the Animal and Plant Health Inspection Service in the Agriculture and Related Agencies Appropriation Act, 1977: *Provided*, That $1,000,000 of the funds for control of the fire ant 90 Stat. 851.

shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That this appropriation shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed $75,000, except for four buildings to be constructed or improved at a cost of not to exceed $145,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, except for purchase of land for an Animal Holding and Testing Facility at Ames, Iowa: *Provided further*, That, in addition, in emergencies which threaten the livestock or poultry industries of the country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

Aircraft.

Land acquisition.

Funds, transfer.

21 USC 129.

21 USC 114b.

FOOD SAFETY AND QUALITY SERVICE

For necessary expenses to carry on services related to consumer protection and agricultural marketing and distribution, $271,104,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed $70,000, except for one building to be constructed or improved at a cost not to exceed $135,000, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

Land acquisition.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as

authorized therein, and other related operating expenses, except for (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $4,678,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

16 USC 742a note.

7 USC 601 note. 7 USC 1911 note.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $109,066,000 to carry into effect the provisions of the Hatch Act, approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a–361i), and futher amended by Public Law 92–318 approved June 23, 1972, and further amended by Public Law 93–471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended; $9,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582a–7), as amended by Public Law 92–318 approved June 23, 1972; $16,360,000 for payments to the 1890 land-grant colleges, including Tuskegee Institute, for research under the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Public Law 95–113), including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee Institute; $1,500,000 for Rural Development Research as authorized under the Rural Development Act of 1972, as amended (7 U.S.C. 2661–2668), including administrative expenses; $31,273,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i), of which $15,773,000 is for special research grants, $15,000,000 is for competitive research grants, and $500,000 is for grants in accordance with section 1419 of Public Law 95–113, including administrative expenses; $5,000,000 for the support of animal health and disease research programs authorized by sections 1433 and 1434 of Public Law 95–113; and $1,696,000 for necessary expenses of the Cooperative State Research Service, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109; in all, $174,395,000.

20 USC 1001 note. D.C. Code 31–1701 note. 7 USC 361f. 7 USC 3101 note. 7 USC 3154. 7 USC 3195, 3196.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, and the Virgin Islands: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341–349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341–349), to be distributed under sections 3(b) and 3(c) of the Act, for retirement and employees' compensation costs for extension agents, and for costs of penalty mail for cooperative extension agents and State extension directors, $179,831,000; payments for the nutrition and family education program for low-income areas under section

86 Stat. 350. 7 USC 1281 note. 7 USC 343.

7 USC 343.

3(d) of the Act, $51,810,000; payments for the urban gardening programs under section 3(d) of the Act, $3,000,000; payments for rural development work under section 3(d) of the Act, $1,000,000; payments for the pest management program under section 3(d) of the Act, $5,435,000; payments for the farm safety program under section 3(d) of the Act, $1,020,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,735,000; payments for extension work under section 209(c) of Public Law 93-471, $910,000; $2,500,000 for Rural Development Education as authorized under the Rural Development Act of 1972 (7 U.S.C. 2661-2668); payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee Institute under section 1444 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Public Law 95-113), $10,115,000; and for carrying out the provisions of section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), $11,500,000; in all, $268,856,000, of which not less than $75,579,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

D.C. Code 31-1719.

7 USC 3221.

7 USC 343.

86 Stat. 350.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,543,000, of which not less than $2,029,000 is for Home Economics.

7 USC 1281 note.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $7,527,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $100,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

For necessary expenses of the Economics, Statistics, and Cooperatives Service to carry out the Act of July 2, 1926 (7 U.S.C. 451-457), and as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, in conducting: statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys; research relating to the economic and marketing aspects of farmer cooperatives; economic research and service relating to agricultural production, marketing, and distribution, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, cost and returns in farming, and farm finance; and for analyses of supply and demand for farm products in foreign countries and their effect

on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; $80,112,000, of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said administrator, other agencies or before the courts: *Provided*, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further*, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further*, That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $140,000 shall be available for employment under 5 U.S.C. 3109.

Study.

7 USC 411b.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 for employment under 5 U.S.C. 3109, $46,502,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed $7,500 or 7.5 per centum of the cost of the building, whichever is greater.

Building repair.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,600,000.

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

For necessary expenses of the World Food and Agricultural Outlook and Situation Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g),

7 USC 1622.

$1,009,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(b), 16(d), 16(e), 16(f), 16(i), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590q); sections 1001 to 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1510); the Water Bank Act (16 U.S.C. 1301–1311); and laws pertaining to the Commodity Credit Corporation, $227,527,000: *Provided*, That, in addition, not to exceed $99,865,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed $43,094,000 under the limitation on Commodity Credit Corporation administrative expenses for a total of $327,392,000): *Provided further*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

Funds, transfer.

16 USC 590h.

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of

August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and to beekeepers who through no fault of their own have suffered losses as a result of the use of economic poisons which had been registered and approved for use by the Federal Government, $3,240,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

Contracts. 15 USC 713a-10.

31 USC 849.

Federal Crop Insurance Corporation

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, $12,000,000.

FEDERAL CROP INSURANCE CORPORATION FUND

Not to exceed $12,669,000 of administrative and operating expense may be paid from premium income.

Commodity Credit Corporation

NEW BORROWING AUTHORITY

As authorized by section 301 of Public Law 95-279, $5,500,000,000 shall be available to the Commodity Credit Corporation for necessary expenses, including the liquidation of contract authorizations, in carrying out its authorized programs, to remain available without regard to fiscal year limitations.

92 Stat. 242.

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $990,900,000.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $50,100,000, shall be available for administrative expenses of the Commodity Credit Corporation: *Provided*, That this authorization shall be available to support the Office of the General Sales Manager which shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corpora-

15 USC 713a-10.

tion) pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further*, That none of the funds in this Act may be used to carry out an Export Credit Sales program in excess of $2,200,000,000 in fiscal year 1979: *Provided further*, That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof.

Report.

Reports to congressional committees.

31 USC 665.

Land acquisition.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, $24,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $3,776,000,000, of which not less than $2,865,000,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary; and not to exceed $2,000,000 for advances as authorized by section 501(e) of such Act and not to exceed $1,000,000 for compensation of construction defects as authorized by section 509(c) of such Act: *Provided*, That unsubsidized interest guaranteed loans of not to exceed $500,000,000 shall be in addition to these amounts.

42 USC 1487.

42 USC 1471.

42 USC 1471.

42 USC 1479.

During fiscal year 1979, no more than 23,000 units may be assisted under rental assistance agreements entered into during the year pursuant to authority under section 521(a)(2) of the Housing Act of 1949, as amended, and the total obligation incurred over the life of these agreements shall not exceed $425,500,000.

42 USC 1490a.

For an additional amount to reimburse the rural housing insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including $66,655,000 as authorized by section 521(c) of the Act, $320,192,000, and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry

out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended. 42 USC 1490a.

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount to reimburse the agricultural credit insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $143,565,000.

Loans may be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, or guaranteed, as follows: real estate loans, $875,600,000, including not less than $800,000,000 for farm ownership loans of which $50,000,000 shall be guaranteed loans; and not less than $58,000,000 for water development, use, and conservation loans; operating loans, $825,000,000 of which $25,000,000 shall be guaranteed loans; and emergency loans in amounts necessary to meet the needs resulting from natural disasters. Loans.

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount to reimburse the rural development insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $107,276,000.

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661–664, as follows: water and sewer facility loans, $900,000,000; guaranteed industrial development loans, $1,100,000,000; and community facility loans, $250,000,000. Loans. 7 USC 1929a, 1931–1933.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $282,500,000 to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the elderly pursuant to section 504 of the Housing Act of 1949, as amended, $19,000,000. 42 USC 1474.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to public nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $33,000,000.

MUTUAL AND SELF-HELP HOUSING

For grants pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $13,500,000.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1490c) and related advances, $1,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 404 of the Rural Development Act of 1972, as amended (7 U.S.C. 2654), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipment for rural volunteer fire departments.

RURAL DEVELOPMENT PLANNING GRANTS

For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), $5,000,000.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

For grants pursuant to section 525(a) of the Housing Act of 1949, as amended (42 U.S.C. 1490(e)), $2,500,000.

42 USC 1490e.

RURAL DEVELOPMENT GRANTS

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $10,000,000.

SALARIES AND EXPENSES

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1992), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490g); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title IIIA of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, and such other programs for which Farmers Home Administration has the responsibility for administering, $218,432,000, including $1,746,000 for the coordination of rural development activities as authorized by section 603 of the Rural Development Act of 1972, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided*, That, in addition, not to exceed $500,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed $1,000,000 of this appropriation may be used for employment under 5 U.S.C. 3109.

42 USC 2841.
86 Stat. 675.
7 USC 1929.
42 USC 1487.
42 USC 1472.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $850,000,000, nor more than $1,000,000,000, and rural telephone loans, not less than $250,000,000, to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts. 7 USC 936.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $30,000,000, to remain available until expended (7 U.S.C. 901–950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. 31 USC 849.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), including not to exceed $500 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 for employment under 5 U.S.C. 3109, $24,805,000.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant material centers; classification and mapping of soil; dissemination of information; purchase and erection or alteration of permanent buildings; and operation and maintenance of aircraft, $255,466,000: *Provided*, That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being 16 USC 590e–1.

purchased for other purposes, shall not exceed $5,000, except for one building to be constructed at a cost not to exceed $50,000 and eight buildings to be constructed or improved at a cost not to exceed $30,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $1,000 per building: *Provided further*, That no part of this appropriation shall be available for the construction of any such building on land not owned by the Government: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706 (a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

16 USC 590e–2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $16,487,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $11,847,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $169,607,000 (of which $23,500,000 shall be available for the watersheds authorized under the Flood Control Act, approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by

section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b–1), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $26,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That, not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

Loans.

16 USC 1531 note.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development including authorization of 6 new areas, and for sound land use, pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), $25,000,000: *Provided*, That $4,000,000 in loans may be insured, or made to be sold and insured. under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $18,288,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), (b), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), (b), and 590q), and sections 1001–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $190,000,000, of which $75,000,000 shall be available immediately upon enactment, for compliance with the programs of soil-building and soil- and water-conserving practices authorized under this head in the Agriculture and Related Agencies Appropriation Act 1978, entered into during the period October 1, 1977, to December 31, 1978, inclusive: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assist-

91 Stat. 810.

ance for drainage on wetlands now designated as Wetland Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That necessary amounts shall be available for administrative expenses in connection with the formulation and administration of the 1979 program of soil-building and soil- and water-conserving practices, including related wildlife conserving practices, and pollution abatement practices, under the Act of February 29, 1936, as amended (amounting to $190,000,000, excluding administration, to incur obligations and to liquidate such obligations, to remain available until expended, but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agicultural resources of the community): *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out enduring conservation and environmental enhancement measures and practices, as specified in section 1501 of Public Law 95-113 (including those practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production, thus assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy) as determined by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any

16 USC 590g.

91 Stat. 1019.

53 Stat. 1147.

manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels: *Provided further*, That unexpended funds previously appropriated to liquidate outstanding obligations for the 1975 through 1978 Agricultural Conservation Programs shall be merged with the 1979 appropriation as of December 31, 1978.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103), including technical assistance and related expenses, $15,000,000.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $10,000,000, to remain available until expended.

EMERGENCY CONSERVATION MEASURES

For emergency conservation measures, to be used for the same purposes and subject to the same conditions as funds appropriated under this head in the Third Supplemental Appropriations Act, 1957, $10,000,000, with which shall be merged the unexpended balances of funds heretofore appropriated for emergency conservation measures. 71 Stat. 176.

TITLE III—DOMESTIC FOOD PROGRAMS

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the provisions of the National School Lunch Act, as amended (42 U.S.C. 1751–1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773–1785, and 1787); 42 USC 1772.
$2,782,300,000, of which $85,190,000 shall be derived from prior-year unobligated balances and $1,411,575,000 shall be derived by transfer Funds, transfer.
from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including $80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act, as amended: *Provided*, That of the 42 USC 1755.
foregoing total amount there shall be available $24,000,000 for the food service equipment assistance program, $1,000,000 for nutrition education projects pursuant to section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787), and $25,000,000 for the State administrative expenses: *Provided further*, That funds provided herein shall remain available until September 30, 1981, in accordance with section 3 of the National School Lunch Act, as amended. 42 USC 1752.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the provisions of the special milk program, as authorized by section 3 of the Child Nutrition Act

of 1966, as amended (42 U.S.C. 1772), $142,000,000, to remain available until September 30, 1980.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the provisions of the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786) and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c (note)), $569,500,000, to remain available until September 30, 1981.

FOOD STAMP PROGRAM

7 USC 2011 note.

For necessary expenses of the food stamp program pursuant to the Food Stamp Act of 1964, as amended, $5,779,200,000: *Provided*, That funds provided herein shall remain available until September 30, 1981,

7 USC 2025. Availability to certain households, prohibition.

in accordance with section 16 of the Food Stamp Act of 1964, as amended: *Provided further*, That no part of the funds appropriated by this Act shall be used during the fiscal year ending September 30, 1979, to make food stamps available to any household, to the extent that the entitlement otherwise available to such household is attributable to an individual who: (i) has reached his eighteenth birthday; (ii) is enrolled in an institution of higher education; and (iii) is properly claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household: *Provided further*, That funds provided herein shall be expended in accordance

7 USC 2024.

with section 15(b) of the Food Stamp Act of 1964, as amended.

FOOD DONATIONS PROGRAM

For necessary expenses to carry out the provisions of section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c (note)), $12,800,000, to remain available until September 30, 1980.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $74,275,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service

For necessary expenses for the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $52,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $53,645,000: *Provided*, That not less than $255,000 of the funds contained in this appropriation shall be available to obtain statistics

and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

INTERNATIONAL DEVELOPMENT STAFF

For necessary expenses of the International Development Staff to coordinate, plan and direct activities involving international development and technical cooperation in the Department of Agriculture, $199,000, and the Staff may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the educational and cultural exchange programs of the Department of State (22 U.S.C. 2392).

PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701–1715, 1721–1726, 1727–1727f, 1731–1736f), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, not more than $840,274,000, of which $339,400,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments on long-term credit sales and carryover balances; and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $573,006,000, of which $466,500,000 is hereby appropriated and the balance to be derived by financing from the Commodity Credit Corporation or from carryover balances. 7 USC 1701, 1727. 7 USC 1721.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Food and Drug Administration; for payment of salaries and expenses for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000; $295,154,000. 5 USC 5332 note.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,459,000.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) including the purchase and hire of passenger motor vehicles; the rental of space in the District of Columbia and elsewhere; and not to exceed $75,000 for employment under 5 U.S.C. 3109, $15,304,000 to be available as authorized by law: *Provided*, That not to exceed $1,000 shall be available for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $10,575,000 (from assessments collected from farm credit agencies) shall be obligated during the current fiscal year for administrative expenses including the hire of one passenger motor vehicle.

TITLE VI—GENERAL PROVISIONS

Passenger motor vehicles.

SEC. 601. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1979 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed eight hundred seventy-eight (878) passenger motor vehicles of which seven hundred thirty-two (732) shall be for replacement only, and for the hire of such vehicles.

Uniforms.

SEC. 602. Funds available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

Contracts.
7 USC 1623a.

SEC. 603. Not less than $1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621–1629; 42 U.S.C. 1891–1893), shall be available for contracting in accordance with said Acts.

7 USC 427i.

Marihuana.

SEC. 604. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations who harvest or knowingly permit to be harvested for illegal use, marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

Advance funds.

SEC. 605. Advances of money from any appropriation for the Department of Agriculture may be made by authority of the Secretary of Agriculture to chiefs of field parties.

Working Capital Fund.

SEC. 606. Obligations chargeable against the Working Capital Fund during the period October 1, 1978, through September 30, 1979, shall not exceed $58,000,000: *Provided*, That no funds appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 607. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Scientific Activities Overseas (Special Foreign Currency Program); Public Law 480; Rural Housing for Domestic Farm Labor; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Forestry Incentives Program; Emergency Conservation Measures; Buildings and Facilities, Food and Drug Administration; Buildings and Facilities, Agri-

7 USC 1691 note.

cultural Research Service; Agricultural Conservation Program; and the appropriation to liquidate contract authorizations for the Agricultural Conservation Program.

SEC. 608. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on permanent positions below the level set herein for the following agencies: Farmers Home Administration, 7,440; Agricultural Stabilization and Conservation Service, 2,473; Foreign Agricultural Service, 738; and Soil Conservation Service, 13,955.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

SEC. 610. Not to exceed $50,000 of the appropriations available to the Department of Agriculture shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449. Language training.

90 Stat. 1500.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation County Committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized. Part-time and intermittent assistance.

Approved October 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1290 (Comm. on Appropriations) and No. 95-1579 (Comm. of Conference).

SENATE REPORT No. 95-1058 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 22, considered and passed House.

Aug. 9, 10, considered and passed Senate, amended.

Sept. 26, House agreed to conference report; receded and concurred in Senate amendment No. 83; receded and concurred with amendments in other Senate amendments.

Sept. 27, Senate agreed to conference report; concurred in House amendments.

Public Law 95-449
95th Congress

Joint Resolution

Oct. 11, 1978
[S.J. Res. 29]

To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week".

National Family Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on the Sunday preceding the fourth Thursday in November 1978, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1371 accompanying H.J. Res. 684 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1238 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 27, considered and passed Senate.
Sept. 29, considered and passed House, in lieu of H.J. Res. 684.

Public Law 95-450
95th Congress

An Act

To create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness.

Oct. 11, 1978
[H.R. 12026]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act.
16 USC 460jj note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that it is in the national interest— 16 USC 460jj note.

(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided.

INDIAN PEAKS WILDERNESS AREA

SEC. 3. (a) An area of land comprising approximately seventy thousand acres located in Boulder and Grand Counties, Colorado, within the Arapaho and the Roosevelt National Forests (as generally depicted as the "Indian Peaks Wilderness Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is designated for purposes of the Wilderness Act (16 U.S.C. 1131-1136) as a wilderness area and shall be known as the Indian Peaks Wilderness Area. 16 USC 1132 note.

(b) The Indian Peaks Wilderness Area shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act. Administration.

ARAPAHO NATIONAL RECREATION AREA

SEC. 4. (a) An area of land comprising approximately thirty-six thousand two hundred thirty-five acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project (as generally depicted as the 16 USC 460jj.

"Arapaho National Recreation Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is established as the Arapaho National Recreation Area.

Administration.

(b) The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber, grazing, and mineral resources so that their utilization will not substantially impair the purposes for which the recreation area is established; and

(4) the management of water quality in the recreation area consistent with the development of needed water supply and waste-water systems, including the control of aquatic vegetation in the streams, lakes, and reservoirs within the recreation area.

Management plan.

(c) The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons.

RECREATION AREA

Land acquisition.
16 USC 460jj-1.

SEC. 5. (a)(1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area. In determining what private property is needed to establish and manage the Arapaho National Recreation Area the Secretary shall utilize the approved county zoning plan to identify those properties whose use or intended use is not in conformance with the overall intent of this Act.

"Scenic easement."

(2) As used in this section, the term "scenic easement" means the right to control the use of land in order to carry out this Act, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 4.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal land, or interests therein, located within the Arapaho National Recreation Area and the Secretary may convey in exchange therefor any federally owned lands or interests in lands within the State of Colorado which are classified by the Secretary as suitable for exchange and which are under the Secretary's administrative jurisdiction. The values of any lands or interests in lands so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary so long as payment does not exceed 25 per centum of the total value

ROCKY MOUNTAIN NATIONAL PARK STUDY

SEC. 13. Within one year of the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report studying and evaluating the suitability of revising the boundaries of Rocky Mountain National Park to include all or part of the Indian Peaks Wilderness Area as established by this Act and examining the possible addition or deletion of other lands designated as "Park Study Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area" dated July 1978: *Provided*, That regardless of the ultimate administration of the areas to be studied under this section, the seventy thousand-acre Indian Peaks Wilderness Area established by this Act shall remain as a component of the National Wilderness Preservation System.

Report to congressional committees. 16 USC 1132 note.

Approved October 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1460 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 12, considered and passed House.
Sept. 27, considered and passed Senate.

39-194 O—80—pt. 1——73 · QL3

with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this Act, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978, shall be on file and made available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

STATE CIVIL AND CRIMINAL JURISDICTION

16 USC 460jj-6.

SEC. 10. Nothing in this Act shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other interests, in or on lands or waters within those areas.

AUTHORIZATION OF APPROPRIATIONS

16 USC 460jj-7.

SEC. 11. Effective October 1, 1979, there are authorized to be appropriated to carry out sections 1 through 10 of this Act $5,000,000 for the acquisition of lands and interests in lands and $5,000,000 for water quality and recreation development. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interests therein within the Arapaho National Recreation Area.

OREGON ISLANDS WILDERNESS

16 USC 1132.

SEC. 12. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), certain lands in the Oregon Islands National Wildlife Refuge, Oregon, which comprise approximately four hundred fifty-nine acres, which are depicted on a map entitled "Oregon Islands Wilderness—Proposed", dated June 1972 (revised July 1972), is hereby designated as wilderness and shall become a part of the existing "Oregon Islands Wilderness".

Filing of map with congressional committees.

(b) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Oregon Islands Wilderness with the Committee on Energy and Natural Resources of the Senate and the Interior and Insular Affairs Committee of the House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made. A map and legal description of the Oregon Islands Wilderness shall be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

(c) The lands designated by this Act as the Oregon Islands Wilderness shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

ROCKY MOUNTAIN NATIONAL PARK STUDY

SEC. 13. Within one year of the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report studying and evaluating the suitability of revising the boundaries of Rocky Mountain National Park to include all or part of the Indian Peaks Wilderness Area as established by this Act and examining the possible addition or deletion of other lands designated as "Park Study Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area" dated July 1978: *Provided*, That regardless of the ultimate administration of the areas to be studied under this section, the seventy thousand-acre Indian Peaks Wilderness Area established by this Act shall remain as a component of the National Wilderness Preservation System.

Report to congressional committees. 16 USC 1132 note.

Approved October 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1460 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 12, considered and passed House.
Sept. 27, considered and passed Senate.

39-194 O—80—pt. 1——73 : QL3

Public Law 95-451
95th Congress

An Act

Oct. 11, 1978
[S. 3467]

To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station".

W. R. "Bob" Poage Pecan Field Station, Tex. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, shall hereafter be known and designated as the "W. R. 'Bob' Poage Pecan Field Station". Any reference to such laboratory in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the W. R. "Bob" Poage Pecan Field Station.

Approved October 11, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1549 accompanying H.R. 11123 (Comm. on Agriculture).
SENATE REPORT No. 95-1153 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 7, considered and passed Senate.
Sept. 26, H.R. 11123 considered and passed House; passage vacated and S. 3467, amended, passed in lieu.
Oct. 2, Senate concurred in House amendments.

Public Law 95-452
95th Congress

An Act

Oct. 12, 1978
[H.R. 8588]

To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector General Act of 1978".

Inspector General Act of 1978.
5 USC app.

PURPOSE; ESTABLISHMENT

Office of Inspector General.
5 USC app.

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an office of Inspector General.

APPOINTMENT AND REMOVAL OF OFFICERS

5 USC app.

SEC. 3. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

DUTIES AND RESPONSIBILITIES

5 USC app.

SEC. 4. (a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

Report violations to Attorney General.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

5 USC app.

SEC. 5. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

Transmittal to Congress.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

Availability to public.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of

Transmittal to Congress.

such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

AUTHORITY; ADMINISTRATION PROVISIONS

5 USC app.

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

5 USC 5101 *et seq.*, 5331.

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

5 USC 5332 note.

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection

(a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety. 5 USC app.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SEMIANNUAL REPORTS

SEC. 8 (a) (1) The Secretary of Defense shall submit to the Congress semiannual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to— Submittal to Congress. 5 USC app.

(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

(2) Within sixty days of the transmission of the semiannual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost. Availability to public.

(3) If the Secretary concludes that compliance with the reporting requirements in paragraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the

national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees or subcommittees with a general description of the nature of the material excluded.

(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3): *Provided*, That the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

Submittal of proposed legislation.

(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

Task force, establishment. Membership.

(b) (1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force: *Provided*, That the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components: *Provided*, That—

(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrong-doing;

(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

Comprehensive report.

(3) The task force shall prepare a comprehensive report that shall include, but not be limited to—

(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in their efforts to detect and prevent fraud, waste and abuse;

(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

(C) the relationship between such components and the Criminal Division of the Department of Justice; and

(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. The task force shall be disestablished sixty days following such submission. Final report.

(5) Any matter concerning the intelligence or counterintelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study of the task force.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred— 5 USC app.

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(D) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(E) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(F) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(G) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(H) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(I) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(J) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(K) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(L) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector General, Department of Agriculture.

"(124) Inspector General, Department of Housing and Urban Development.

"(125) Inspector General, Department of Labor.

"(126) Inspector General, Department of Transportation.

"(127) Inspector General, Veterans' Administration.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector General, Department of Commerce.

"(146) Inspector General, Department of the Interior.

"(147) Inspector General, Community Services Administration.

"(148) Inspector General, Environmental Protection Agency.
"(149) Inspector General, General Services Administration.
"(150) Inspector General, National Aeronautics and Space Administration.
"(151) Inspector General, Small Business Administration.".

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206(a)(2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act— 5 USC app.

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978. 5 USC app.

Approved October 12, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-584 (Comm. on Government Operations).
SENATE REPORT No. 95-1071 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 18, considered and passed House.
Sept. 22, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:
Oct. 12, Presidential statement.

Public Law 95-453
95th Congress

An Act

Oct. 12, 1978
[H.R. 9945]

To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office.

Indian Claims Commission, activities of Commissioners.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 3(c) (25 U.S.C. 70b(c)) of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70 et seq.), is amended by striking out "or for a period of two years thereafter".

25 USC 70b note.
25 USC 450*i*.

Section 105(j) of the Indian Self-Determination Act (88 Stat. 2206, 2210) shall not apply to those members of the Indian Claims Commission affected by this Act.

Approved October 12, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1510 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 95-454
95th Congress

An Act

To reform the civil service laws.

Oct. 13, 1978
[S. 2640]
Civil Service Reform Act of 1978.
5 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Reform Act of 1978".

TABLE OF CONTENTS

SEC. 2. The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and statement of purpose.

TITLE I—MERIT SYSTEM PRINCIPLES

Sec. 101. Merit system principles; prohibited personnel practices.

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

Sec. 201. Office of Personnel Management.
Sec. 202. Merit Systems Protection Board and Special Counsel.
Sec. 203. Performance appraisals.
Sec. 204. Adverse actions.
Sec. 205. Appeals.
Sec. 206. Technical and conforming amendments.

TITLE III—STAFFING

Sec. 301. Volunteer service.
Sec. 302. Interpreting assistants for deaf employees.
Sec. 303. Probationary period.
Sec. 304. Training.
Sec. 305. Travel, transportation, and subsistence.
Sec. 306. Retirement.
Sec. 307. Veterans and preference eligibles.
Sec. 308. Dual pay for retired members of the uniformed services.
Sec. 309. Civil service employment information.
Sec. 310. Minority recruitment program.
Sec. 311. Temporary employment limitation.

TITLE IV—SENIOR EXECUTIVE SERVICE

Sec. 401. General provisions.
Sec. 402. Authority for employment.
Sec. 403. Examination, certification, and appointment.
Sec. 404. Retention preference.
Sec. 405. Performance rating.
Sec. 406. Awarding of ranks.
Sec. 407. Pay rates and systems.
Sec. 408. Pay administration.
Sec. 409. Travel, transportation, and subsistence.
Sec. 410. Leave.
Sec. 411. Disciplinary actions.
Sec. 412. Retirement.
Sec. 413. Conversion to the Senior Executive Service.
Sec. 414. Limitations on executive positions.
Sec. 415. Effective date; congressional review.

TABLE OF CONTENTS—Continued

TITLE V—MERIT PAY

Sec. 501. Pay for performance.
Sec. 502. Incentive awards amendments.
Sec. 503. Technical and conforming amendments.
Sec. 504. Effective date.

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

Sec. 601. Research programs and demonstration projects.
Sec. 602. Intergovernmental Personnel Act amendments.
Sec. 603. Amendments to the mobility program.

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Sec. 701. Federal service labor-management relations.
Sec. 702. Backpay in case of unfair labor practices and grievances.
Sec. 703. Technical and conforming amendments.
Sec. 704. Miscellaneous provisions.

TITLE VIII—GRADE AND PAY RETENTION

Sec. 801. Grade and pay retention.

TITLE IX—MISCELLANEOUS

Sec. 901. Study on decentralization of governmental functions.
Sec. 902. Savings provisions.
Sec. 903. Authorization of appropriations.
Sec. 904. Powers of President unaffected except by express provisions.
Sec. 905. Reorganizations plans.
Sec. 906. Technical and conforming amendments.
Sec. 907. Effective date.

FINDINGS AND STATEMENT OF PURPOSE

5 USC 1101 note.

SEC. 3. It is the policy of the United States that—

(1) in order to provide the people of the United States with a competent, honest, and productive Federal work force reflective of the Nation's diversity, and to improve the quality of public service, Federal personnel management should be implemented consistent with merit system principles and free from prohibited personnel practices;

(2) the merit system principles which shall govern in the competitive service and in the executive branch of the Federal Government should be expressly stated to furnish guidance to Federal agencies in carrying out their responsibilities in administering the public business, and prohibited personnel practices should be statutorily defined to enable Federal employees to avoid conduct which undermines the merit system principles and the integrity of the merit system;

(3) Federal employees should receive appropriate protection through increasing the authority and powers of the Merit Systems Protection Board in processing hearings and appeals affecting Federal employees;

(4) the authority and power of the Special Counsel should be increased so that the Special Counsel may investigate allegations involving prohibited personnel practices and reprisals against Federal employees for the lawful disclosure of certain information and may file complaints against agency officials and employees who engage in such conduct;

(5) the function of filling positions and other personnel functions in the competitive service and in the executive branch should

be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies;

(6) a Senior Executive Service should be established to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified executives needed to provide more effective management of agencies and their functions, and the more expeditious administration of the public business;

(7) in appropriate instances, pay increases should be based on quality of performance rather than length of service;

(8) research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional oversight, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government's human resources and greater productivity in the delivery of service to the public;

(9) the training program of the Government should include retraining of employees for positions in other agencies to avoid separations during reductions in force and the loss to the Government of the knowledge and experience that these employees possess; and

(10) the right of Federal employees to organize, bargain collectively, and participate through labor organizations in decisions which affect them, with full regard for the public interest and the effective conduct of public business, should be specifically recognized in statute.

TITLE I—MERIT SYSTEM PRINCIPLES

MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—MERIT SYSTEM PRINCIPLES

"Sec.
"2301. Merit system principles.
"2302. Prohibited personnel practices.
"2303. Prohibited personnel practices in the Federal Bureau of Investigation.
"2304. Responsibility of the General Accounting Office.
"2305. Coordination with certain other provisions of law.

"§ 2301. Merit system principles

5 USC 2301.

"(a) This section shall apply to—

"(1) an Executive agency;

"(2) the Administrative Office of the United States Courts; and

"(3) the Government Printing Office.

"(b) Federal personnel management should be implemented consistent with the following merit system principles:

"(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

"(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

"(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

"(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

"(5) The Federal work force should be used efficiently and effectively.

"(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

"(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

"(8) Employees should be—

"(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

"(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

"(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

"(A) a violation of any law, rule. or regulation, or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(c) In administering the provisions of this chapter—

Infra. "(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

"(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

5 USC 2302. Definitions.

"§ 2302. Prohibited personnel practices

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b) of this section.

"(2) For the purpose of this section—

"(A) 'personnel action' means—

"(i) an appointment;

"(ii) a promotion;

"(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

"(iv) a detail, transfer, or reassignment;

"(v) a reinstatement;

"(vi) a restoration;

"(vii) a reemployment;

"(viii) a performance evaluation under chapter 43 of this title;

"(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subparagraph; and

"(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level;

with respect to an employee in, or applicant for, a covered position in an agency;

"(B) 'covered position' means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

"(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

"(C) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(i) a Government corporation;

"(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office.

"(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

"(1) discriminate for or against any employee or applicant for employment—

"(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

"(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

"(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

"(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

"(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;

"(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

"(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

"(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

"(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

"(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

5 USC 3110.

"(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

"(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;

"(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or

"(11) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

"(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

"(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

"(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

"(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

"(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

"(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

"(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

"2303. Prohibited personnel practices in the Federal Bureau of Investigation 5 USC 2303.

"(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

"(1) a violation of any law, rule, or regulation, or

"(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this "Personnel action."

title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policymaking, or policy-advocating character).

Regulations.

"(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

Presidential enforcement.

"(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title.

Post, p. 1125.

5 USC 2304.

"§ 2304. Responsibility of the General Accounting Office

"(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

Report to President and Congress.

"(b) the General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

"(1) significant actions taken by the Board to carry out its functions under this title; and

"(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.

5 USC 2305.

"§ 2305. Coordination with certain other provisions of law

"No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat, 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), the Act entitled 'An Act to provide certain administrative authorities for the National Security Agency, and for other purposes', approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), and the Act entitled 'An Act to amend the Internal Security Act of 1950', approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831–835).".

(b) (1) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 21 the following new item:

"23. Merit system principles..... 2301".

(2) Section 7153 of title 5, United States Code, is amended—

(A) by striking out **"Physical handicap"** in the catchline and inserting in lieu thereof **"Handicapping condition"**; and

(B) by striking out "physical handicap" each place it appears in the text and inserting in lieu thereof "handicapping condition".

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

OFFICE OF PERSONNEL MANAGEMENT

SEC. 201. (a) Chapter 11 of title 5, United States Code, is amended to read as follows:

"CHAPTER 11—OFFICE OF PERSONNEL MANAGEMENT

"Sec.
"1101. Office of Personnel Management.
"1102. Director; Deputy Director; Associate Directors.
"1103. Functions of the Director.
"1104. Delegation of authority for personnel management.
"1105. Administrative procedure.

"§ 1101. Office of Personnel Management

5 USC 1101.

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal, which shall be judicially noticed, and shall have its principal office in the District of Columbia, and may have field offices in other appropriate locations.

"§ 1102. Director; Deputy Director; Associate Directors

5 USC 1102.

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The term of office of any individual appointed as Director shall be 4 years.

"(b) There is in the Office a Deputy Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or when the office of Director is vacant.

"(c) No individual shall, while serving as Director or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or at the direction of the President. The Director and Deputy Director shall not recommend any individual for appointment to any position (other than Deputy Director of the Office) which requires the advice and consent of the Senate.

"(d) There may be within the Office of Personnel Management not more than 5 Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director.

"§ 1103. Functions of the Director

5 USC 1103.

"(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or subject to section 1104 of this title, by such employees of the Office as the Director designates:

"(1) securing accuracy, uniformity, and justice in the functions of the Office;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation of requests for appropriations for the Office and the use and expenditure of funds by the Office;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Office and the laws governing the civil service; and

"(B) the other activities of the Office including retirement and classification activities;

except with respect to functions for which the Merit Systems Protection Board or the Special Counsel is primarily responsible;

5 USC 8701 *et seq.*

"(6) reviewing the operations under chapter 87 of this title;

"(7) aiding the President, as the President may request, in preparing such civil service rules as the President prescribes, and otherwise advising the President on actions which may be taken to promote an efficient civil service and a systematic application of the merit system principles, including recommending policies relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees; and

"(8) conducting, or otherwise providing for the conduct of, studies and research under chapter 47 of this title into methods of assuring improvements in personnel management.

Post, p. 1185.

Notice of proposed rules or regulations. Publication in Federal Register. 5 USC 553.

"(b)(1) The Director shall publish in the Federal Register general notice of any rule or regulation which is proposed by the Office and the application of which does not apply solely to the Office or its employees. Any such notice shall include the matter required under section 553(b) (1), (2), and (3) of this title.

"(2) The Director shall take steps to ensure that—

"(A) any proposed rule or regulation to which paragraph (1) of this subsection applies is posted in offices of Federal agencies maintaining copies of the Federal personnel regulations; and

"(B) to the extent the Director determines appropriate and practical, exclusive representatives of employees affected by such proposed rule or regulation and interested members of the public are notified of such proposed rule or regulation.

"(3) Paragraphs (1) and (2) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency.

5 USC 1104.

"§ 1104. Delegation of authority for personnel management

"(a) Subject to subsection (b)(3) of this section—

"(1) the President may delegate, in whole or in part, authority for personnel management functions, including authority for competitive examinations, to the Director of the Office of Personnel Management; and

"(2) the Director may delegate, in whole or in part, any function vested in or delegated to the Director, including authority for competitive examinations (except competitive examinations for administrative law judges appointed under section 3105 of this title), to the heads of agencies in the executive branch and other agencies employing persons in the competitive service;

except that the Director may not delegate authority for competitive examinations with respect to positions that have requirements which are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.

Standards.

"(b)(1) The Office shall establish standards which shall apply to the activities of the Office or any other agency under authority delegated under subsection (a) of this section.

Oversight program.

"(2) The Office shall establish and maintain an oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection.

"(3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to prescribe regulations and to ensure compliance with the civil service laws, rules, and regulations.

"(c) If the Office makes a written finding, on the basis of information obtained under the program established under subsection (b)(2) of this section or otherwise, that any action taken by an agency pursuant to authority delegated under subsection (a)(2) of this section is contrary to any law, rule, or regulation, or is contrary to any standard established under subsection (b)(1) of this section, the agency involved shall take any corrective action the Office may require.

"§ 1105. Administrative procedure 5 USC 1105.

"Subject to section 1103(b) of this title, in the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title, notwithstanding subsection (a) of such section 553.". 5 USC 553.

(b)(1) Section 5313 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(24) Director of the Office of Personnel Management.".

(2) Section 5314 of such title is amended by inserting at the end thereof the following new paragraph: 5 USC 5314.

"(68) Deputy Director of the Office of Personnel Management.".

(3) Section 5316 of such title is amended by inserting after paragraph (121) the following: 5 USC 5316.

"(122) Associate Directors of the Office of Personnel Management (5).".

(c)(1) The heading of part II of title 5, United States Code is amended by striking out "**THE UNITED STATES CIVIL SERVICE COMMISSION**" and inserting in lieu thereof "**CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES**".

(2) The item relating to chapter 11 in the table of chapters for part II of such title is amended by striking out "**Organization**" and inserting in lieu thereof "**Office of Personnel Management**".

MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

SEC. 202. (a) Title 5, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"Sec.

"1201. Appointment of members of the Merit Systems Protection Board.
"1202. Term of office; filling vacancies; removal.
"1203. Chairman; Vice Chairman.
"1204. Special Counsel; appointment and removal.
"1205. Powers and functions of the Merit Systems Protection Board and Special Counsel.
"1206. Authority and responsibilities of the Special Counsel.
"1207. Hearings and decisions on complaints filed by the Special Counsel.
"1208. Stays of certain personnel actions.
"1209. Information.

"§ 1201. Appointment of members of the Merit Systems Protection Board 5 USC 1201.

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same

political party. The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

5 USC 1202.

"§ 1202. Term of office, filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

5 USC 1203.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time, appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

5 USC 1204.

"§ 1204. Special Counsel; appointment and removal

"The Special Counsel of the Merit Systems Protection Board shall be appointed by the President from attorneys, by and with the advice and consent of the Senate, for a term of 5 years. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

5 USC 1205.

"§ 1205. Powers and functions of the Merit Systems Protection Board and Special Counsel

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (e) of this section, rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, the Special Counsel, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence. 5 USC 3105.

"(2) Any member of the Board, the Special Counsel, and any administrative law judge appointed by the Board under section 3105 of this title may—

"(A) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia; and Subpenas.

"(B) order the taking of depositions and order responses to written interrogatories.

"(3) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States. Witnesses.

"(c) In the case of contumacy or failure to obey a subpena issued under subsection (b)(2) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d)(1) In any proceeding under subsection (a)(1) of this section, any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(2) In enforcing compliance with any order under subsection (a)(2) of this section, the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(3) In carrying out any study under subsection (a)(3) of this section, the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office and may require additional reports from other agencies as needed.

"(e)(1) At any time after the effective date of any rule or regulation issued by the Director in carrying out functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

Ante, p. 1119.

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b) of this title; or

Ante, p. 1114.

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b) of this title.

"(3)(A) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(B) Any review conducted by the Board pursuant to this subsection shall be limited to determining—

"(i) the validity on its face of the provision under review; and

"(ii) whether the provision under review has been validly implemented.

"(C) The Board shall require any agency—

"(i) to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(ii) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(f) The Board may delegate the performance of any of its administrative functions under this title to any employee of the Board.

Regulations.

"(g) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

Publication in Federal Register.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(i) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33 of this title).

5 USC 3324.
Post, p. 1161.

"(j) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).

"(k) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

Recommendations, submittal to President and Congress.

"§ 1206. Authority and responsibilities of the Special Counsel

"(a)(1) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(2) If the Special Counsel terminates any investigation under paragraph (1) of this subsection, the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of the termination of the investigation and the reasons therefor.

"(3) In addition to authority granted under paragraph (1) of this subsection, the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(b)(1) In any case involving—

"(A) any disclosure of information by an employee or applicant for employment which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if the disclosure is not specifically prohibited by law and if the information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure by an employee or applicant for employment to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

the identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation under subsection (a) of this section or under paragraph (3) of this subsection, unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to carry out the functions of the Special Counsel.

"(2) Whenever the Special Counsel receives information of the type described in paragraph (1) of this subsection, the Special Counsel shall promptly transmit such information to the appropriate agency head.

"(3)(A) In the case of information received by the Special Counsel under paragraph (1) of this section, if, after such review as the Special Counsel determines practicable (but not later than 15 days after the receipt of the information), the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to the public health or safety, the Special Counsel may, to the extent provided in subparagraph (B) of this paragraph, require the head of the agency to—

Investigation.

"(i) conduct an investigation of the information and any related matters transmitted by the Special Counsel to the head of the agency; and

Written report.

"(ii) submit a written report setting forth the findings of the head of the agency within 60 days after the date on which the information is transmitted to the head of the agency or within any longer period of time agreed to in writing by the Special Counsel.

"(B) The Special Counsel may require an agency head to conduct an investigation and submit a written report under subparagraph (A) of this paragraph only if the information was transmitted to the Special Counsel by—

"(i) any employee or former employee or applicant for employment in the agency which the information concerns; or

"(ii) any employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(4) Any report required under paragraph (3)(A) of this subsection shall be reviewed and signed by the head of the agency and shall include—

"(A) a summary of the information with respect to which the investigation was initiated;

"(B) a description of the conduct of the investigation;

"(C) a summary of any evidence obtained from the investigation;

"(D) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(E) a description of any corrective action taken or planned as a result of the investigation, such as—

"(i) changes in agency rules, regulations, or practices;

"(ii) the restoration of any aggrieved employee;

"(iii) disciplinary action against any employee; and

"(iv) referral to the Attorney General of any evidence of a criminal violation.

"(5)(A) Any such report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant. Whenever the Special Counsel does not receive the report of the agency head within the time prescribed in paragraph (3)(A)(ii) of this subsection, the Special Counsel may transmit a copy of the information which was transmitted to the agency head to the President and to the Congress together with a statement noting the failure of the head of the agency to file the required report.

"(B) In any case in which evidence of a criminal violation obtained by an agency in an investigation under paragraph (3) of this subsection is referred to the Attorney General—

"(i) the report shall not be transmitted to the complainant; and

"(ii) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(6) Upon receipt of any report of the head of any agency required under paragraph (3)(A)(ii) of this subsection, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the agency's report under paragraph (3)(A)(ii) of this subsection contains the information required under paragraph (4) of this subsection.

"(7) Whenever the Special Counsel transmits any information to the head of the agency under paragraph (2) of this subsection but does not require an investigation under paragraph (3) of this subsection, the head of the agency shall, within a reasonable time after the information was transmitted, inform the Special Counsel, in writing, of what action has been or is to be taken and when such action will be completed. The Special Counsel shall inform the complainant of the report of the agency head.

"(8) Except as specifically authorized under this subsection, the provisions of this subsection shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Information, transmittal to congressional committees.

"(9) In any case under subsection (b)(1)(B) of this section involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(c)(1)(A) If, in connection with any investigation under this section, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved, and to the Office, and may report the determination, findings, and recommendations to the President. The Special Counsel may include in the report recommendations as to what corrective action should be taken.

"(B) If, after a reasonable period, the agency has not taken the corrective action recommended, the Special Counsel may request the Board to consider the matter. The Board may order such corrective action as the Board considers appropriate, after opportunity for comment by the agency concerned and the Office of Personnel Management.

"(2)(A) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(B) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel may proceed with any investigation or proceeding instituted under

this section notwithstanding that the alleged violation has been reported to the Attorney General.

"(3) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred which is not referred to in paragraph (1) or (2) of this subsection, the violation shall be reported to the head of the agency involved. The Special Counsel shall require, within 30 days of the receipt of the report by the agency, a certification by the head of the agency which states—

"(A) that the head of the agency has personally reviewed the report; and

"(B) what action has been, or is to be, taken, and when the action will be completed.

Public list.

"(d) The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies under subsections (b)(3)(A) and (c)(3) of this section, together with—

Reports.

"(1) reports by the heads of agencies under subsection (b)(3)(A) of this section, in the case of matters referred under subsection (b); and

Certifications.

"(2) certifications by heads of agencies under subsection (c)(3), in the case of matters referred under subsection (c).

The Special Counsel shall take steps to ensure that any such public list does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"(e)(1) In addition to the authority otherwise provided in this section, the Special Counsel shall, except as provided in paragraph (2) of this subsection, conduct an investigation of any allegation concerning—

"(A) political activity prohibited under subchapter III of chapter 73 of this title, relating to political activities by Federal employees;

5 USC 7321.

5 USC 1501 *et seq.*

"(B) political activity prohibited under chapter 15 of this title, relating to political activities by certain State and local officers and employees;

"(C) arbitrary or capricious withholding of information prohibited under section 552 of this title, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

5 USC 552.

"(D) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(E) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(2) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraph (1)(D) or (1)(E) of this subsection if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(f) During any investigation initiated under this section, no disciplinary action shall be taken against any employee for any alleged

prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(g)(1) Except as provided in paragraph (2) of this subsection, if the Special Counsel determines that disciplinary action should be taken against any employee—

"(A) after any investigation under this section, or

"(B) on the basis of any knowing and willful refusal or failure by an employee to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing his determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Merit Systems Protection Board in accordance with section 1207 of this title.

"(2) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in paragraph (1) of this subsection, together with any response by the employee, shall be presented to the President for appropriate action in lieu of being presented under section 1207 of this title.

"(h) If the Special Counsel believes there is a pattern of prohibited personnel practices and such practices involve matters which are not otherwise appealable to the Board under section 7701 of this title, the Special Counsel may seek corrective action by filing a written complaint with the Board against the agency or employee involved and the Board shall order such corrective action as the Board determines necessary.

Post, p. 1138.

"(i) The Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board and the Special Counsel shall not have any right of judicial review in connection with such intervention.

"(j)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33 of this title).

5 USC 3324.

"(k) The Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. Such regulations shall be published in the Federal Register.

Post, p. 1161.

Regulations. Publication in Federal Register.

"(l) The Special Counsel shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73 of this title).

5 USC 1501 *et seq.*, 7321.

"(m) The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this section, and the actions taken by the agencies as a result of the reports or recom-

Report to Congress.

mendations. The report required by this subsection shall include whatever recommendations for legislation or other action by Congress the Special Counsel may deem appropriate.

5 USC 1207.

"§ 1207. Hearings and decisions on complaints filed by the Special Counsel

"(a) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under section 1206(g) of this title is entitled to—

"(1) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(2) be represented by an attorney or other representative;

"(3) a hearing before the Board or an administrative law judge appointed under section 3105 of this title and designated by the Board;

5 USC 3105.

"(4) have a transcript kept of any hearing under paragraph (3) of this subsection; and

"(5) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

Final order.

"(b) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(c) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this section may obtain judicial review of the order in the United States court of appeals for the judicial circuit in which the employee resides or is employed at the time of the action.

"(d) In the case of any State or local officer or employee under chapter 15 of this title, the Board shall consider the case in accordance with the provisions of such chapter.

5 USC 1501 *et seq.*

5 USC 1208.

"§ 1208. Stays of certain personnel actions

"(a)(1) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(2) Any member of the Board requested by the Special Counsel to order a stay under paragraph (1) of this subsection shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(3) Unless denied under paragraph (2) of this subsection, any stay under this subsection shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(b) Any member of the Board may, on the request of the Special Counsel, extend the period of any stay ordered under subsection (a) of this section for a period of not more than 30 calendar days.

"(c) The Board may extend the period of any stay granted under subsection (a) of this section for any period which the Board considers appropriate, but only if the Board concurs in the determination of the Special Counsel under such subsection, after an opportunity is provided for oral or written comment by the Special Counsel and the agency involved.

"§ 1209. Information 5 USC 1209.

"(a) Notwithstanding any other provision of law or any rule, regulation or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"(b) The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.". Report to President and Congress.

(b) Any term of office of any member of the Merit Systems Protection Board serving on the effective date of this Act shall continue in effect until the term would expire under section 1102 of title 5, United States Code, as in effect immediately before the effective date of this Act, and upon expiration of the term, appointments to such office shall be made under sections 1201 and 1202 of title 5, United States Code (as added by this section). 5 USC 1201 note.

(c)(1) Section 5314(17) of title 5, United States Code, is amended by striking out "Chairman of the United States Civil Service Commission" and inserting in lieu thereof "Chairman of the Merit Systems Protection Board".

(2) Section 5315(66) of such title is amended by striking out "Members, United States Civil Service Commission" and inserting in lieu thereof "Members, Merit Systems Protection Board". 5 USC 5315.

(3) Section 5315 of such title is further amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

(4) Paragraph (99) of section 5316 of such title is hereby repealed. 5 USC 5316.

(d) The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"12. Merit Systems Protection Board and Special Counsel..... 1201".

PERFORMANCE APPRAISAL

SEC. 203. (a) Chapter 43 of title 5, United States Code, is amended to read as follows:

"CHAPTER 43—PERFORMANCE APPRAISAL

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"4301. Definitions.
"4302. Establishment of performance appraisal systems.
"4303. Actions based on unacceptable performance.
"4304. Responsibilities of Office of Personnel Management.
"4305. Regulations.

"§ 4301. Definitions 5 USC 4301.

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) the Administrative Office of the United States Courts; and

"(C) the Government Printing Office;

but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

"(B) an individual in the Foreign Service of the United States;

"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration whose pay is fixed under chapter 73 of title 38;

38 USC 4101 *et seq.*

"(D) an administrative law judge appointed under section 3105 of this title;

"(E) an individual in the Senior Executive Service;

"(F) an individual appointed by the President; or

"(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; and

"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position.

5 USC 4302.

"§ 4302. Establishment of performance appraisal systems

"(a) Each agency shall develop one or more performance appraisal systems which—

"(1) provide for periodic appraisals of job performance of employees;

"(2) encourage employee participation in establishing performance standards; and

"(3) use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance; and

"(6) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

"§ 4303. Actions based on unacceptable performance 5 USC 4303.

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance. Removal or reduction in grade.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies— Notice.

"(i) specific instances of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative; Representation.

"(C) a reasonable time to answer orally and in writing; and

"(D) a written decision which— Written decision.

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management. Extension of notice.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (b)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title. *Post*, p. 1138.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title,

5 USC 3321.

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

5 USC 4304.

"§ 4304. Responsibilities of the Office of Personnel Management

Technical assistance.

"(a) The Office of Personnel Management shall make technical assistance available to agencies in the development of performance appraisal systems.

Review of performance appraisal system.

"(b)(1) The Office shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.

"(2) The Comptroller General shall from time to time review on a selected basis performance appraisal systems established under this subchapter to determine the extent to which any such system meets the requirements of this subchapter and shall periodically report its findings to the Office and to the Congress.

"(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under section 4305), the Office shall direct the agency to implement an appropriate system or to correct operations under the system, and any such agency shall take any action so required.

5 USC 4305.

"§ 4305. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the chapter analysis for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

ADVERSE ACTIONS

SEC. 204. (a) Chapter 75 of title 5, United States Code, is amended by striking out subchapters I, II, and III and inserting in lieu thereof the following:

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

5 USC 7501.

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Actions covered 5 USC 7502.

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title. *Post*, p. 1137. 5 USC 7532. *Ante*, p. 1125.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct).

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action; Notice.

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and Representation.

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request. Availability of information.

"§ 7504. Regulations 5 USC 7504.

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"§ 7511. Definitions; application 5 USC 7511.

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title; *Ante*, p. 1134.

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the President or the head of an agency for a position which is excepted from the competitive service by statute.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office.

5 USC 7512.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

5 USC 7532.

"(A) a suspension or removal under section 7532 of this title,

5 USC 3502.

"(B) a reduction-in-force action under section 3502 of this title,

"(C) the reduction in grade of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor or manager,

Post, p. 1146.

Ante, p. 1133.

"(D) a reduction in grade or removal under section 4303 of this title, or

Ante, p. 1125.

Post, p. 1137.

"(E) an action initiated under section 1206 or 7521 of this title.

5 USC 7513.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action is proposed is entitled to—

Notice.

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

Representation.

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

Hearing.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

Post, p. 1138.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

Availability of information.

"§ 7514. Regulations

5 USC 7514.

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.".

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"§ 7521. Actions against administrative law judges

5 USC 7521.

"(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

5 USC 3105.

"(b) The actions covered by this section are—

"(1) a removal;
"(2) a suspension;
"(3) a reduction in grade;
"(4) a reduction in pay; and
"(5) a furlough of 30 days or less;

but do not include—

"(A) a suspension or removal under section 7532 of this title;

5 USC 7532.

"(B) a reduction-in-force action under section 3502 of this title;

5 USC 3502.

or

"(C) any action initiated under section 1206 of this title.".

Ante, p. 1125.

(b) So much of the analysis for chapter 75 of title 5, United States Code, as precedes the items relating to subchapter IV is amended to read as follows:

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION OF 14 DAYS OR LESS

"Sec.
"7501. Definitions.
"7502. Actions covered.
"7503. Cause and procedure.
"7504. Regulations.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"7511. Definitions; application.
"7512. Actions covered.
"7513. Cause and procedure.
"7514. Regulations.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"7521. Actions against administrative law judges.".

APPEALS

SEC. 205. Chapter 77 of title 5, United States Code, is amended to read as follows:

"CHAPTER 77—APPEALS

"Sec.
"7701. Appellate procedures.
"7702. Actions involving discrimination.
"7703. Judicial review of decisions of the Merit Systems Protection Board.

5 USC 7701.

"§ 7701. Appellate procedures

"(a) An employee, or applicant for employment, may submit an appeal to the Merit Systems Protection Board from any action which is appealable to the Board under any law, rule, or regulation. An appellant shall have the right—

Hearing.

"(1) to a hearing for which a transcript will be kept; and

Representation.

"(2) to be represented by an attorney or other representative.

Appeals shall be processed in accordance with regulations prescribed by the Board.

"(b) The Board may hear any case appealed to it or may refer the case to an administrative law judge appointed under section 3105 of this title or other employee of the Board designated by the Board to hear such cases, except that in any case involving a removal from the service, the case shall be heard by the Board, an employee experienced in hearing appeals, or an administrative law judge. The Board, administrative law judge, or other employee (as the case may be) shall make a decision after receipt of the written representations of the parties to the appeal and after opportunity for a hearing under subsection (a) (1) of this section. A copy of the decision shall be furnished to each party to the appeal and to the Office of Personnel Management.

5 USC 3105.

Copies of decisions.

"(c) (1) Subject to paragraph (2) of this subsection, the decision of the agency shall be sustained under subsection (b) only if the agency's decision—

"(A) in the case of an action based on unacceptable performance described in section 4303 of this title, is supported by substantial evidence, or

Ante, p. 1133.

"(B) in any other case, is supported by a preponderance of the evidence.

"(2) Notwithstanding paragraph (1), the agency's decision may not be sustained under subsection (b) of this section if the employee or applicant for employment—

"(A) shows harmful error in the application of the agency's procedures in arriving at such decision;

"(B) shows that the decision was based on any prohibited personnel practice described in section 2302(b) of this title; or

Ante, p. 1114.

"(C) shows that the decision was not in accordance with law.

"(d) (1) In any case in which—

"(A) the interpretation or application of any civil service law, rule, or regulation, under the jurisdiction of the Office of Personnel Management is at issue in any proceeding under this section; and

"(B) the Director of the Office of Personnel Management is of the opinion that an erroneous decision would have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office;

the Director may as a matter of right intervene or otherwise participate in that proceeding before the Board. If the Director exercises his right to participate in a proceeding before the Board, he shall do so as early in the proceeding as practicable. Nothing in this title shall be construed to permit the Office to interfere with the independent decisionmaking of the Merit Systems Protection Board.

"(2) The Board shall promptly notify the Director whenever the interpretation of any civil service law, rule, or regulation under the jurisdiction of the Office is at issue in any proceeding under this section. Notification.

"(e) (1) Except as provided in section 7702 of this title, any decision under subsection (b) of this section shall be final unless— Decisions.

"(A) a party to the appeal or the Director petitions the Board for review within 30 days after the receipt of the decision; or

"(B) the Board reopens and reconsiders a case on its own motion.

The Board, for good cause shown, may extend the 30-day period referred to in subparagraph (A) of this paragraph. One member of the Board may grant a petition or otherwise direct that a decision be reviewed by the full Board. The preceding sentence shall not apply if, by law, a decision of an administration law judge is required to be acted upon by the Board.

"(2) The Director may petition the Board for a review under paragraph (1) of this subsection only if the Director is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office. Petition for review.

"(f) The Board, or an administrative law judge or other employee of the Board designated to hear a case, may—

"(1) consolidate appeals filed by two or more appellants, or

"(2) join two or more appeals filed by the same appellant and hear and decide them concurrently,

if the deciding official or officials hearing the cases are of the opinion that the action could result in the appeals' being processed more expeditiously and would not adversely affect any party.

"(g) (1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b) (1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)). *Ante*, p. 1114.

"(h) The Board may, by regulation, provide for one or more alternative methods for settling matters subject to the appellate jurisdiction of the Board which shall be applicable at the election of an applicant for employment or of an employee who is not in a unit for which a labor organization is accorded exclusive recognition, and shall be in lieu of other procedures provided for under this section. A decision under such a method shall be final, unless the Board reopens

and reconsiders a case at the request of the Office of Personnel Management under subsection (d) of this section.

"(i)(1) Upon the submission of any appeal to the Board under this section, the Board, through reference to such categories of cases, or other means, as it determines appropriate, shall establish and announce publicly the date by which it intends to complete action on the matter. Such date shall assure expeditious consideration of the appeal, consistent with the interests of fairness and other priorities of the Board. If the Board fails to complete action on the appeal by the announced date, and the expected delay will exceed 30 days, the Board shall publicly announce the new date by which it intends to complete action on the appeal.

Report to Congress.

"(2) Not later than March 1 of each year, the Board shall submit to the Congress a report describing the number of appeals submitted to it during the preceding calendar year, the number of appeals on which it completed action during that year, and the number of instances during that year in which it failed to conclude a proceeding by the date originally announced, together with an explanation of the reasons therefor.

"(3) The Board shall by rule indicate any other category of significant Board action which the Board determines should be subject to the provisions of this subsection.

"(4) It shall be the duty of the Board, an administrative law judge, or employee designated by the Board to hear any proceeding under this section to expedite to the extent practicable that proceeding.

Regulations.

"(j) The Board may prescribe regulations to carry out the purpose of this section.

5 USC 7702.

"§ 7702. Actions involving discrimination

"(a)(1) Notwithstanding any other provision of law, and except as provided in paragraph (2) of this subsection, in the case of any employee or applicant for employment who—

"(A) has been effected by an action which the employee or applicant may appeal to the Merit Systems Protection Board, and

"(B) alleges that a basis for the action was discrimination prohibited by—

"(i) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16c),

42 USC 2000e-16.

"(ii) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)),

"(iii) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791),

"(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or

"(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (iv) of this subparagraph,

the Board shall, within 120 days of the filing of the appeal, decide both the issue of discrimination and the appealable action in accordance with the Board's appellate procedures under section 7701 of this title and this section.

"(2) In any matter before an agency which involves—

"(A) any action described in paragraph (1)(A) of this subsection; and

"(B) any issue of discrimination prohibited under any provision of law described in paragraph (1)(B) of this subsection;

the agency shall resolve such matter within 120 days. The decision of the agency in any such matter shall be a judicially reviewable action unless the employee appeals the matter to the Board under paragraph (1) of this subsection.

"(3) Any decision of the Board under paragraph (1) of this subsection shall be a judicially reviewable action as of—

"(A) the date of issuance of the decision if the employee or applicant does not file a petition with the Equal Employment Opportunity Commission under subsection (b)(1) of this section, or

"(B) the date the Commission determines not to consider the decision under subsection (b)(2) of this section.

"(b)(1) An employee or applicant may, within 30 days after notice of the decision of the Board under subsection (a)(1) of this section, petition the Commission to consider the decision.

"(2) The Commission shall, within 30 days after the date of the petition, determine whether to consider the decision. A determination of the Commission not to consider the decision may not be used as evidence with respect to any issue of discrimination in any judicial proceeding concerning that issue.

"(3) If the Commission makes a determination to consider the decision, the Commission shall, within 60 days after the date of the determination, consider the entire record of the proceedings of the Board and, on the basis of the evidentiary record before the Board, as supplemented under paragraph (4) of this subsection, either—

"(A) concur in the decision of the Board; or

"(B) issue in writing another decision which differs from the decision of the Board to the extent that the Commission finds that, as a matter of law—

"(i) the decision of the Board constitutes an incorrect interpretation of any provision of any law, rule, regulation, or policy directive referred to in subsection (a)(1)(B) of this section, or

"(ii) the decision involving such provision is not supported by the evidence in the record as a whole.

"(4) In considering any decision of the Board under this subsection, the Commission may refer the case to the Board, or provide on its own, for the taking (within such period as permits the Commission to make a decision within the 60-day period prescribed under this subsection) of additional evidence to the extent it considers necessary to supplement the record.

"(5)(A) If the Commission concurs pursuant to paragraph (3)(A) of this subsection in the decision of the Board, the decision of the Board shall be a judicially reviewable action.

"(B) If the Commission issues any decision under paragraph (3)(B) of this subsection, the Commission shall immediately refer the matter to the Board.

"(c) Within 30 days after receipt by the Board of the decision of the Commission under subsection (b)(5)(B) of this section, the Board shall consider the decision and—

"(1) concur and adopt in whole the decision of the Commission; or

"(2) to the extent that the Board finds that, as a matter of law. (A) the Commission decision constitutes an incorrect interpretation of any provision of any civil service law, rule, regulation or policy directive, or (B) the Commission decision involving

such provision is not supported by the evidence in the record as a whole—

"(i) reaffirm the initial decision of the Board; or

"(ii) reaffirm the initial decision of the Board with such revisions as it determines appropriate.

If the Board takes the action provided under paragraph (1), the decision of the Board shall be a judicially reviewable action.

"(d)(1) If the Board takes any action under subsection (c)(2) of this section, the matter shall be immediately certified to a special panel described in paragraph (6) of this subsection. Upon certification, the Board shall, within 5 days (excluding Saturdays, Sundays, and holidays), transmit to the special panel the administrative record in the proceeding, including—

"(A) the factual record compiled under this section,

"(B) the decisions issued by the Board and the Commission under this section, and

"(C) any transcript of oral arguments made, or legal briefs filed, before the Board or the Commission.

"(2)(A) The special panel shall, within 45 days after a matter has been certified to it, review the administrative record transmitted to it and, on the basis of the record, decide the issues in dispute and issue a final decision which shall be a judicially reviewable action.

"(B) The special panel shall give due deference to the respective expertise of the Board and Commission in making its decision.

"(3) The special panel shall refer its decision under paragraph (2) of this subsection to the Board and the Board shall order any agency to take any action appropriate to carry out the decision.

"(4) The special panel shall permit the employee or applicant who brought the complaint and the employing agency to appear before the panel to present oral arguments and to present written arguments with respect to the matter.

"(5) Upon application by the employee or applicant, the Commission may issue such interim relief as it determines appropriate to mitigate any exceptional hardship the employee or applicant might otherwise incur as a result of the certification of any matter under this subsection, except that the Commission may not stay, or order any agency to review on an interim basis, the action referred to in subsection (a)(1) of this section.

Special panel.

"(6)(A) Each time the Board takes any action under subsection (c)(2) of this section, a special panel shall be convened which shall consist of—

"(i) an individual appointed by the President, by and with the advice and consent of the Senate, to serve for a term of 6 years as chairman of the special panel each time it is convened;

"(ii) one member of the Board designated by the Chairman of the Board each time a panel is convened; and

"(iii) one member of the Commission designated by the Chairman of the Commission each time a panel is convened.

The chairman of the special panel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

5 USC 5332 note.

"(B) The chairman is entitled to pay at a rate equal to the maximum annual rate of basic pay payable under the General Schedule for each day he is engaged in the performance of official business on the work of the special panel.

Administrative assistance.

"(C) The Board and the Commission shall provide such administrative assistance to the special panel as may be necessary and, to the extent practicable, shall equally divide the costs of providing the administrative assistance.

"(e)(1) Notwithstanding any other provision of law, if at any time after—

"(A) the 120th day following the filing of any matter described in subsection (a)(2) of this section with an agency, there is no judicially reviewable action under this section or an appeal under paragraph (2) of this subsection;

"(B) the 120th day following the filing of an appeal with the Board under subsection (a)(1) of this section, there is no judicially reviewable action (unless such action is not as the result of the filing of a petition by the employee under subsection (b)(1) of this section); or

"(C) the 180th day following the filing of a petition with the Equal Employment Opportunity Commission under subsection (b)(1) of this title, there is no final agency action under subsection (b), (c), or (d) of this section;

an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), or section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(d)).

"(2) If, at any time after the 120th day following the filing of any matter described in subsection (a)(2) of this section with an agency, there is no judicially reviewable action, the employee may appeal the matter to the Board under subsection (a)(1) of this section.

"(3) Nothing in this section shall be construed to affect the right to trial de novo under any provision of law described in subsection (a)(1) of this section after a judicially reviewable action, including the decision of an agency under subsection (a)(2) of this section.

"(f) In any case in which an employee is required to file any action, appeal, or petition under this section and the employee timely files the action, appeal, or petition with an agency other than the agency with which the action, appeal, or petition is to be filed, the employee shall be treated as having timely filed the action, appeal, or petition as of the date it is filed with the proper agency.

"§ 7703. Judicial review of decisions of the Merit Systems Protection Board 5 USC 7703.

"(a)(1) Any employee or applicant for employment adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board may obtain judicial review of the order or decision.

"(2) The Board shall be the named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision issued by the Board under section 7701. In review of a final order or decision issued under section 7701, the agency responsible for taking the action appealed to the Board shall be the named respondent.

"(b)(1) Except as provided in paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the Court of Claims or a United States court of appeals as provided in chapters 91 and 158, respectively, of title 28. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board. 28 USC 1491 *et seq.*, 2341 *et seq.*

"(2) Cases of discrimination subject to the provisions of section 7702 of this title shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), and

section 16(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216(b)), as applicable. Notwithstanding any other provision of law, any such case filed under any such section must be filed within 30 days after the date the individual filing the case received notice of the judicially reviewable action under such section 7702.

"(c) In any case filed in the United States Court of Claims or a United States court of appeals, the court shall review the record and hold unlawful and set aside any agency action, findings, or conclusions found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) obtained without procedures required by law, rule, or regulation having been followed; or

"(3) unsupported by substantial evidence;

except that in the case of discrimination brought under any section referred to in subsection (b)(2) of this section, the employee or applicant shall have the right to have the facts subject to trial de novo by the reviewing court.

Petition. "(d) The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the District of Columbia if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 206. Section 2342 of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4),

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(6) all final orders of the Merit Systems Protection Board except as provided for in section 7703(b) of title 5.".

Ante, p. 1143.

TITLE III—STAFFING

VOLUNTEER SERVICE

SEC. 301. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

5 USC 3111.

"§ 3111. Acceptance of volunteer service

"Student." "(a) For the purpose of this section, 'student' means an individual who is enrolled, not less than half-time, in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim

between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

"(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the head of an agency may accept, subject to regulations issued by the Office, voluntary service for the United States if the service—

"(1) is performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experiences for the student;

"(2) is to be uncompensated; and

"(3) will not be used to displace any employee.

"(c) Any student who provides voluntary service under subsection (b) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims).". 5 USC 8101 *et seq.*

(b) The analysis of chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3111. *Acceptance of volunteer service.*".

INTERPRETING ASSISTANTS FOR DEAF EMPLOYEES

SEC. 302. (a) Section 3102 of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) of subsection (a) as paragraph (5), by striking out "and" at the end of paragraph (3), and inserting after paragraph (3) the following new paragraph (4):

"(4) 'deaf employee' means an individual employed by an agency who, in accordance with regulations prescribed by the head of the agency, establishes to the satisfaction of the appropriate authority of the agency concerned that the employee has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform the work of the employee; and "; "Deaf employee."

(2) in subsection (b), by inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and amending the last sentence to read as follows: "A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for services performed by the assistant by and from the blind or deaf employee or a nonprofit organization, without regard to section 209 of title 18.";

(3) in subsection (c), by inserting "or deaf" after "blind"; and

(4) by inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter III of chapter 53 of this title governing classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.". 5 USC 5101 *et seq.*, 5331.

(b)(1) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(2) The heading for section 3102 of title 5, United States Code, is amended to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

(c) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "open meetings)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees),".

PROBATIONARY PERIOD

SEC. 303. (a) Section 3321 of title 5, United States Code, is amended to read as follows:

"§ 3321. Competitive service; probationary period

"(a) The President may take such action, including the issuance of rules, regulations, and directives, as shall provide as nearly as conditions of good administration warrant for a period of probation—

"(1) before an appointment in the competitive service becomes final; and

"(2) before initial appointment as a supervisor or manager becomes final.

"(b) An individual—

"(1) who has been transferred, assigned, or promoted from a position to a supervisory or managerial position, and

"(2) who does not satisfactorily complete the probationary period under subsection (a)(2) of this section,

shall be returned to a position of no lower grade and pay than the position from which the individual was transferred, assigned, or promoted. Nothing in this section prohibits an agency from taking an action against an individual serving a probationary period under subsection (a)(2) of this section for cause unrelated to supervisory or managerial performance.

"(c) Subsections (a) and (b) of this section shall not apply with respect to appointments in the Senior Executive Service.".

(b) The item in the analysis for chapter 33 of title 5, United States Code, is amended to read as follows:

"3321. Competitive service; probationary period.".

TRAINING

SEC. 304. Section 4103 of title 5, United States Code, is amended by inserting "(a)" before "In order to increase" and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this chapter, an agency may train any employee of the agency to prepare the employee for placement in another agency if the head of the agency determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of this title.

5 USC 5595.

"(2) Before undertaking any training under this subsection, the head of the agency shall obtain verification from the Office of Person-

nel Management that there exists a reasonable expectation of placement in another agency.

"(3) In selecting an employee for training under this subsection, the head of the agency shall consider—

"(A) the extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

"(B) the employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

"(C) the benefits to the Government which would result from retaining the employee in the Federal service.".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 305. Section 5723(d) of title 5, United States Code, is amended by striking out "not".

RETIREMENT

SEC. 306. Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2) voluntarily, during a period when the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, as determined by the Office of Personnel Management, and the employee is serving in a geographic area designated by the Office;".

VETERANS AND PREFERENCE ELIGIBLES

SEC. 307. (a) Effective beginning October 1, 1980, section 2108 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by inserting in paragraph (3) after "means" the following: ", except as provided in paragraph (4) of this section";

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(4) except for the purposes of chapters 43 and 75 of this title, 'preference eligible' does not include a retired member of the armed forces unless— *Ante*, p. 1131. *Post*, p. 1167. *Ante*, p. 1134.

"(A) the individual is a disabled veteran; or

"(B) the individual retired below the rank of major or its equivalent; and

"(5) 'retired member of the armed forces' means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.". "Retired member of the Armed Forces."

(b)(1) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Disabled veterans; noncompetitive appointment 5 USC 3112.

"Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a compensable service-connected disability of 30 percent or more."

(2) The Director of the Office of Personnel Management shall include in the reports required by section 2014(d) of title 38, United States Code, the same type of information regarding the use of the 38 USC 2014 note.

authority provided in section 3112 of title 5, United States Code (as added by paragraph (1) of this subsection), as is required by such section 2014 with respect to the use of the authority to make veterans readjustment appointments.

(3) The analysis of chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3112. Disabled veterans; noncompetitive appointment.".

(c) Section 3312 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of the determination and, at the same time, the examining agency shall notify the preference eligible of the reasons for the determination and of the right to respond, within 15 days of the date of the notification, to the Office. The Office shall require a demonstration by the appointing authority that the notification was timely sent to the preference eligible's last known address and shall, before the selection of any other person for the position, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible. The appointing authority shall comply with the findings of the Office. The functions of the Office under this subsection may not be delegated.".

5 USC 2108.

(d) Section 3318(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office for passing over the preference eligible. The Office shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passing over of the preference eligible. The Office shall determine the sufficiency or insufficiency of the reasons submitted by the appointing authority, taking into account any response received from the preference eligible under paragraph (2) of this subsection. When the Office has completed its review of the proposed passover, it shall send its findings to the appointing authority and to the preference eligible. The appointing authority shall comply with the findings of the Office.

"(2) In the case of a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more, the appointing authority shall at the same time it notifies the Office under paragraph (1) of this subsection, notify the preference eligible of the proposed passover, of the reasons therefor, and of his right to respond to such reasons to the Office within 15 days of the date of such notification. The Office shall, before completing its review under paragraph (1) of this subsection, require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible's last known address.

"(3) A preference eligible not described in paragraph (2) of this subsection, or his representative, shall be entitled, on request, to a copy of—

"(A) the reasons submitted by the appointing authority in support of the proposed passover, and

"(B) the findings of the Office.

"(4) In the case of a preference eligible described in paragraph (2) of this subsection, the functions of the Office under this subsection may not be delegated.".

(e) Section 3502 of title 5, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) A preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other preference eligibles. 5 USC 2108. 5 USC 4301 *et seq.*

"(c) An employee who is entitled to retention preference and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees.". *Ante*, p. 1131. *Post*, p. 1167.

(f) Section 3503 of title 5, United States Code, is amended by striking out in subsection (a) and (b) "each preference eligible employee" and inserting in lieu thereof "each competing employee" both places it appears.

(g) Section 3504 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of the determination and, at the same time, the examining agency shall notify the preference eligible of the reasons for the determination and of the right to respond, within 15 days of the date of the notification, to the Office. The Office shall require a demonstration by the appointing authority that the notification was timely sent to the preference eligible's last known address and shall, before the selection of any other person for the position, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in the response. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible. The appointing authority shall comply with the findings of the Office. The functions of the Office under this subsection may not be delegated.".

(h)(1) Section 3319 of chapter 33 of title 5, United States Code, is repealed. Repeal.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3319.

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 308. (a) Section 5532 of title 5, United States Code, relating to retired officers of the uniformed services, is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and by inserting after subsection (b) the following:

"(c)(1) If any member or former member of a uniformed service is receiving retired or retainer pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired or retainer pay (reduced as provided under subsection (b) of this section), exceeds the rate of basic pay then currently paid for level V of the Executive Schedule, such member's retired or retainer pay shall be reduced by an amount computed under paragraph (2) of this subsection. The amounts of the reductions shall be deposited to the general fund of the Treasury of the United States.

5 USC 5316 note.

"(2) The amount of each reduction under paragraph (1) of this subsection allocable for any pay period in connection with employment in a position shall be equal to the retired or retainer pay allocable to the pay period (reduced as provided under subsection (b) of this section), except that the amount of the reduction may not result in—

"(A) the amount of retired or retainer pay allocable to the pay period after being reduced, when combined with the basic pay for the employment during the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule; or

"(B) the amount of retired pay or retainer pay being reduced to an amount less than the amount deducted from the retired or retainer pay as a result of participation in any survivor's benefits in connection with the retired or retainer pay or veterans insurance programs.".

(b) Section 5531 of title 5, United States Code is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'member' has the meaning given such term by section 101 (23) of title 37;";

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

"Retired or retainer pay."

(3) by adding at the end thereof the following new paragraph:

"(3) 'retired or retainer pay' means retired pay, as defined in section 8311(3) of this title, determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10.".

5 USC 8311.

10 USC 1431 *et seq.*

(c) Section 5532(d) of title 5, United States Code, as amended by subsection (a), is amended—

(1) by striking out "subsection (b) of";

(2) by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer";

(3) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member of a uniformed service who is receiving retired or retainer pay"; and

(4) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired or retainer pay is computed, in whole or in part,".

(d) Section 5532(e) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(e) The Office of Personnel Management may, during the 5-year period after the effective date of the Civil Service Reform Act of 1978 authorize exceptions to the restrictions in subsections (a), (b), and (c) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well quali-

Ante, p. 1111.

fied candidates in positions of medical officers which otherwise cannot be readily met. An exception granted by the office with respect to any individual shall terminate upon a break in service of 3 days or more.".

(e) Section 5532(b) of title 5, United States Code, is amended by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer".

(f)(1) The heading for section 5532 of title 5, United States Code, is amended to read as follows:

"§ 5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay".

(2) The item relating to section 5532 in the table of sections for chapter 55 of title 5, United States Code, is amended to read as follows:

"5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay.".

(g)(1) Except as provided in paragraph (2) of this subsection, the amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act. 5 USC 5532 note.

(2) Such amendments shall not apply to any individual employed in a position on the date of the enactment of this Act so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact the individual does not satisfy any applicable age requirement.

(3) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed services who is receiving retired pay on or before such date, or any individual to whom paragraph (2) applies, in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.

CIVIL SERVICE EMPLOYMENT INFORMATION

SEC. 309. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3327. Civil service employment information 5 USC 3327.

"(a) The Office of Personnel Management shall provide that information concerning opportunities to participate in competitive examinations conducted by, or under authority delegated by, the Office of Personnel Management shall be made available to the employment offices of the United States Employment Service.

"(b) Subject to such regulations as the Office may issue, each agency shall promptly notify the Office and the employment offices of the United States Employment Service of—

"(1) each vacant position in the agency which is in the competitive service or the Senior Executive Service and for which the agency seeks applications from persons outside the Federal service, and

"(2) the period during which applications will be accepted.

As used in this subsection, 'agency' means an agency as defined in section 5102(a)(1) of this title other than an agency all the positions in which are excepted by statute from the competitive service.". "Agency." 5 USC 5102.

(b) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3326 the following new item:

"3327. Civil service employment information."

MINORITY RECRUITMENT PROGRAM

SEC. 310. Section 7151 of title 5, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 7151. Antidiscrimination policy; minority recruitment program";

(2) by inserting after such section heading the following new subsection:

"(a) For the purpose of this section—

"Underrepresentation."

"(1) 'underrepresentation' means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

"Category of civil service employment."
5 USC 5104.
5 USC 5341.

"(2) 'category of civil service employment' means—

"(A) each grade of the General Schedule described in section 5104 of this title;

"(B) each position subject to subchapter IV of chapter 53 of this title;

"(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.";

(3) by inserting "(b)" before "It is the policy"; and

(4) by adding at the end thereof the following new subsection:

"(c) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extent practicable—

Ante, p. 1111.

"(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

"(2) that the Office conduct a continuing program of—

"(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

"(B) evaluation and oversight and such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

"(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall— *Ante*, p. 1111.

"(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and Proposed guidelines.

"(2) make determinations of underrepresentation which are proposed to be used initially under such program; and Determinations.

"(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection. Transmittal to Executive agencies.

"(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.". Report to Congress.

TEMPORARY EMPLOYMENT LIMITATION

SEC. 311. (a) The total number of civilian employees in the executive branch, on September 30, 1979, on September 30, 1980, and on September 30, 1981, shall not exceed the number of such employees on September 30, 1977. 5 USC 3101 note.

(b)(1) For the purpose of this section, "civilian employees in the executive branch" means all civilian employees within the executive branch of the Government (other than in the United States Postal Service or the Postal Rate Commission), whether employed on a full-time, part-time, or intermittent basis and whether employed on a direct hire or indirect hire basis. "Civilian employees in the executive branch."

(2)(A) Such term does not include individuals participating in special employment programs established for students and disadvantaged youth.

(B) The total number of individuals participating in such programs shall not at any time exceed 60,000.

(c) In applying the limitation of subsection (a)—

(1) part-time civilian employees in excess of the number of part-time civilian employees in the executive branch employed on September 30, 1977, may be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employees' regularly scheduled workweek; and

(2) the number of civilian employees in the executive branch on September 30, 1977, shall be determined on the basis of the number of such employees as set forth in the Monthly Report of Civilian Employment published by the Civil Service Commission.

(d)(1) The provisions of this section shall not apply during a time of war or during a period of national emergency declared by the Congress or the President.

(2)(A) Subject to the limitation of subparagraph (B) of this paragraph, the President may authorize employment of civilian employees in excess of the limitation of subsection (a) if he deems that such action is necessary in the public interest.

(B) The President may not, under this paragraph, increase the maximum number of civilian employees in the executive branch by more than the percentage increase of the population of the United States since September 30, 1978, as estimated by the Bureau of the Census.

(e) The President shall provide that no increase occurs in the procurement of personal services by contract by reason of the enactment of this section except in cases in which it is to the financial advantage of the Government to do so.

Regulations. (f) The President shall prescribe regulations to carry out the purposes of this section.

Termination. (g) The provisions of this section shall terminate on January 31, 1981.

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

SEC. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

5 USC 2101a. **"§ 2101a. The Senior Executive Service**

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

Post, p. 1155.

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

"(C) positions in the Senior Executive Service;".

(c) Section 2103(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or the Senior Executive Service".

(d) Section 2108(5) of title 5, United States Code (as amended in section 307 of this Act), is further amended—

Ante, p. 1147.

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

"but does not include applicants for, or members of, the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5, United States Code, is amended by inserting after the item relating to section 2101 the following new item:

"2101a. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

SEC. 402. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112 (as added by section 307(b) of this Act), the following new subchapter:

Ante, p. 1147.

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

5 USC 3131. **"§ 3131. The Senior Executive Service**

"It is the purpose of this subchapter to establish a Senior Executive Service to ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals

of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance (including such factors as improvements in efficiency, productivity, quality of work or service, cost efficiency, and timeliness of performance and success in meeting equal employment opportunity goals);

"(3) assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;

"(4) recognize exceptional accomplishment;

"(5) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(6) provide for severance pay, early retirement, and placement assistance for senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

"(7) protect senior executives from arbitrary or capricious actions;

"(8) provide for program continuity and policy advocacy in the management of public programs;

"(9) maintain a merit personnel system free of prohibited personnel practices;

"(10) ensure accountability for honest, economical, and efficent Government;

"(11) ensure compliance with all applicable civil service laws, rules, and regulations, including those related to equal employment opportunity, political activity, and conflicts of interest;

"(12) provide for the initial and continuing systematic development of highly competent senior executives;

"(13) provide for an executive system which is guided by the public interest and free from improper political interference; and

"(14) appoint career executives to fill Senior Executive Service positions to the extent practicable, consistent with the effective and efficient implementation of agency policies and responsibilities.

"§ 3132. Definitions and exclusions 5 USC 3132.

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

"(A) any agency or unit thereof excluded from coverage by the President under subsection (c) of this section; or

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

5 USC 5332 note.
5 USC 5315, 5316.

"(2) 'Senior Executive Service position' means any position in an agency which is in GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;

"(B) is held accountable for the success of one or more specific programs or projects;

"(C) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

"(D) supervises the work of employees other than personal assistants; or

"(E) otherwise exercises important policy-making, policy-determining, or other executive functions;

but does not include—

"(i) any position in the Foreign Service of the United States;

"(ii) an administrative law judge position under section 3105 of this title; or

"(iii) any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425);

28 USC 509 note.

"(3) 'senior executive' means a member of the Senior Executive Service;

"(4) 'career appointee' means an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on approval by the Office of Personnel Management of the executive qualifications of such individual;

"(5) 'limited term appointee' means an individual appointed under a nonrenewable appointment for a term of 3 years or less to a Senior Executive Service position the duties of which will expire at the end of such term;

"(6) 'limited emergency appointee' means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to a Senior Executive Service position established to meet a bona fide, unanticipated, urgent need;

"(7) 'noncareer appointee' means an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee;

"(8) 'career reserved position' means a position which is required to be filled by a career appointee and which is designated under subsection (b) of this section; and

"(9) 'general position' means any position, other than a career reserved position, which may be filled by either a career appointee, noncareer appointee, limited emergency appointee, or limited term appointee.

Criteria and regulations.

"(b)(1) For the purpose of paragraph (8) of subsection (a) of this section, the Office shall prescribe the criteria and regulations governing the designation of career reserved positions. The criteria and regulations shall provide that a position shall be designated as a career

reserved position only if the filling of the position by a career appointee is necessary to ensure impartiality, or the public's confidence in the impartiality, of the Government. The head of each agency shall be responsible for designating career reserved positions in such agency in accordance with such criteria and regulations.

"(2) The Office shall periodically review general positions to determine whether the positions should be designated as career reserved. If the Office determines that any such position should be so designated, it shall order the agency to make the designation. Review.

"(3) Notwithstanding the provisions of any other law, any position to be designated as a Senior Executive Service position (except a position in the Executive Office of the President) which—

"(A) is under the Executive Schedule, or for which the rate of basic pay is determined by reference to the Executive Schedule, and 5 USC 5311.

"(B) on the day before the date of the enactment of the Civil Service Reform Act of 1978 was specifically required under section 2102 of this title or otherwise required by law to be in the competitive service, *Ante*, p. 1111.

shall be designated as a career reserved position if the position entails direct responsibility to the public for the management or operation of particular government programs or functions.

"(4) Not later than March 1 of each year, the head of each agency shall publish in the Federal Register a list of positions in the agency which were career reserved positions during the preceding calendar year. Publication in Federal Register.

"(c) An agency may file an application with the Office setting forth reasons why it, or a unit thereof, should be excluded from the coverage of this subchapter. The Office shall— Application for exclusion coverage.

"(1) review the application and stated reasons,

"(2) undertake a review to determine whether the agency or unit should be excluded from the coverage of this subchapter, and

"(3) upon completion of its review, recommend to the President whether the agency or unit should be excluded from the coverage of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from the coverage of this subchapter, the President may, on written determination, make the exclusion for the period determined by the President to be appropriate.

"(d) Any agency or unit which is excluded from coverage under subsection (c) of this section shall make a sustained effort to bring its personnel system into conformity with the Senior Executive Service to the extent practicable.

"(e) The Office may at any time recommend to the President that any exclusion previously granted to an agency or unit thereof under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section. Exclusion or revocation.

"(f) If— Written notice, transmittal to Congress.

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (e) of this section,

the Office shall, within 30 days after the action, transmit to the Congress written notice of the exclusion or revocation.

5 USC 3133.

"§ 3133. Authorization of positions; authority for appointment

"(a) During each even-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the 2 fiscal years beginning after such calendar year; and

Written request to OPM.

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall—

"(1) be based on the anticipated type and extent of program activities and budget requests of the agency for each of the 2 fiscal years involved, and such other factors as may be prescribed from time to time by the Office; and

"(2) identify, by position title, positions which are proposed to be designated as or removed from designation as career reserved positions, and set forth justifications for such proposed actions.

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, shall review the request of each agency and shall authorize, for each of the 2 fiscal years covered by requests required under subsection (a) of this section, a specific number of Senior Executive Service positions for each agency.

"(d)(1) The Office of Personnel Management may, on a written request of an agency or on its own initiative, make an adjustment in the number of positions authorized for any agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on such factors, as the Office shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed 105 percent of the total number of positions authorized under subsection (c) of this section for such fiscal year.

"(e)(1) Not later than July 1, 1979, and from time to time thereafter as the Director of the Office of Personnel Management finds appropriate, the Director shall establish, by rule issued in accordance with section 1103(b) of this title, the number of positions out of the total number of positions in the Senior Executive Service, as authorized by this section or section 413 of the Civil Service Reform Act of 1978, which are to be career reserved positions. Except as provided in paragraph (2) of this subsection, the number of positions required by this subsection to be career reserved positions shall not be less than the number of the positions then in the Senior Executive Service which, before the date of such Act, were authorized to be filled only through competitive civil service examination.

Ante, p. 1119.

Post, p. 1175.

"(2) The Director may, by rule, designate a number of career reserved positions which is less than the number required by paragraph (1) of this subsection only if the Director determines such lesser number necessary in order to designate as general positions one or more positions (other than positions described in section 3132(b)(3) of this title) which—

"(A) involve policymaking responsibilities which require the advocacy or management of programs of the President and support of controversial aspects of such programs;

"(B) involve significant participation in the major political policies of the President; or

"(C) require the senior executives in the positions to serve as personal assistants of, or advisers to, Presidential appointees.

The Director shall provide a full explanation for his determination in each case.

"§ 3134. Limitations on noncareer and limited appointments 5 USC 3134.

"(a) During each calendar year, each agency shall—

"(1) examine its needs for employment of noncareer appointees for the fiscal year beginning in the following year; and

"(2) submit to the Office of Personnel Management, in accordance with regulations prescribed by the Office, a written request for authority to employ a specific number of noncareer appointees for such fiscal year.

"(b) The number of noncareer appointees in each agency shall be determined annually by the Office on the basis of demonstrated need of the agency. The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

"(c) Subject to the 10 percent limitation of subsection (b) of this section, the Office may adjust the number of noncareer positions authorized for any agency under subsection (b) of this section if emergency needs arise that were not anticipated when the original authorizations were made.

"(d) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—

"(1) 25 percent of the total number of Senior Executive Service positions in the agency; or

"(2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—

"(A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or 5 CFR 305.101 *et seq.*

"(B) appointments to level IV or V of the Executive Schedule which were not required on such date to be made by and with the advice and consent of the Senate. 5 USC 5315, 5316.

This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.

"(e) The total number of limited emergency appointees and limited term appointees in all agencies may not exceed 5 percent of the total number of Senior Executive Service positions in all agencies.

"§ 3135. Biennial report 5 USC 3135.

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each odd-numbered calendar year, a report on the Senior Executive Service. The report shall include— Report to Congress.

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) the authorized number of career appointees and noncareer appointees, in the aggregate and by agency, for the then current fiscal year;

"(3) the position titles and descriptions of Senior Executive Service positions designated for the then current fiscal year;

"(4) a description of each exclusion in effect under section 3132(c) of this title during the preceding fiscal year;

"(5) the number of career appointees, limited term appointees, limited emergency appointees, and noncareer appointees, in the aggregate and by agency, employed during the preceding fiscal year;

"(6) the percentage of senior executives at each pay rate, in the aggregate and by agency, employed at the end of the preceding fiscal year;

"(7) the distribution and amount of performance awards, in the aggregate and by agency, paid during the preceding fiscal year;

"(8) the estimated number of career reserved positions which, during the two fiscal years following the then current fiscal year, will become general positions and the estimated number of general positions which during such two fiscal years, will become career reserved positions; and

"(9) such other information regarding the Senior Executive Service as the Office considers appropriate.

Report to Congress.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress during each even-numbered calendar year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

5 USC 3136.

"§ 3136. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The analysis for chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"CHAPTER 31—AUTHORITY FOR EMPLOYMENT

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES";

and

(2) by inserting at the end thereof the following:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"Sec.
"3131. The Senior Executive Service.
"3132. Definitions and exclusions.
"3133. Authorization of positions; authority for appointment.
"3134. Limitations on noncareer and limited appointments.
"3135. Biennial report.
"3136. Regulations.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT

SEC. 403. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3391. Definitions

5 USC 3391.

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

Ante, p. 1155.

"§ 3392. General appointment provisions

5 USC 3392.

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in the agency—

Qualification standards, establishment.

"(1) in accordance with requirements established by the Office of Personnel Management, with respect to standards for career reserved positions, and

"(2) after consultation with the Office, with respect to standards for general positions.

"(b) Not more than 30 percent of the Senior Executive Service positions authorized under section 3133 of this title may at any time be filled by individuals who did not have 5 years of current continuous service in the civil service immediately preceding their initial appointment to the Senior Executive Service, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government. In applying the preceding sentence, any break in service of 3 days or less shall be disregarded.

Ante, p. 1158.

"(c) If a career appointee is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule, the career appointee may elect (at such time and in such manner as the Office may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, leave, and retirement apply as if the career appointee remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

5 USC 5316.

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as the appointee continues to serve under such Presidential appointment.

"(d) Appointment or removal of a person to or from any Senior Executive Service position in an independent regulatory commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

"§ 3393. Career appointments

5 USC 3393.

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel

Recruitment program.

Management, which provides for recruitment of career appointees from—

"(1) all groups of qualified individuals within the civil service; or

"(2) all groups of qualified individuals whether or not within the civil service.

Executive resources boards, establishment.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of the agency from among employees of the agency. The boards shall, in accordance with merit staffing requirements established by the Office, conduct the merit staffing process for career appointees, including—

"(1) reviewing the executive qualifications of each candidate for a position to be filled by a career appointee; and

"(2) making written recommendations to the appropriate appointing authority concerning such candidates.

Review boards, establishment.

"(c)(1) The Office shall establish one or more qualifications review boards, as appropriate. It is the function of the boards to certify the executive qualifications of candidates for initial appointment as career appointees in accordance with regulations prescribed by the Office. Of the members of each board more than one-half shall be appointed from among career appointees. Appointments to such boards shall be made on a non-partisan basis, the sole selection criterion being the professional knowledge of public management and knowledge of the appropriate occupational fields of the intended appointee.

Career appointees, criteria.

"(2) The Office shall, in consultation with the various qualification review boards, prescribe criteria for establishing executive qualifications for appointment of career appointees. The criteria shall provide for—

"(A) consideration of demonstrated executive experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of executive success and who would not otherwise be eligible for appointment.

Probationary period requirement.

"(d) An individual's initial appointment as a career appointee shall become final only after the individual has served a 1-year probationary period as a career appointee.

"(e) Each career appointee shall meet the executive qualifications of the position to which appointed, as determined in writing by the appointing authority.

Publication in Federal Register.

"(f) The title of each career reserved position shall be published in the Federal Register.

5 USC 3394.

"§ 3394. Noncareer and limited appointments

"(a) Each noncareer appointee, limited term appointee, and limited emergency appointee shall meet the qualifications of the position to which appointed, as determined in writing by the appointing authority.

"(b) An individual may not be appointed as a limited term appointee or as a limited emergency appointee without the prior approval of the exercise of such appointing authority by the Office of Personnel Management.

"§ 3395. Reassignment and transfer within the Senior Executive Service 5 USC 3395.

"(a)(1) A career appointee in an agency—

"(A) may, subject to paragraph (2) of this subsection, be reassigned to any Senior Executive Service position in the same agency for which the appointee is qualified; and

"(B) may transfer to a Senior Executive Service position in another agency for which the appointee is qualified, with the approval of the agency to which the appointee transfers.

"(2) A career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives a written notice of the reassignment at least 15 days in advance of such reassignment.

"(b)(1) Notwithstanding section 3394(b) of this title, a limited emergency appointee may be reassigned to another Senior Executive Service position in the same agency established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in such agency under such appointment in excess of 18 months.

"(2) Notwithstanding section 3394(b) of this title, a limited term appointee may be reassigned to another Senior Executive Service position in the same agency the duties of which will expire at the end of a term of 3 years or less, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

"(c) A limited term appointee or a limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of such types of appointment.

"(d) A noncareer appointee in an agency—

"(1) may be reassigned to any general position in the agency for which the appointee is qualified; and

"(2) may transfer to a general position in another agency with the approval of the agency to which the appointee transfers.

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any reassignment under section 4314(b)(3) of this title; or *Post*, p. 1169.

"(B) any disciplinary action initiated before an appointment referred to in paragraph (1) of this subsection.

"§ 3396. Development for and within the Senior Executive Service 5 USC 3396.

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office.

"(b) The Office shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the programs. If the Office finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

Sabbatical grant.

"(c)(1) The head of an agency may grant a sabbatical to any career appointee for not to exceed 11 months in order to permit the appointee to engage in study or uncompensated work experience which will contribute to the appointee's development and effectiveness. A sabbatical shall not result in loss of, or reduction in, pay, leave to which the career appointee is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the agency may authorize in accordance with chapter 57 of this title such travel expenses (including per diem allowances) as the head of the agency may determine to be essential for the study or experience.

5 USC 5701.

Exclusions.

"(2) A sabbatical under this subsection may not be granted to any career appointee—

"(A) more than once in any 10-year period;

"(B) unless the appointee has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions, except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

"(C) if the appointee is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Post, p. 1175.

5 USC 3373.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

Condition for acceptance.

"(3)(A) Any career appointee in an agency may be granted a sabbatical under this subsection only if the appointee agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of 2 consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career appointee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the agency who granted the sabbatical) the appointee shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

"(d) The Office shall encourage and assist individuals to improve their skills and increase their contribution by service in a variety of agencies as well as by accepting temporary placements in State or local governments or in the private sector.

5 USC 3397.

"§ 3397. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3391. Definitions.
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Noncareer and limited appointments.
"3395. Reassignment and transfer within the Senior Executive Service.
"3396. Development for and within the Senior Executive Service.
"3397. Regulations.".

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or to a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3591. Definitions

5 USC 3591.

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

Ante, p. 1155.

"§ 3592. Removal from the Senior Executive Service

5 USC 3592.

"(a) Except as provided in subsection (b) of this section, a career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the 1-year period of probation under section 3393 (d) of this title, or

Ante, p. 1161.

"(2) at any time for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title,

Post, p. 1167.

except that in the case of a removal under paragraph (2) of this subsection the career appointee shall, at least 15 days before the removal, be entitled, upon request, to an informal hearing before an official designated by the Merit Systems Protection Board at which the career appointee may appear and present arguments, but such hearing shall not give the career appointee the right to initiate an action with the Board under section 7701 of this title, nor need the removal action be delayed as a result of the granting of such hearing.

Ante, p. 1138.

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

Post, p. 1169. "(A) any removal under section 4314(b)(3) of this title; or

"(B) any disciplinary action initiated before an appointment referred to in paragraph (1) of this subsection.

"(c) A limited emergency appointee, limited term appointee, or noncareer appointee may be removed from the service at any time.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career appointee may be reinstated, without regard Ante, p. 1161. to section 3393 (b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

"(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under Post, p. 1167. subchapter II of chapter 43 of this title.

"(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

5 USC 3594. **"§ 3594. Guaranteed placement in other personnel systems**

"(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(b) A career appointee—

"(1) who has completed the probationary period under section 3393(d) of this title; and

"(2) who is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title;

shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career appointee is placed under such subsections shall be a continuing position at GS–15 or above 5 USC 5332 note. of the General Schedule, or an equivalent position, and, in the case of a career appointee referred to in subsection (a) of this section, the career appointee shall be entitled to an appointment of a tenure equivalent to the tenure of the appointment held in the position from which the career appointee was appointed;

"(B) any career appointee placed under subsection (a) or (b) of this section shall be entitled to receive basic pay at the highest of—

"(i) the rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of the placement for the position the career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for the career appointee immediately before being placed under subsection (a) or (b) of this section; and

"(C) the placement of any career appointee under subsection (a) or (b) of this section may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B)(ii) or (iii) of this subsection is entitled to have the basic pay rate of the employee increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which the employee is placed under subsection (a) or (b) of this section until the rate is equal to the rate in effect under paragraph (1)(B)(i) of this subsection for the position in which the employee is placed.

"§ 3595. Regulations 5 USC 3595.

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(c) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.
"3595. Regulations.".

PERFORMANCE RATING

SEC. 405. (a) Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"§ 4311. Definitions 5 USC 4311.

"For the purpose of this subchapter, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title. *Ante*, p. 1155.

"§ 4312. Senior Executive Service performance appraisal systems 5 USC 4312.

"(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

"(1) permit the accurate evaluation of performance in any position on the basis of criteria which are related to the position and which specify the critical elements of the position;

"(2) provide for systematic appraisals of performance of senior executives;

"(3) encourage excellence in performance by senior executives; and

"(4) provide a basis for making eligibility determinations for retention in the Senior Executive Service and for Senior Executive Service performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each senior executive in the agency are established in consultation with the senior executive and communicated to the senior executive;

"(2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved; and

"(3) that each senior executive in the agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing and have the rating reviewed by an employee in a higher executive level in the agency before the rating becomes final.

"(c) (1) The Office shall review each agency's performance appraisal system under this section, and determine whether the agency performance appraisal system meets the requirements of this subchapter.

Report to OPM and Congress.

"(2) The Comptroller General shall from time to time review performance appraisal systems under this section to determine the extent to which any such system meets the requirements under this subchapter and shall periodically report its findings to the Office and to each House of the Congress.

"(3) If the Office determines that an agency performance appraisal system does not meet the requirements under this subchapter (including regulations prescribed under section 4315), the agency shall take such corrective action as may be required by the Office.

"(d) A senior executive may not appeal any appraisal and rating under any performance appraisal system under this section.

5 USC 4313.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performance, taking into account such factors as—

"(1) improvements in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(2) cost efficiency;

"(3) timeliness of performance;

"(4) other indications of the effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible; and

"(5) meeting affirmative action goals and achievement of equal employment opportunity requirements.

"§ 4314. Ratings for performance appraisals 5 USC 4314.

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels,

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

"(1) any appraisal and any rating under such system—

"(A) are made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) are conducted at least annually, subject to the limitation of subsection (c)(3) of this section;

"(C) in the case of a career appointee, may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) are based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency making an appraisal determines that an adequate basis exists on which to appraise and rate the senior executive's performance;

"(2) any career appointee receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award under section 5384 of this title; *Post*, p. 1172.

"(3) any senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or removed from the Senior Executive Service, but any senior executive who receives 2 unsatisfactory ratings in any period of 5 consecutive years shall be removed from the Senior Executive Service; and

"(4) any senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be removed from the Senior Executive Service.

"(c)(1) Each agency shall establish, in accordance with regulations prescribed by the Office, one or more performance review boards, as appropriate. It is the function of the boards to make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency. Performance review boards. Establishment.

"(2) The supervising official of the senior executive shall provide to the performance review board, an initial appraisal of the senior executive's performance. Before making any recommendation with respect to the senior executive, the board shall review any response by the senior executive to the initial appraisal and conduct such further review as the board finds necessary.

"(3) Performance appraisals under this subchapter with respect to any senior executive shall be made by the appointing authority only after considering the recommendations by the performance review board with respect to such senior executive under paragraph (1) of this subsection.

"(4) Members of performance review boards shall be appointed in such a manner as to assure consistency, stability, and objectivity in performance appraisal. Notice of the appointment of an individual to serve as a member shall be published in the Federal Register. Membership. Publication in Federal Register.

"(5) In the case of an appraisal of a career appointee, more than one-half of the members of the performance review board shall consist of career appointees. The requirement of the preceding sentence shall not apply in any case in which the Office determines that there exists an insufficient number of career appointees available to comply with the requirement.

Report to Congress. *Ante*, p. 1159.

"(d) The Office shall include in each report submitted to each House of the Congress under section 3135 of this title a report of—

"(1) the performance of any performance review board established under this section,

Ante, p. 1165.

"(2) the number of individuals removed from the Senior Executive Service under subchapter V of chapter 35 of this title for less than fully successful executive performance, and

Post, p. 1172.

"(3) the number of performance awards under section 5384 of this title.

5 USC 4315.

"§ 4315. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new section:

5 USC 4507. Definitions.

"§ 4507. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

Ante, p. 1155. Recommendations.

"(b) Each agency shall submit annually to the Office recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual's performance over a period of years. The Office shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d) of this section, award to any career appointee recommended by the Office the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

A career appointee awarded a rank under paragraph (1) or (2) of this subsection shall not be entitled to be awarded that rank during the following 4 fiscal years.

"(d) During any fiscal year—

"(1) the number of career appointees awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

"(2) the number of career appointees awarded the rank of

Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $10,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title. *Infra.*

"(2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of $20,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.". *Post*, p. 1172.

(b) The analysis for chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"4507. Awarding of Ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC. 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"§ 5381. Definitions 5 USC 5381.

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'senior executive' have the meanings set forth in section 3132(a) of this title. *Ante*, p. 1155.

"§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service 5 USC 5382.

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS-16 of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5308 or 5373 of this title. 5 USC 5315. 5 USC 5308.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President to be appropriate. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305 (a)(3) or (c)(1) of this title. *Post*, p. 1221. 5 USC 5305.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service. Publication in Federal Register.

"§ 5383. Setting individual senior executive pay 5 USC 5383.

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, and 5384 of this title exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

Ante, p. 1170.

"(c) Except for any pay adjustment under section 5382 of this title, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction at least 15 days in advance of the reduction.

5 USC 5384.

"§ 5384. Performance awards in the Senior Executive Service

"(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

Ante, p. 1170.

"(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

Ante, p. 1167.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career appointee's rate of basic pay.

"(3) The number of career appointees in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This paragraph shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

Ante, p. 1169.

"(d) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary expenses that may be appropriately applied to payment of performance awards and the distribution of awards.

5 USC 5385.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"Sec.
"5381. Definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service.
"5383. Setting individual senior executive pay.
"5384. Performance awards in the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. (a) Chapter 55 of the title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B); 5 USC 5541. 5 USC 5504.

(2) by amending section 5541(2) by striking out "or" after clause (xiv), by striking out the period after clause (xv) and inserting "; or" in lieu thereof, and by adding the following clause at the end thereof:

"(xvi) member of the Senior Executive Service."; and

(3) by inserting "other than a member of the Senior Executive Service" after "employee" in section 5595(a)(2)(i). 5 USC 5595.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting ", other than Senior Executive Service positions," after "positions".

(2) Section 5331(b) of title 5, United States Code, is amended by inserting ", other than Senior Executive Service positions," after "positions".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates 5 USC 5752.

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"5752. Travel expenses of Senior Executive Service candidates.".

LEAVE

SEC. 410. Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a), by striking out "and (e)" and inserting in lieu thereof "(e), and (f)"; and

(2) by adding at the end thereof the following new subsection:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure.";

and

(2) by adding the following after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

5 USC 7541. **"§ 7541. Definitions**

"For the purpose of this subchapter—

"(1) 'employee' means a career appointee in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

Ante, p. 1161.

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

Ante, p. 1134.

"(2) 'suspension' has the meaning set forth in section 7501(2) of this title.

5 USC 7542. **"§ 7542. Actions covered**

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 of this title.

Ante, p. 1125.
5 USC 7532.
Ante, p. 1165.

5 USC 7543. **"§ 7543. Cause and procedure**

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

Hearing. "(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

Appeals. "(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

Ante, p. 1138.

Record maintenance. "(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an

action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.".

RETIREMENT

SEC. 412. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is removed from the Senior Executive Service for less than fully successful executive performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.". *Ante*, p. 1167.

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE SENIOR EXECUTIVE SERVICE

SEC. 413. (a) For the purpose of this section, "agency", "Senior Executive Service position", "career appointee", "career reserved position", "limited term appointee", "noncareer appointee", and "general position" have the meanings set forth in section 3132(a) of title 5, United States Code (as added by this title), and "Senior Executive Service" has the meaning set forth in section 2101a of such title 5 (as added by this title). 5 USC 3133 note. *Ante*, p. 1155. *Ante*, p. 1154.

(b)(1) Under the guidance of the Office of Personnel Management, each agency shall—

(A) designate those positions which it considers should be Senior Executive Service positions and designate which of those positions it considers should be career reserved positions; and

(B) submit to the Office a written request for—

(i) a specific number of Senior Executive Service positions; and

(ii) authority to employ a specific number of noncareer appointees.

(2) The Office of Personnel Management shall review the designations and requests of each agency under paragraph (1) of this subsection, and shall establish interim authorizations in accordance with sections 3133 and 3134 of title 5, United States Code (as added by this Act), and shall publish the titles of the authorized positions in the Federal Register. Publication in Federal Register. *Ante*, pp. 1158, 1159.

(c)(1) Each employee serving in a position at the time it is designated as a Senior Executive Service position under subsection (b) of this section shall elect to—

(A) decline conversion and be appointed to a position under such employee's current type of appointment and pay system, retaining the grade, seniority, and other rights and benefits associated with such type of appointment and pay system; or

(B) accept conversion and be appointed to a Senior Executive Service position in accordance with the provisions of subsections (d), (e), (f), (g), and (h) of this section.

The appointment of an employee in an agency because of an election

Written notification.

under subparagraph (A) of this paragraph shall not result in the separation or reduction in grade of any other employee in such agency.

(2) Any employee in a position which has been designated a Senior Executive Service position under this section shall be notified in writing of such designation, the election required under paragraph (1) of this subsection, and the provisions of subsections (d), (e), (f), (g), and (h) of this section. The employee shall be given 90 days from the date of such notification to make the election under paragraph (1) of this subsection.

(d) Each employee who has elected to accept conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service position, as determined by the Office;

in a position which is designated as a Senior Executive Service position shall be appointed as a career appointee to such Senior Executive Service position without regard to section 3393(b)–(e) of title 5, United States Code (as added by this title).

Ante, p. 1161.

(e) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under an excepted appointment in a position which is not designated a career reserved position in the Senior Executive Service, but is—

(1) a position in Schedule C of subpart C of part 213 of title 5, Code of Federal Regulations;

(2) a position filled by noncareer executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations; or

(3) a position in the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, other than a career Executive Schedule position;

5 USC 5311.

shall be appointed as a noncareer appointee to a Senior Executive Service position.

(f) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a career reserved position under subsection (b) of this section shall be appointed as a noncareer appointee to an appropriate general position in the Senior Executive Service or shall be separated.

(g) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a Senior Executive Service position and who has reinstatement eligibility to a position in the competitive service, may, on request to the Office, be appointed as a career appointee to a Senior Executive Service position.

Publication in Federal Register.

The name of, and basis for reinstatement eligibility for, each employee appointed as a career appointee under this subsection shall be published in the Federal Register.

(h) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under a limited executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations, shall—

(1) be appointed as a limited term appointee to a Senior Execu-

tive Service position if the position then held by such employee will terminate within 3 years of the date of such appointment;

(2) be appointed as a noncareer appointee to a Senior Executive Service position if the position then held by such employee is designated as a general position; or

(3) be appointed as a noncareer appointee to a general position if the position then held by such employee is designated as a career reserved position.

(i) The rate of basic pay for any employee appointed to a Senior Executive Service position under this section shall be greater than or equal to the rate of basic pay payable for the position held by such employee at the time of such appointment.

(j) Any employee who is aggrieved by any action by any agency under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of title 5, United States Code (as added by this title). An agency shall take any corrective action which the Board orders in its decision on an appeal under this subsection. *Ante*, p. 1138.

(k) The Office shall prescribe regulations to carry out the purpose of this section. Regulations.

LIMITATIONS ON EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) The following provisions of section 5108 of title 5, United States Code, relating to special authority to place positions at GS–16, 17, and 18 of the General Schedule, are hereby repealed:

(i) paragraphs (2), (4) through (11), and (13) through (16) of subsection (c), and

(ii) subsections (d) through (g).

(B) Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) under any such provision to place one or more positions in GS–16, 17, or 18 of the General Schedule, is hereby terminated. 5 USC 5108 note.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows:

"(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of 10,777) which may at any one time be placed in—

"(i) GS–16, 17, and 18; and

"(ii) the Senior Executive Service, in accordance with section 3133 of this title. *Ante*, p. 1158.

A position may be placed in GS–16, 17, or 18, only by action of the Director of the Office of Personnel Management. The authority of the Director under this subsection shall be carried out by the President in the case of positions proposed to be placed in GS–16, 17, and 18 in the Federal Bureau of Investigation.".

(D) Subsection (c) of section 5108 of title 5, United States Code, is amended—

(i) by redesignating paragraph (3) as paragraph (2) and by inserting "and" at the end thereof; and

(ii) by redesignating paragraph (12) as paragraph (3) and by striking out the semicolon at the end and inserting in lieu thereof a period.

(2)(A) Notwithstanding any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to 5 USC 3104 note.

an agency (as defined in section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hereby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed 517) for carrying out research and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title).

Ante, p. 1155.

"(3) In addition to the number of positions authorized by paragraph (1) of this subsection, the Librarian of Congress may establish, without regard to the second sentence of paragraph (1) of this subsection, not more than 8 scientific or professional positions to carry out the research and development functions of the Library of Congress which require the services of specially qualified personnel.".

(C) Subsection (c) of such section 3104 is amended—

(i) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and section 5361 of this title" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

5 USC 3104, 5108 notes.

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The Director—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS-16, 17, and 18 of the General Schedule, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

Publication in Federal Register.

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"Executive level position."

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or 5 USC 5316.

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position, as defined in section 3132(a) of this title.". *Ante*, p. 1155.

(2) The President shall transmit to the Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions. Presidential transmittal to Congress. 5 USC 5311 note.

EFFECTIVE DATE; CONGRESSIONAL REVIEW

SEC. 415. (a)(1) The provisions of this title, other than sections 413 and 414(a), shall take effect 9 months after the date of the enactment of this Act. 5 USC 3131 note.

(2) The provisions of section 413 of this title shall take effect on the date of the enactment of this Act.

(3) The provisions of section 414(a) of this title shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by sections 401 through 412 of this title shall continue to have effect unless, during the first period of 60 calendar days of continuous session of the Congress beginning after 5 years after the effective date of such amendments, a concurrent resolution is introduced and adopted by the Congress disapproving the continuation of the Senior Executive Service. Such amendments shall cease to have effect on the first day of the first fiscal year beginning after the date of the adoption of such concurrent resolution.

(2) The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(3) The provisions of subsections (d), (e), (f), (g), (h), (i), (j), and (k) of section 5305 of title 5, United States Code, shall apply with respect to any concurrent resolution referred to in paragraph (1) of this subsection, except that for the purpose of this paragraph the reference in such subsection (e) to 10 calendar days shall be considered a reference to 30 calendar days.

(4) During the 5-year period referred to in paragraph (1) of this subsection, the Director of the Office of Personnel Management shall include in each report required under section 3135 of title 5, United States Code (as added by this title) an evaluation of the effectiveness of the Senior Executive Service and the manner in which such Service is administered.

TITLE V—MERIT PAY

PAY FOR PERFORMANCE

SEC. 501. Part III of title 5, United States Code, is amended by inserting after chapter 53 the following new chapter:

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"CHAPTER 54—MERIT PAY AND CASH AWARDS

"Sec.
"5401. Purpose.
"5402. Merit pay system.
"5403. Cash award program.
"5404. Report.
"5405. Regulations.

5 USC 5401.

"§ 5401. Purpose

"(a) It is the purpose of this chapter to provide for—

"(1) a merit pay system which shall—

"(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

"(B) use performance appraisals as the basis for determining merit pay adjustments;

"(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

"(D) regulate the costs of merit pay by establishing appropriate control techniques; and

"(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

"(b)(1) Except as provided in paragraph (2) of this subsection, this chapter shall apply to any supervisor or management official (as 5 USC 7103. defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS–13, 14, or 15 of the General Schedule described in section 5104 of this title.

Exclusions. "(2)(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

"(i) the recent establishment of the agency or unit, or the implementation of a new program,

"(ii) an emergency situation, or

"(iii) any other situation or circumstance.

Presidential reports, transmittal to Congress. "(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

Filing of applications. "(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

"(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

Review. "(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

"§ 5402. Merit pay system

5 USC 5402. Establishment.

"(a) In accordance with the purpose set forth in section 5401(a)(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall provide for a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under chapter 53 of this title.

5 USC 5301 *et seq.*

"(b)(1) Under regulations prescribed by the Office, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

"(2) Determinations to provide pay increases under this subsection—

"(A) may take into account individual performance and organizational accomplishment, and

"(B) shall be based on factors such as—

"(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(ii) cost efficiency;

"(iii) timeliness of performance; and

"(iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible;

"(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

"(D) shall be made in accordance with regulations issued by the Office which relate to the distribution of increases authorized under this subsection.

"(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

"(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of the fiscal year by the Office on the basis of the amount estimated by the Office to be necessary to reflect—

"(A) within-grade step increases and quality step increases which would have been paid under subchapter III of chapter 53 of this title during the fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered; and

5 USC 5331.

"(B) adjustments under section 5305 of this title which would have been paid under such subchapter during the fiscal year to such employees if the employees were not so covered, less an amount reflecting the adjustment under subsection (c)(1) of this section in rates of basic pay payable to the employees for the fiscal year.

5 USC 5305.

"(c)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the greater of—

Effective date.

"(A) one-half of the percentage of the adjustment in the annual rate of pay which corresponds to the percentage generally

applicable to positions not covered by the merit pay system in the same grade as the position; or

"(B) such greater amount of such percentage of such adjustment in the annual rate of pay as may be determined by the Office.

"(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

"(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

"(d) Under regulations prescribed by the Office, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

5 USC 5941. "(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

5 USC 5403. **"§ 5403. Cash award program**

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

Presidential cash awards. "(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

Payment of awards. "(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention,

superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000. Limitation.

"(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

"§ 5404. Report 5 USC 5404.

"The Office of Personnel Management shall include in each annual report required by section 1308(a) of this title a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include— 5 USC 1308.

"(1) an analysis of the cost and effectiveness of the merit pay system and the cash award program; and

"(2) a statement of the agencies and units excluded from the coverage of this chapter under section 5401(b)(2) of this title, the reasons for which each exclusion was made, and whether the exclusion continues to be warranted.

"§ 5405. Regulations 5 USC 5405.

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

INCENTIVE AWARDS AMENDMENTS

SEC. 502. (a) Section 4503(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

(b) Section 4504(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. (a) Section 4501(2)(A) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof ", but does not include an employee covered by the merit pay system established under section 5402 of this title; and".

(b) Section 4502(a) of title 5, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(c) Section 4502(b) of title 5, United States Code, is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "$5,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "the Commission" and inserting in lieu thereof "the Office".

(d) Section 4506 of title 5, United States Code, is amended by striking out "Civil Service Commission may" and inserting in lieu thereof "Office of Personnel Management shall".

(e) The second sentence of section 5332(a) of title 5, United States Code, is amended by inserting after "applies" the following: ", except an employee covered by the merit pay system established under section 5402 of this title,".

(f) Section 5334 of title 5, United States Code (as amended in section 801(a)(3)(G) of this Act), is amended—

(1) in paragraph (2) of subsection (c), by inserting ", or for an employee appointed to a position covered by the merit pay system established under section 5402 of this title, any dollar amount," after "step"; and

(2) by adding at the end thereof the following new subsection:

"(f) In the case of an employee covered by the merit pay system established under section 5402 of this title, all references in this section to 'two steps' or 'two step-increases' shall be deemed to mean 6 percent.".

(g) Section 5335(e) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(h) Section 5336(c) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(i) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 the following new item:

"54. Merit Pay and Cash Awards..... 5401".

EFFECTIVE DATE

5 USC 5401 note.

SEC. 504. (a) The provisions of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

5 USC 5404 note.

(b) The Director of the Office of Personnel Management shall include in the first report required under section 5404 of title 5, United States Code (as added by this title), information with respect to the progress and cost of the implementation of the merit pay system and the cash award program established under chapter 54 of such title (as added by this title).

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

SEC. 601. (a) Part III of title 5, United States Code, is amended by adding at the end of subpart C thereof the following new chapter:

"CHAPTER 47—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

"Sec.
"4701. Definitions.
"4702. Research programs.
"4703. Demonstration projects.
"4704. Allocation of funds.
"4705. Reports.
"4706. Regulations.

"§ 4701. Definitions

5 USC 4701.

"(a) For the purpose of this chapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency;

"(3) 'eligible' means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles;

"(4) 'demonstration project' means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

"(5) 'research program' means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

"(b) This subchapter shall not apply to any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425).

"§ 4702. Research programs

5 USC 4702.

"The Office of Personnel Management shall—

"(1) establish and maintain (and assist in the establishment and maintenance of) research programs to study improved methods and technologies in Federal personnel management;

"(2) evaluate the research programs established under paragraph (1) of this section;

"(3) establish and maintain a program for the collection and public dissemination of information relating to personnel management research and for encouraging and facilitating the exchange of information among interested persons and entities; and

"(4) carry out the preceding functions directly or through agreement or contract.

5 USC 4703.

"§ 4703. Demonstration projects

"(a) Except as provided in this section, the Office of Personnel Management may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration projects. Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority under this title to take the action contemplated, or by any provision of this title or any rule or regulation prescribed under this title which is inconsistent with the action, including any law or regulation relating to—

"(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

"(2) the methods of classifying positions and compensating employees;

"(3) the methods of assigning, reassigning, or promoting employees;

"(4) the methods of disciplining employees;

"(5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;

"(6) the hours of work per day or per week;

"(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

"(8) the methods of reducing overall agency staff and grade levels.

"(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall—

Plan development.

"(1) develop a plan for such project which identifies—

"(A) the purposes of the project;

"(B) the types of employees or eligibles, categorized by occupational series, grade, or organizational unit;

"(C) the number of employees or eligibles to be included, in the aggregate and by category;

"(D) the methodology;

"(E) the duration;

"(F) the training to be provided;

"(G) the anticipated costs;

"(H) the methodology and criteria for evaluation;

"(I) a specific description of any aspect of the project for which there is a lack of specific authority; and

"(J) a specific citation to any provision of law, rule, or regulation which, if not waived under this section, would prohibit the conducting of the project, or any part of the project as proposed;

Publication in Federal Register.

"(2) publish the plan in the Federal Register;

Hearing.

"(3) submit the plan so published to public hearing;

Notification.

"(4) provide notification of the proposed project, at least 180 days in advance of the date any project proposed under this section is to take effect—

"(A) to employees who are likely to be affected by the project; and

"(B) to each House of the Congress;

"(5) obtain approval from each agency involved of the final version of the plan; and

"(6) provide each House of the Congress with a report at least 90 days in advance of the date the project is to take effect setting forth the final version of the plan as so approved. Report to Congress.

"(c) No demonstration project under this section may provide for a waiver of—

"(1) any provision of chapter 63 or subpart G of this title; 5 USC 6301 *et seq.*, 8101.

"(2)(A) any provision of law referred to in section 2302(b)(1) of this title; or *Ante*, p. 1114.

"(B) any provision of law implementing any provision of law referred to in section 2302(b)(1) of this title by—

"(i) providing for equal employment opportunity through affirmative action; or

"(ii) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(3) any provision of chapter 15 or subchapter III of chapter 73 of this title; 5 USC 1501 *et seq.*

"(4) any rule or regulation prescribed under any provision of law referred to in paragraph (1), (2), or (3) of this subsection; or 5 USC 7321.

"(5) any provision of chapter 23 of this title, or any rule or regulation prescribed under this title, if such waiver is inconsistent with any merit system principle or any provision thereof relating to prohibited personnel practices. *Ante*, p. 1113.

"(d)(1) Each demonstration project shall—

"(A) involve not more than 5,000 individuals other than individuals in any control groups necessary to validate the results of the project; and

"(B) terminate before the end of the 5-year period beginning on the date on which the project takes effect, except that the project may continue beyond the date to the extent necessary to validate the results of the project. Termination.

"(2) Not more than 10 active demonstration projects may be in effect at any time.

"(e) Subject to the terms of any written agreement or contract between the Office and an agency, a demonstration project involving the agency may be terminated by the Office, or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.

"(f) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of this title shall not be included within any project under subsection (a) of this section— *Post*, p. 1191.

"(1) if the project would violate a collective bargaining agreement (as defined in section 7103(8) of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or *Post*, p. 1192.

"(2) if the project is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

"(g) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under Chapter 71 of this title shall not be included within any project under subsection (a) of this section unless there has been agency consultation regarding the project with the employees in the unit.

Evaluations.

"(h) The Office shall provide for an evaluation of the results of each demonstration project and its impact on improving public management.

"(i) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office, to the extent practicable, in any evaluation undertaken under subsection (h) of this section and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.

5 USC 4704.

"§ 4704. Allocation of funds

"Funds appropriated to the Office of Personnel Management for the purpose of this chapter may be allocated by the Office to any agency conducting demonstration projects or assisting the Office in conducting such projects. Funds so allocated shall remain available for such period as may be specified in appropriation Acts. No contract shall be entered into under this chapter unless the contract has been provided for in advance in appropriation Acts.

5 USC 4705.

"§ 4705. Reports

"The Office of Personnel Management shall include in the annual report required by section 1308(a) of this title a summary of research programs and demonstration projects conducted during the year covered by the report, the effect of the programs and projects on improving public management and increasing Government efficiency, and recommendations of policies and procedures which will improve such management and efficiency.

5 USC 1308.

5 USC 4706.

"§ 4706. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 45 the following new item:

"47. Personnel Research Programs and Demonstration Projects..... 4701".

INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS

SEC. 602. (a) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"TRANSFER OF FUNCTIONS AND ADMINISTRATION OF MERIT POLICIES";

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b) In accordance with regulations of the Office of Personnel Management, Federal agencies may require as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office for positions engaged in carrying out such programs. The standards shall—

"(1) include the merit principles in section 2 of this Act;

"(2) be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration."; and

(3) by striking out the last subsection and inserting in lieu thereof the following new subsection.

"(h) Effective one year after the date of the enactment of the Civil Service Reform Act of 1978, all statutory personnel requirements established as a condition of the receipt of Federal grants-in-aid by State and local governments are hereby abolished, except— Grants-in-aid, abolition of certain requirements.

"(1) requirements prescribed under laws and regulations referred to in subsection (a) of this section;

"(2) requirements that generally prohibit discrimination in employment or require equal employment opportunity;

"(3) the Davis-Bacon Act (40 U.S.C. 276 et seq.); and 40 USC 276a–276a–5.

"(4) chapter 15 of title 5, United States Code, relating to political activities of certain State and local employees.".

(b) Section 401 of such Act (84 Stat. 1920) is amended by striking out "governments and institutions of higher education" and inserting in lieu thereof "governments, institutions of higher education, and other organizations". 5 USC 3371 note.

(c) Section 403 of such Act (84 Stat. 1925) is amended by inserting "(a)" after "403.", and by adding at the end thereof the following new subsection:

"(b) Effective beginning on the effective date of the Civil Service Reform Act of 1978, the provisions of section 314(f) of the Public Health Service Act (42 U.S.C. 246(f)) applicable to commissioned officers of the Public Health Service Act are hereby repealed.".

(d) Section 502 of such Act (42 U.S.C. 4762) is amended in paragraph (3) by inserting "the Trust Territory of the Pacific Islands," before "and a territory or possession of the United States,".

(e) Section 506 of such Act (42 U.S.C. 4766) is amended—

(1) in subsection (b)(2), by striking out "District of Columbia" and inserting in lieu thereof "District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands"; and

(2) in subsection (b)(5), by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands".

AMENDMENTS TO THE MOBILITY PROGRAM

SEC. 603. (a) Section 3371 of title 5, United States Code, is amended—

(1) by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico," in paragraph (1)(A); and

(2) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following:

"(3) 'Federal agency' means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and "Federal agency."

"Other organization."

"(4) 'other organization' means—

"(A) a national, regional, State-wide, area-wide, or metropolitan organization representing member State or local governments;

"(B) an association of State or local public officials; or

"(C) a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, educational, or development services, or related services, to governments or universities concerned with public management.".

(b) Sections 3372 through 3375 of title 5, United States Code, are amended by striking out "executive agency" and "an executive agency" each place they appear and inserting in lieu thereof "Federal agency" and "a Federal agency", respectively.

(c) Section 3372 of title 5, United States Code, is further amended—

(1) in subsection (a)(1), by inserting after "agency" the following: ", other than a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section 3132(a) of this title) in the Senior Executive Service and an employee in a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character,";

(2) in subsection (b)(1), by striking out "and";

(3) in subsection (b)(2), by striking out the period after "agency" and inserting in lieu thereof a semicolon;

(4) by adding at the end of subsection (b) the following:

"(3) an employee of a Federal agency to any other organization; and

"(4) an employee of an other organization to a Federal agency."; and

(5) by adding at the end thereof (as amended in paragraph (4) of this subsection) the following new subsection:

"(c)(1) An employee of a Federal agency may be assigned under this subchapter only if the employee agrees, as a condition of accepting an assignment under this subchapter, to serve in the civil service upon the completion of the assignment for a period equal to the length of the assignment.

"(2) Each agreement required under paragraph (1) of this subsection shall provide that in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the Federal agency from which assigned) the employee shall be liable to the United States for payment of all expenses (excluding salary) of the assignment. The amount shall be treated as a debt due the United States.".

(d) Section 3374 of title 5, United States Code, is further amended—

(1) by adding at the end of subsection (b) the following new sentence:

"The above exceptions shall not apply to non-Federal employees who are covered by chapters 83, 87, and 89 of this title by virtue of their non-Federal employment immediately before assignment and appointment under this section.":

5 USC 8301 *et seq.*, 8701 *et seq.*, 8901 *et seq.*

(2) in subsection (c)(1), by striking out the semicolon at the end thereof and by inserting in lieu thereof the following: ", except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the

duties would warrant under the applicable pay provisions of this title or other applicable authority;"; and

(3) by striking out the period at the end of subsection (c) and inserting in lieu thereof the following: ", or for the contribution of the State or local government, or a part thereof, to employee benefit systems.".

(e) Section 3375(a) of title 5, United States Code, is further amended by striking out "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following;

"(5) section 5724a(b) of this title, to be used by the employee for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and".

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"CHAPTER 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; application.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.
"7111. Exclusive recognition of labor organizations.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Official time.
"7132. Subpenas.
"7133. Compilation and publication of data.
"7134. Regulations.
"7135. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

5 USC 7101.

"§ 7101. Findings and purpose

"(a) The Congress finds that—

"(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

"(A) safeguards the public interest,

"(B) contributes to the effective conduct of public business, and

"(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

"(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

5 USC 7102.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

5 USC 7103.

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official;

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency; or

"(v) any person who participates in a strike in violation of section 7311 of this title; 5 USC 7311.

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include— 5 USC 2105.

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Ceneral Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority;

or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

"(C) an organization sponsored by an agency; or

"(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to political activities prohibited under subchapter III of chapter 73 of this title; 5 USC 7321.

"(B) relating to the classification of any position; or

"(C) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction

and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that— Presidential order.

"(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

"(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security. Presidential order.

39-194 O—80—pt. 1——79 : QL3

5 USC 7104.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

Report to President.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

"(2) The General Counsel may—

"(A) investigate alleged unfair labor practices under this chapter,

"(B) file and prosecute complaints under this chapter, and

"(C) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

5 USC 7105.

"§ 7105. Powers and duties of the Authority

"(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

"(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

"(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative

by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

"(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

"(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

"(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;

"(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

"(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title; Hearings.

"(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

"(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary. 5 USC 3105.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to supervise or conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may

affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

Hearings.

"(1) hold hearings;

Administer oaths.

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

"(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

5 USC 7106.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations 5 USC 7111.

"(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) If a petition is filed with the Authority— Petition.

"(1) by any person alleging—

"(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held. Hearing. Election.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing empoyees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(f) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

5 USC 7112.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

Post, 1215.

"(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"§ 7113. National consultation rights 5 USC 7113.

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

5 USC 7114.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

"(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

"(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

"(ii) the employee requests representation.

"(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

"(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

"(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from—

"(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

"(B) exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

"(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

"(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

"(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

"§ 7115. Allotments to representatives 5 USC 7115.

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

5 USC 7116.

"§ 7116. Unfair labor practices

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

Ante, p. 1114.

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

"(1) to meet reasonable occupational standards uniformly required for admission, or

"(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

"(e) The expression of any personal view, argument, opinion or the making of any statement which—

"(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

"(2) corrects the record with respect to any false or misleading statement made by any person, or

"(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

"§ 7117. Duty to bargain in good faith; compelling need; duty to consult 5 USC 7117.

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Goverment-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines that a compelling need for a rule or regulation does not exist.

Hearing.

"(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

Appeal.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

Petition.

"(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

"(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation

rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"§ 7118. Prevention of unfair labor practices 5 USC 7118.

"(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice— Complaint.

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and Hearing.

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The General Counsel may prescribe regulations providing for Regulations.

informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

Hearing.

"(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

5 USC 551.

Transcript.

"(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

"(C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

Rules and regulations, interpretation.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

5 USC 7119.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations. Membership.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and and shall either— Investigation.

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

5 USC 7120.

"§ 7120. Standards of conduct for labor organizations

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

"(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

Filing of reports.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

Regulations.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

"(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential

employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation— Strike.

"(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

"(2) take any other appropriate disciplinary action.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures 5 USC 7121.

"(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d) and (e) of this section, the procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.

"(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities); 5 USC 7321.

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option *Ante*, p. 1114.

under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

Ante, p. 1140.

"(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

Ante, p. 1133, 1136.

Ante, p. 1138.

"(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

"(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

Ante, p. 1143.

5 USC 7122.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient—

"(1) because it is contrary to any law, rule, or regulation; or

"(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement 5 USC 7123.

"(a) Any person aggrieved by any final order of the Authority other than an order under—

"(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

"(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order. Petition.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, 5 USC 706.

shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

5 USC 7131.

"§ 7131. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

5 USC 7132.

"§ 7132. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under 5 USC 3105. section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7133. Compilation and publication of data 5 USC 7133.

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title. 5 USC 552, 552a.

"§ 7134. Regulations 5 USC 7134.

"The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation. 5 USC 551.

"§ 7135. Continuation of existing laws, recognitions, agreements, and procedures 5 USC 7135.

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions 5 USC 7301 note, 7701 note.

of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code is amended to read as follows:

"(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

"(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

"(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

Ante, p. 1191.

Ante, p. 1138.

"(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

5 USC 5551, 5552.

"(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(3) For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

Ante, p. 1192.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code, is amended—

(1) by redesignating sections 7151 (as amended by section 310 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

5 USC 7151–7154, 7201–7204.

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

"SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

"Sec.
"7201. Antidiscrimination policy; minority recruitment program.
"7202. Marital status.
"7203. Handicapping condition.
"7204. Other prohibitions.

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress 5 USC 7211.

"The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies ..... 7101";

and inserting in lieu thereof—

"Subpart F—Labor-Management and Employee Relations

"71. Labor-Management Relations 7101
"72. Antidiscrimination; Right to Petition Congress ..... 7201".

(c) (1) Section 2105 (c) (1) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(2) Section 3302(2) of title 5, United States Code, is amended by striking out "and 7154" and inserting in lieu thereof "and 7204".

(3) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b) (1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof 5 USC 5316.
the following clause:

"(145) Members, Federal Labor Relations Authority (2) and its General Counsel.".

MISCELLANEOUS PROVISIONS

5 USC 5343 note. SEC. 704. (a) Those terms and conditions of employment and other employment benefits with respect to Government prevailing rate
5 USC 5343 note. employees to whom section 9(b) of Public Law 92-392 applies which were the subject of negotiation in accordance with prevailing rates and practices prior to August 19, 1972, shall be negotiated on and after the date of the enactment of this Act in accordance with the provisions of section 9(b) of Public Law 92-392 without regard to any provision
Ante, p. 1191. of chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph.

(b) The pay and pay practices relating to employees referred to in paragraph (1) of this subsection shall be negotiated in accordance with prevailing rates and pay practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph;

(B) subchapter IV of chapter 53 and subchapter V of chapter
5 USC 5341, 5541. 55 of title 5, United States Code; or

(C) any rule, regulation, decision, or order relating to rates of pay or pay practices under subchapter IV of chapter 53 or subchapter V of chapter 55 of title 5, United States Code.

TITLE VIII—GRADE AND PAY RETENTION

GRADE AND PAY RETENTION

5 USC 5301 *et seq.* SEC. 801. (a)(1) Chapter 53 of title 5, United States Code, relating to pay rates and systems, is amended by inserting after subchapter V thereof the following new subchapter:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

5 USC 5361. **"§ 5361. Definitions**

"For the purpose of this subchapter—

"(1) 'employee' means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section
5 USC 5342. 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

"(2) 'agency' has the meaning given it by section 5102 of this
5 USC 5102. title;

"(3) 'retained grade' means the grade used for determining benefits to which an employee to whom section 5362 of this title applies is entitled;

"(4) 'rate of basic pay' means, in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343
5 USC 5343. of this title;

"(5) 'covered pay schedule' means the General Schedule, any prevailing rate schedule established under subchapter IV of this
Ante, p. 1180. chapter, or the merit pay system under chapter 54 of this title;

"(6) 'position subject to this subchapter' means any position under a covered pay schedule; and

"(7) 'reduction-in-force procedures' means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor.

"§ 5362. Grade retention following a change of positions or reclassification 5 USC 5362.

"(a) Any employee—

"(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

"(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position,

is entitled, to the extent provided in subsection (c) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

"(b)(1) Any employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled, to the extent provided in subsection (c) of this section, to have the grade of such position before reduction be treated as the retained grade of such employee for the 2-year period beginning on the date of the reduction in grade.

"(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least one year immediately before such reduction.

"(c) For the 2-year period referred to in subsections (a) and (b) of this section, the retained grade of an employee under such subsection (a) or (b) shall be treated as the grade of the employee's position for all purposes (including pay and pay administration under this chapter and chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87 of this title, and eligibility for training and promotion under this title) except— *Ante*, p. 1180. 5 USC 5501. 5 USC 8301, 8701.

"(1) for purposes of subsection (a) of this section,

"(2) for purposes of applying any reduction-in-force procedures,

"(3) for purposes of determining whether the employee is covered by the merit pay system established under section 5402 of this title, or *Ante*, p. 1181.

"(4) for such other purposes as the Office of Personnel Management may provide by regulation.

"(d) The foregoing provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is demoted (determined without regard to this section) for personal cause or at the employee's request;

"(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

"(4) elects in writing to have the benefits of this section terminate.

"§ 5363. Pay retention 5 USC 5363.

"(a) Any employee—

"(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

"(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5303 of this title; or 5 USC 5303.

"(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section;

is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.

"(b) For the purpose of subsection (a) of this section, 'allowable former rate of basic pay' means the lower of—

"(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

"(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is entitled by operation of this subchapter or chapter 51, 53, or 54 of this title to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

"(3) is demoted for personal cause or at the employee's request.

5 USC 5101, 5301.

Ante, p. 1180.

5 USC 5364.

"§ 5364. Remedial actions

"Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

"(1) to report to the Office information with respect to vacancies (including impending vacancies);

"(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362 or 5363 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

"(3) to establish a program under which employees receiving benefits under section 5362 or 5363 of this title are given priority in the consideration for or placement in positions which are equal to their retained grade or pay; and

"(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

5 USC 5365.

"§ 5365. Regulations

"(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

"(b) Under such regulations, the Office may provide for the application of all or portions of the provisions of this subchapter—

"(1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;

"(2) to individuals to whom such provisions do not otherwise apply; and

"(3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

"§ 5366. Appeals 5 USC 5366.

"(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

"(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

"(A) under section 5112(b) or 5346(c) of this title, or otherwise, any reclassification of a position; or

"(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

"(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section) or any grievance procedure negotiated under the provisions of chapter 71 of this title— *Ante*, p. 1192.

"(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

"(2) any termination of any such benefits under this subchapter, shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.".

(2) Sections 5334(d), 5337, and 5345 of title 5, United States Code, are hereby repealed. Repeal.

(3)(A) Chapter 53 of title 5, United States Code, is amended— 5 USC 5301 *et seq.*

(i) by redesignating subchapter VI as subchapter VII, and

(ii) by redesignating sections 5361 through 5365 as sections 5371 through 5375, respectively.

(B)(i) The analysis of chapter 53 of title 5, United States Code, is amended by striking out the items relating to subchapter VI thereof and inserting in lieu thereof the following:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"Sec.
"5361. Definitions.
"5362. Grade retention following a change of positions or reclassification.
"5363. Pay retention.
"5364. Remedial actions.
"5365. Regulations.
"5366. Appeals.

"SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

"Sec.
"5371. Scientific and professional positions.
"5372. Administrative law judges.
"5373. Limitation on pay fixed by administrative action.
"5374. Miscellaneous positions in the executive branch.
"5375. Police force of National Zoological Park.".

(ii) The analysis of such chapter is further amended by striking out the items relating to sections 5337 and 5345, respectively.

(iii) Sections 559 and 1305 of title 5, United States Code, are each amended by striking out "5362," each place it appears and inserting "5372," in lieu thereof.

(C) Section 3104(b) of title 5, United States Code, as redesignated by this Act, is amended by striking out "section 5361" and inserting "section 5371" in lieu thereof. *Ante*, p. 1178.

(D) Section 5102(c)(5) of title 5, United States Code, is amended by striking out "section 5365" and inserting "section 5375" in lieu thereof.

(E) Sections 5107 and 8704(d)(1) of title 5, United States Code, are each amended by striking out "section 5337" and inserting in lieu thereof "subchapter VI of chapter 53".

5 USC 5361.

(F) Section 5334(b) of title 5, United States Code, is amended by striking out "section 5337 of this title" each place it appears and inserting in lieu thereof "subchapter VI of this chapter".

(G) Section 5334 of title 5, United States Code, is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(H) Section 5349(a) of title 5, United States Code, is amended—

(i) by striking out "section 5345, relating to retention of pay," and inserting in lieu thereof "subchapter VI of this chapter, relating to grade and pay retention,";

(ii) by striking out "section 5345 of this title" and inserting in lieu thereof "subchapter VI of this chapter"; and

(iii) by striking out "paragraph (2) of section 5345(a)" and inserting in lieu thereof "section 5361(1)".

Ante, p. 1218.

(I) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by inserting after "of title 5" the following: "and subchapter VI of chapter 53 of such title 5".

(J) Section 1416(a) of the Act of August 1, 1968 (Public Law 90-448; 15 U.S.C. 1715(a)), and section 808(c) of the Act of April 11, 1968 (Public Law 90-284; 42 U.S.C. 3608(b)), are each amended by striking out "5362," and inserting in lieu thereof "5372,".

5 USC 5361 note.

(4)(A) The amendments made by this subsection shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act.

(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).

Ante, p. 1218.

5 USC 5362 note.

(b)(1) Under regulations prescribed by the Office of Personnel Management, any employee—

(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section under circumstances which would have entitled the employee to coverage under the provisions of section 5362 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

(ii) to have the amendments made by subsection (a) of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

(2) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

(3)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or 5 USC 8301 *et seq.*

(ii) who died.

(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

(4) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5365 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.

TITLE IX—MISCELLANEOUS

STUDY ON DECENTRALIZATION OF GOVERNMENTAL FUNCTIONS

SEC. 901. (a) As soon as practicable after the effective date of this Act, the Director of the Office of Management and Budget shall conduct a detailed study concerning the decentralization of Federal governmental functions. Study. 31 USC 18 note.

(b) The study to be conducted under subsection (a) of this section shall include—

(1) a review of the existing geographical distribution of Federal governmental functions throughout the United States, including the extent to which such functions are concentrated in the District of Columbia; and

(2) a review of the possibilities of distributing some of the functions of the various Federal agencies currently concentrated in the District of Columbia to field offices located at points throughout the United States.

Interested parties, including heads of agencies, other Federal employees, and Federal employee organizations, shall be allowed to submit views, arguments, and data in connection with such study.

(c) Upon completion of the study under subsection (a) of this section, and in any event not later than one year after the effective date of this Act, the Director of the Office of Management and Budget shall submit to the President and to the Congress a report on the results of such study together with his recommendations. Any recommendation which involves the amending of existing statutes shall include draft legislation. Report to OMB, President and Congress.

SAVINGS PROVISIONS

SEC. 902. (a) Except as otherwise provided in this Act, all executive orders, rules, and regulations affecting the Federal service shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by the President, the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority with respect to matters within their respective jurisdictions. 5 USC 1101 note.

(b) No provision of this Act shall affect any administrative proceedings pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

(c) No suit, action, or other proceeding lawfully commenced by or against the Director of the Office of Personnel Management or the members of the Merit Systems Protection Board, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

AUTHORIZATION OF APPROPRIATIONS

5 USC 5509 note.

SEC. 903. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

POWERS OF PRESIDENT UNAFFECTED EXCEPT BY EXPRESS PROVISIONS

5 USC 1101 note.

SEC. 904. Except as otherwise expressly provided in this Act, no provision of this Act shall be construed to—

(1) limit, curtail, abolish, or terminate any function of, or authority available to, the President which the President had immediately before the effective date of this Act; or

(2) limit, curtail, or terminate the President's authority to delegate, redelegate, or terminate any delegation of functions.

REORGANIZATION PLANS

5 USC 1101 note.

SEC. 905. Any provision in either Reorganization Plan Numbered 1 or 2 of 1978 inconsistent with any provision in this Act is hereby superseded.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 906. (a) Title 5, United States Code, is amended—

(1) in section 5347, 8713, and 8911, by striking out "Chairman of the Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management";

(2) in sections 1301, 1302, 1304, 1308, 2105, 2951, 3110, 3304a, 3308, 3312, 3314, 3318, 3324, 3325, 3344, 3351, 3363, 3373, 3502, 3504, 4102, 4106, 4113–4118, 5102, 5103, 5105, 5107, 5110–5115, 5303, 5304, 5333, 5334, 5335(b), 5336, 5338, 5343, 5346, 5347, 5351, 5352, 5371 (as redesignated in section 801(a)(3)(A)(ii) of this Act), 5372 (as redesignated in such section 801(a)(3)(A)(ii)), 5374 (as redesignated in such section 801(a)(3)(A)(ii)), 5504, 5533, 5545, 5548, 5723, 6101, 6304–6306, 6308, 6311, 6322, 6326, 7203 (as redesignated in section 703(a)(1) of this Act), 7204 (as redesignated in such section 703(a)(1)), 7312, 8151, 8331, 8332, 8334, 8337, 8339–8343, 8345, 8346, 8347(a), 8348, 8501, 8701–8712, 8714, 8714a, 8716, 8901–8903, 8905, 8907–8910, and 8913, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

Ante, p. 1218.

Ante, p. 1216.

(3) in sections 1302, 1304, 1308, 2951, 3304a, 3308, 3312, 3317b, 3318, 3324, 3351, 3363, 3504, 4106, 4113–4115, 4117, 4118, 5105, 5107, 5110–5112, 5114, 5333, 5343, 5346, 5545, 5548, 5723, 6304, 6405, 7312, 8331, 8332, 8337, 8339–8343, 8345, 8346, 8347(a)–(c)

and (e)-(h), 8348, 8702, 8704–8707, 8709–8712, 8714a, 8716, 8901–8903, 8905, 8907, 8909, 8910, and 8913 (as such sections are amended in paragraph (2) of this subsection), by striking out "Commission" each place it appears and inserting in lieu thereof "Office";

(4) in sections 1303, 8713 (as amended in paragraph (1) of this subsection), and 8911 (as amended in such paragraph), by striking out "Commission" and inserting in lieu thereof "Office";

(5) in section 3304(d), by striking out "a Civil Service Commission board of examiners" and inserting in lieu thereof "the Office of Personnel Management";

(6) in sections 1505–1508 and 3383, by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Merit Systems Protection Board" and "Board", respectively;

(7) in section 1504, by striking out "Civil Service Commission. On receipt of the report, or on receipt of other information which seems to the Commission to warrant an investigation, the Commission shall" and inserting in lieu thereof the following: "Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall".

(8) in section 5335(c)—

(A) by striking out "Commission" the first place it appears and inserting in lieu thereof "Office of Personnel Management";

(B) by striking out "Commission" the second place it appears and inserting in lieu thereof "Merit Systems Protection Board";

(C) by striking out "Commission" the third place it appears and inserting in lieu thereof "Office"; and

(D) by striking out "Commission" the fourth place it appears and inserting in lieu thereof "Board";

(9) in section 8347(d), by striking out "Commission" the first place it appears and inserting in lieu thereof "Merit Systems Protection Board" and by striking out "Commission" the second time it appears and inserting in lieu thereof "Board";

(10) in section 552(a)(4)(F)—

(A) by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Special Counsel"; and

(B) by striking out "its" and inserting in lieu thereof "his";

(11) in section 1303—

(A) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management, Merit Systems Protection Board, and Special Counsel"; and

(B) in paragraph (1), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(12) in section 1305, by striking out "For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges the Civil Service Commission may" and inserting in lieu thereof "For the purpose of section 3105, 3344, 4301(2)(D), and 5372 of this title and the provisions of

Ante, p. 1131, 1219, 1137.

section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may";

Ante, p. 1137.

(13) in section 1306, to read as follows: "The Director of the Office of Personnel Management and authorized representatives of the Director may administer oaths to witnesses in matters pending before the Office.";

(14) in section 8344(a), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(15) in section 8906, by striking out "Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management" the first time it appears and "Office" the other times it appears;

(16) in the section heading for section 2951 and in the item relating to section 2951 in the analysis for chapter 29, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(17) in the section heading for section 5112 and in the item relating to section 5112 in the analysis for chapter 51, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

Repeal.

(b)(1) Section 5109(b) of title 5, United States Code, is hereby repealed.

(2) Section 5109 of such title is further amended by redesignating subsection (c) as subsection (b).

Ante, p. 1161.

(c)(1) Subchapter VIII of chapter 33 of title 5, United States Code (as in effect immediately before the date of the enactment of this Act) is amended—

(A) by striking out the subchapter heading and inserting in lieu thereof the following:

"CHAPTER 34—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec.
"3401. Definitions.
"3402. Establishment of part-time career employment programs.
"3403. Limitations.
"3404. Personnel ceilings.
"3405. Nonapplicability.
"3406. Regulations.
"3407. Reports.
"3408. Employee organization representation.";

and

(B) by redesignating sections 3391 through 3398 as sections 3401 through 3408, respectively.

(2)(A) Section 3401 of such title 5 (as redesignated by this section) is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(B) Section 3402 of such title 5 (as redesignated by this section) is amended—

(i) in subsection (a)(1)(B), by striking out "section 3393" and inserting in lieu thereof "section 3403";

(ii) in subsection (b)(1)—

(I) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(II) by striking out "subchapter" and inserting in lieu thereof "chapter"; and

(iii) in subsection (b)(2), by striking out "Commission" and inserting in lieu thereof "Office".

(C) Sections 3405 and 3406 of such title 5 (as redesignated by this section) are amended by striking out "subchapter" each place it occurs and inserting in lieu thereof "chapter".

(D) Section 3407(a) of such title 5 (as redesignated by this section) is amended—

(i) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(ii) in paragraph (1), by striking out "section 3392" and inserting in lieu thereof "section 3402"; and

(iii) in paragraph (2), by striking out "subchapter" and inserting in lieu thereof "chapter".

(E) Section 3407(b) of such title 5 (as redesignated by this section) is amended—

(i) by striking out "Commission" and inserting in lieu thereof "Office"; and

(ii) by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(F) Sections 8347(g), 8716(b)(3), 8913(b)(3), and 8906(b)(3) of such title 5 are each amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(G) Section 8716(b)(3) of such title 5 is amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(H) Section 8913(b)(3) of such title 5 is amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(3) Section 5 of the Federal Employees Part-Time Career Employment Act of 1978 is amended by striking out "section 3397(a)" and inserting in lieu thereof "section 3407(a)". 5 USC 3407 note. *Ante*, p. 1059.

(4) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the items (as in effect immediately before the date of the enactment of this Act) following the item relating to section 3385.

(5) The chapter analysis for part III of title 5, United States Code is amended by inserting after the item relating to chapter 33 the following new item:

"34. Part-time career employment opportunities..... 3401".

EFFECTIVE DATE

SEC. 907. Except as otherwise expressly provided in this Act, the provisions of this Act shall take effect 90 days after the date of the enactment of this Act. 5 USC 1101 note.

Approved October 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1403 accompanying H.R. 11280 (Comm. on Post Office and Civil Service) and No. 95-1717 (Comm. of Conference).

SENATE REPORTS: No. 95-969 (Comm. on Governmental Affairs) and No. 95-1272 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 11, H.R. 11280 considered in House.

Aug. 24, considered and passed Senate.

Sept. 7, 11, 13, H.R. 11280 considered and passed House; proceedings vacated and S. 2640, amended, passed in lieu.

Oct. 4, Senate agreed to conference report.

Oct. 5, 6, House agreed to conference report; receded from amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:

Oct. 13, Presidential statement.

39-194 O—80—pt. 1——81 : QL3

Public Law 95-455
95th Congress

An Act

Oct. 13, 1978
[H.R. 12603]

To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Lakes Pilotage Act of 1960 (74 Stat. 259; 46 U.S.C. 216) is hereby amended as follows:

Great Lakes Pilotage Act of 1960, amendment.

Definitions.

(1) by deleting section 2(b) and inserting in lieu thereof the following:

"(b) 'Secretary' means the Secretary of Transportation.";

(2) by deleting section 2(c) and inserting in lieu thereof the following:

"(c) 'United States registered pilot' means a person, other than a member of the regular complement of a vessel, who holds a license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued under the authority of the provisions of title 52 of the Revised Statutes, and who is registered by the Secretary under the provisions of section 4 of this Act.";

(3) by deleting in section 2(d) the words "a master's certificate or equivalent" and inserting in lieu thereof "an appropriate";

(4) by deleting in section 2(e) the words "head of the Department in which the Coast Guard is operating under regulations issued by him", and inserting in lieu thereof the word "Secretary";

Registration of United States pilots.
46 USC 216b.

(5) by deleting section 4(a) and inserting in lieu thereof the following:

"SEC. 4. (a) The registration of United States pilots shall be carried out by the Secretary under such regulations as to qualifications, terms, and conditions which will assure adequate and efficient pilotage service, provide for equitable participation of United States registered pilots with Canadian registered pilots in the pilotage of vessels to which this Act applies, and provide fair and reasonable opportunity for registration. Each applicant must, as a prerequisite, be the holder of a license, as a master, mate, or pilot, issued under the authority of the provisions of title 52 of the Revised Statutes, and have acquired at least twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, of four thousand gross tons or over, operating on the Great Lakes or oceans. Those applicants qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes. The Secretary may require such experience and training, in addition to the minimum required by this subsection, as he considers necessary. In addition, each applicant shall agree that, if appointed as a United States registered pilot, he will be available for service when required and shall comply with this Act and all applicable regulations issued by the Secretary pursuant to this Act.".

46 USC 216e.

(6) by deleting in section 7(a) the words "for each violation for which sum the vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the

United States having jurisdiction thereof." in the first sentence, and inserting in lieu thereof "for each violation.";

(7) by deleting in section 7(a) the last sentence which reads "This subsection shall be enforced by the head of the Department in which the Coast Guard is operating."; 46 USC 216e.

(8) by deleting in section 7(b) the last sentence which reads "This subsection shall be enforced by the head of the Department in which the Coast Guard is operating.";

(9) by deleting in section 7(c) the last sentence which reads "The provisions of this subsection shall be enforced by the Secretary, who may, upon application therefor, remit or mitigate the penalty provided for herein, upon such terms as he, in his discretion, shall think proper.";

(10) by adding a new section 7(d) which reads:

"(d) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated any part of the Act or a regulation issued hereunder shall be liable to the United States for the penalties as enumerated in this Act. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States."; Violations. Penalties.

(11) by adding a new section 7(e) which reads:

"(e) Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to this Act and may be proceeded against in the United States district court for any district in which such vessel may be found.";

(12) by deleting in section 8(a) the words "with the concurrence of the head of the Department in which the Coast Guard is operating, or his designee,". 46 USC 216f.

Approved October 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1526 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 95-456
95th Congress

An Act

Oct. 13, 1978
[S. 2249]

To prohibit discrimination in rates charged by the Southwestern Power Administration.

Southwestern Power Administration, rate discrimination, prohibition.
16 USC 825s-3.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That power and energy marketed by the Southwestern Power Administration pursuant to section 825s of title 16, United States Code (1970), shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

16 USC 825s-3 note.

SEC. 2. This Act shall not become effective until Contract No. 14-02-00001-1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative, Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto.

Approved October 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1543 accompanying H.R. 13069 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-792 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 15, considered and passed Senate.
Sept. 26, H.R. 13069 considered and passed House; passage vacated and S. 2249, amended, passed in lieu.
Sept. 29, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 41:
Oct. 13, Presidential statement.

Public Law 95-457
95th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 13, 1978
[H.R. 13635]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1979, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of Defense Appropriation Act, 1979.

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $9,154,325,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; $6,461,600,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); $2,014,975,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $7,525,001,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while undergoing reserve training or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $547,350,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $227,025,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $84,125,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $186,850,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $755,500,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $256,477,000.

TITLE II

RETIRED MILITARY PERSONNEL

Retired Pay, Defense

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; $10,139,838,000.

10 USC 1448 note.
10 USC 1431 *et seq.*

TITLE III

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $3,332,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $9,115,000,000, of which not less than $580,200,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Navy

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $1,526,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $11,691,000,000, of which not less than $380,300,000 shall be available only for the maintenance of real property facilities: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $2,100,000,000 shall be available for the performance of such work in Navy shipyards of which not less than $22,000,000 shall be available for such work only at the Ship Repair Facilities, Guam: *Provided further*, That such amounts of the funds available for work only at the Ship Repair Facilities, Guam, may be used for work in other Navy shipyards in amounts equal to the amount of work placed at the Ship Repair Facilities, Guam, funded from other sources.

Operation and Maintenance, Marine Corps

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $733,000,000, of which not less than $107,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $2,556,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $9,243,000,000, of which not less than $592,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), as authorized by law; $3,034,000,000: *Provided*, That not to exceed $3,716,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than $52,500,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities: *Provided further*, That $968,600,000 shall be available only for the Defense Logistics Agency and $453,500,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $416,900,000, of which not less than $32,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $382,900,000, of which not less than $15,400,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $19,900,000, of which not less than $1,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $384,700,000, of which not less than $12,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $789,700,000, of which not less than $15,400,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $932,700,000, of which not less than $20,000,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions: $365,000, of which amount not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $329,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $87,500,000.

CONTINGENCIES, DEFENSE

For emergency and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; $2,500,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $1,750,000, and not to exceed $1,500 can be used for official representation purposes.

FOREIGN CURRENCY FLUCTUATIONS, DEFENSE

For transfer by the Secretary of Defense to or from appropriations available for military functions of the Department of Defense for fiscal year 1979, or thereafter, for the expenses of military personnel or operation and maintenance, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions; $500,000,000, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation to which transferred, and funds transferred to this appropriation shall be merged with, and be available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That restrictions contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for rentals, construction, or other services or supplies are hereby increased to the extent necessary to reflect downward fluctuations in currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions, and adjustments to reflect fluctuations to currency exchange rates may be recorded as disbursements are made: *Provided*

further, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or from this appropriation.

XIII Olympic Winter Games

For logistical support and personnel services to the XIII Olympic Winter Games; $2,000,000. During the current fiscal year, the Secretary of Defense may transfer the funds made available for this purpose to any appropriation contained in Title I or Title III of this Act or any subdivision thereof: *Provided*, That funds transferred pursuant to this authority shall be merged with and made available for the same purpose as the appropriation to which transferred: *Provided further*, That transfer authority provided herein shall be in addition to that provided in section 834 of this Act.

TITLE IV

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordinance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $949,709,000, to remain available for obligation until September 30, 1981. 40 USC 255.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordinance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $736,900,000, to remain available for obligation until September 30, 1981.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and train-

ing devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,511,100,000, to remain available for obligation until September 30, 1981.

40 USC 255.

PROCUREMENT OF AMMUNITION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,218,100,000, and in addition, $30,000,000 shall be derived by transfer from "Procurement of Ammunition, Army, 1976/1978", to remain available for obligation until September 30, 1981.

OTHER PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed one hundred and thirty passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,642,250,000, and in addition, $40,000,000 which shall be derived by transfer from "Other Procurement, Army, 1976/1978", to remain available for obligation until September 30, 1981.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and

private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,358,700,000, to remain available for obligation until September 30, 1981. 40 USC 255.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $1,955,600,000, to remain available for obligation until September 30, 1981.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, $198,000,000; for the SSN-688 nuclear attack submarine program, $351,900,000; for the aircraft carrier service life extension program, $32,200,000; for the DDG-2 guided missile destroyer modernization program, $128,000,000; for the FFG-7 guided missile frigate program, $1,493,100,000; for the AD destroyer tender program, $318,000,000; for the T-ARC cable laying ship program, $191,000,000; for the T-AGOS SURTASS ship program, $69,000,000; for craft, outfitting, post delivery, and cost growth on prior year programs, $978,400,000; in all: $3,759,600,000, to remain available for obligation until September 30, 1983: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships

authorized for conversion); the purchase of not to exceed six hundred and seventy-one passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $2,641,600,000, to remain available for obligation until September 30, 1981.

40 USC 255.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed two hundred and twenty-four passenger motor vehicles for replacement only; $356,000,000, to remain available for obligation until September 30, 1981.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,893,307,000, to remain available for obligation until September 30, 1981.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $1,579,800,000, to remain available for obligation until September 30, 1981.

OTHER PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one hundred and eight passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $2,362,250,000, and in addition, $37,000,000, which shall be derived by transfer from "Other Procurement, Air Force, 1978/1980", to remain available for obligation until September 30, 1981. 40 USC 255.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed seventy-four passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $273,800,000, to remain available for obligation until September 30, 1981.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $2,635,864,000, to remain available for obligation until September 30, 1980.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized

by law; $4,468,871,000, and in addition, $15,000,000 which shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy, 1977/1978", to remain available for obligation until September 30, 1980.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,131,040,000, to remain available for obligation until September 30, 1980.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $892,887,000, to remain available for obligation until September 30, 1980: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

Transfer and merger of funds.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $27,600,000, to remain available for obligation until September 30, 1980.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $14,362,000, to remain available for obligation until September 30, 1980: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VII

WORKING CAPITAL FUNDS

ARMY STOCK FUND

For the Army stock fund, $74,000,000.

AIR FORCE STOCK FUND

For the Air Force stock fund, $26,800,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 801. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year in connection with the demilitarization of any arms as advertised by the Department of Defense, Defense Logistics Agency sale number 31-8118 issued January 24, 1978, and listed as "no longer needed by the Federal Government".

SEC. 802. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress. Publicity or propaganda.

SEC. 803. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code. under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually. Experts or consultants.

SEC. 804. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense. Employment of noncitizens. 31 USC 700.

SEC. 805. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement to General Services Administration for security guard services for protection of confidential files; and all necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act. Appropriations availability.

SEC. 806. Any appropriation available to the Army, Navy, or Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned 31 USC 649a.

to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

Land acquisition.

SEC. 807. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

Dependents' schooling.

SEC. 808. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) except as authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for primary and secondary schooling for minor dependents of military and civilian personnel of the Department of Defense residing on military or naval installations or stationed in foreign countries, as authorized for the Navy by section 7204 of title 10, United States Code, in an amount not exceeding $298,682,000, when the Secretary of Defense finds that schools, if any, available in the locality, are unable to provide adequately for the education of such dependents: *Provided*, That under such regulations as may be issued by the Secretary of Defense, such schooling in a school operated by the Department of Defense under this section may be provided without tuition for minor dependents of civilian and military personnel of the Department of Defense who died while entitled to compensation or active duty pay: *Provided further*, That where such personnel die subsequent to January 11, 1971, such schooling must be continued or commenced within one year after the date of death; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property for twelve months beginning at any time during the fiscal year; and (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended.

Deficiency judgments.
Leasing.
Tools, maintenance.
Access roads.
22 USC 2385.

10 USC 858 note.

SEC. 809. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed $25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumer-

aries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in non-military facilities; (f) military courts, boards, and commissions; (g) utility services for bulidings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed $25 in any one case; and (k) expenses of arrangements with foreign countries for cryptologic support.

10 USC 807 note.

Small business assistance.

SEC. 810. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvment in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

Mess operations.

SEC. 811. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians, except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursements of operating expenses and food costs to the appropriations concerned: *Provided*, That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less than $2.50 per day: *Provided further*, That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of civilian employees: *Provided further*, That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

Fiscal year limitation.

SEC. 812. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Reimbursable appropriations.

SEC. 813. Appropriations of the Department of Defense available for operation and maintenance may be reimbursed during the current fiscal year for all expenses involved in the preparation for disposal and for the disposal of military supplies, equipment, and materiel, and for all expenses of production of lumber or timber products pursuant to section 2665 of title 10, United States Code, from amounts received as proceeds from the sale of any such property: *Provided*, That a report

Report to Congress.

50 USC 100a.

of receipts and disbursements under this limitation shall be made quarterly to Congress: *Provided further*, That no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap bailing or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

SEC. 814. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, when ever he deems such action to be necessary in the interest of national defense.

31 USC 665.

Airborne alert expenses.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Military personnel increases, expenses.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Report to Congress.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Commissary stores.

SEC. 815. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transporation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

Free utilities outside U.S.A. and in Alaska.

Proficiency flying.

SEC. 816. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Household goods.

SEC. 817. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Vessels, transfer. 40 USC 483a.

SEC. 818. Vessels under the jurisdiction of the Department of Commerce, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Obligated funds, limitation.

SEC. 819. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer-camp training of the Reserve Officers' Training Corps.

Foreign real property, use.

SEC. 820. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

31 USC 700a.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Report to Congress and Office of Management and Budget.

Research and development funds.

SEC. 821. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the service concerned.

Education expenses, restrictions.

SEC. 822. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel, nor for the payment of any part of tuition or expenses for

such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training.

ROTC loyalty requirements. 10 USC 2103 note.

SEC. 823. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Procurement restrictions.

SEC. 824. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

Service facilities.

SEC. 825. None of the funds appropriated by this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Inactive duty training pay.

SEC. 826. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive

duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period of appropriate duty.

Furnishings and automobiles, purchase.

SEC. 827. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

Uniforms.

SEC. 828. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

Legislative liaison activities.

SEC. 829. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $6,900,000 for fiscal year 1979: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

Civil reserve air fleet.

SEC. 830. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Civilian clothing.

SEC. 831. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed $40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

Defense contractors' advertising costs, restrictions.

SEC. 832. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

New facilities, restriction.

SEC. 833. Funds appropriated in this Act for maintenance and repair of facilities and installations shall not be available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, as defined in Department of Defense Directive 7040.2, dated January 18, 1961, in excess of $100,000: *Provided*, That the Secretary of Defense may amend or change the said directive during the current fiscal year, consistent with the purpose of this section.

Transfer of funds.

SEC. 834. During the current fiscal year, upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $750,000,000 of the appropriations or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Notification to Congress.

Contract payments in foreign countries.

SEC. 835. None of the funds appropriated by this Act may be used to make payments under contracts for any program, project, or activity in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Working capital fund.

SEC. 836. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Federal Employees Compensation Fund.

SEC. 837. Not more than $170,600,000 of the funds appropriated by this Act shall be made available for payment to the Federal Employees Compensation Fund, as established by 5 U.S.C. 8147.

Convicted rioters.

SEC. 838. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Campus disrupters.

SEC. 839. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of

an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Heating plant conversion.

SEC. 840. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Involuntary experimental subjects.

SEC. 841. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

SEC. 842. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

Reprogramming of funds.

SEC. 843. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Health program, restrictions.

SEC. 844. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

SEC. 845. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts and sex gender changes; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, or certified nurse-midwife, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.

SEC. 846. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed

by section 2107 (a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

Unused accrued leave.

SEC. 847. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Enlisted aides, limitation.

SEC. 848. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces.

Public affairs activities.

SEC. 849. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $25,000,000.

SEC. 850. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: *Provided*, That such amounts so credited shall be deposited in the Treasury as miscellaneous receipts as provided in 31 U.S.C. 484.

22 USC 2777.

22 USC 2761.

Medical care evaluation test.
Transfer and merger of funds.

SEC. 851. During the current fiscal year, for the purpose of conducting a test to evaluate a capitation approach to providing medical care and to that end for the purpose of providing adequate funds in Department of Defense Medical Regions 1 and 9 for medical care, including the expenses of the Civilian Health and Medical Program of the Uniformed Services, funds available to the Department of Defense in the appropriation "Operation and Maintenance, Defense Agencies" for expenses of the Civilian Health and Medical Program of the Uniformed Services may be transferred to appropriations available to the military departments for operation and maintenance, and funds available to the military departments for operation and maintenance may be transferred between such appropriations: *Provided*, That funds transferred pursuant to this authority shall be merged with and made available for the same purpose as the appropriation to which transferred: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further*, That transfer authority provided herein shall be in addition to that provided in section 834 of this Act.

Notification of Congress.

Senior Reserve Officers' Training Corps.

SEC. 852. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1978, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision.

SEC. 853. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

Limitation.

SEC. 854. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

Retainer pay.

SEC. 855. (a) None of the funds appropriated by this Act shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330 (d) of title 10, are utilized in determining such member's eligibility for retirement under section 6330(b) of title 10: *Provided*, That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: *Provided further*, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

Central Intelligence Agency.

SEC. 856. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year.

SEC. 857. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

Morale, welfare, and recreation activities.

SEC. 858. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated July 17, 1974.

Loan guarantees.

SEC. 859. During the current fiscal year, the Department of Defense may guarantee loans pursuant to Title III of the Defense Production Act of 1950 as amended (50 U.S.C. App. 2091, 64 Stat. 800) in an amount not to exceed $30,000,000.

SEC. 860. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

SEC. 861. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Dependent travel entitlements, limitation.

SEC. 862. None of the funds appropriated by this Act shall be used to pay for dependent travel entitlements to overseas areas if such payment would increase the total number of military dependents overseas above 350,000.

Abortion, limitations.

SEC. 863. None of the funds appropriated by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims or rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

TITLE IX

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $12,000,000.

PAYMENT TO THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $43,500,000.

Short title.

This Act may be cited as the "Department of Defense Appropriation Act, 1979".

Approved October 13, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1398 (Comm. on Appropriations) and No. 95-1764 (Comm. of Conference).

SENATE REPORT No. 95-1264 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 4, 7, 9, considered and passed House.

Oct. 4, 5, considered and passed Senate, amended.

Oct. 12, House agreed to conference report; receded and concurred in certain Senate amendments; receded and concurred in others with amendments; Senate agreed to conference report; concurred in House amendments.

Public Law 95-458
95th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions.

Oct. 14, 1978
[H.R. 1337]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendments.

SECTION 1. EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

(a) IN GENERAL.—Paragraph (1) of section 4216(b) of the Internal Revenue Code of 1954 (relating to constructive sale price) is amended by inserting after the second sentence thereof the following new sentence: "In the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer's or producer's cost)".

26 USC 4216.

26 USC 4061.

(b) CONFORMING AMENDMENT.—The second sentence of paragraph (1) of such section 4216(b) is amended by inserting "(other than an article the sale of which is taxable under section 4061(a))" after "sold at retail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer or producer on or after the first day of the first calendar quarter beginning 30 days or more after the date of enactment of this Act.

26 USC 4216 note.

SEC. 2. HOME PRODUCTION OF BEER AND WINE.

(a) EXEMPTION FROM TAX ON WINE.—Section 5042(a)(2) of the Internal Revenue Code of 1954 (relating to production of wine for personal consumption) is amended to read as follows:

26 USC 5042.

"(2) WINE FOR PERSONAL OR FAMILY USE.—Subject to regulations prescribed by the Secretary—

"(A) EXEMPTION.—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

"(B) LIMITATION.—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

"(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(ii) 100 gallons per calendar year if there is only 1 adult in such household.

"(C) ADULTS.—For purposes of this paragraph, the term 'adult' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.".

(b) EXEMPTION FROM TAX ON BEER.—

(1) IN GENERAL.—Section 5053 of such Code (relating to exemptions from excise tax on beer) is amended by redesignat-

26 USC 5053.

ing subsection (e) as subsection (f) and by inserting after subsection (d) the following new section:

"(e) BEER FOR PERSONAL OR FAMILY USE.—Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed— Limitation.

"(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

"(2) 100 gallons per calendar year if there is only 1 adult in such household.

"Adult." For purposes of this subsection, the term 'adult' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.".

(2) ILLEGALLY PRODUCED BEER.—

26 USC 5051. (A) Section 5051 of such Code (relating to imposition and rate of tax) is amended by adding at the end thereof the following new subsection:

"(c) ILLEGALLY PRODUCED BEER.—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable 26 USC 5054. as provided in section 5054(a)(3) unless—

"(1) such beer is produced in a brewery qualified under the 26 USC 5401. provisions of subchapter G, or

26 USC 5053. "(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).".

(B) Section 5054(a)(3) of such Code (relating to illegally produced beer) is amended to read as follows:

"(3) ILLEGALLY PRODUCED BEER.—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

"(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

"(B) such production is exempt from tax under sections 5053(e) (relating to beer for personal or family use).".

26 USC 5092. (3) DEFINITION OF BREWER.—Section 5092 of such Code (defining brewer) is amended to read as follows:

"SEC. 5092. DEFINITION OF BREWER.

"Every person who brews beer (except a person who produces only beer exempt from tax under section 5053(e)) and every person who produces beer for sale shall be deemed to be a brewer.".

(4) EXEMPTION FROM CERTAIN PROVISIONS RELATING TO DISTILLING

26 USC 5222. MATERIALS.—Section 5222(a)(2)(C) of such Code (relating to certain exemptions) is amended by striking out "; or" and inserting in lieu thereof "or 5053(e); or".

(5) PENALTY FOR UNLAWFUL PRODUCTION OF BEER.—

26 USC 5674. (A) Section 5674 of such Code (relating to penalty for unlawful removal of beer) is amended to read as follows:

"SEC. 5674. PENALTY FOR UNLAWFUL PRODUCTION OR REMOVAL OF BEER.

"(a) UNLAWFUL PRODUCTION.—Any person who brews beer or produces beer shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery

qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use). 26 USC 5401. 26 USC 5053.

"(b) UNLAWFUL REMOVAL.—Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.". Penalty.

(B) The item relating to section 5674 in the table of sections for part III of subchapter J of chapter 51 of such Code is amended to read as follows: 26 USC 5674.

"Sec. 5674. Penalty for unlawful production or removal of beer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act. 26 USC 5042 note.

SEC. 3. REFUNDS TO BE MADE TO AERIAL APPLICATORS IN CERTAIN CASES.

(a) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF GASOLINE TAX IN CERTAIN CASES.—Subsection (c) of section 6420 of the Internal Revenue Code of 1954 (defining use on a farm for farming purposes) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph: 26 USC 6420.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if the person so using the gasoline is an aerial applicator who is the ultimate purchaser of the gasoline and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) ENTITLEMENT OF AERIAL APPLICATORS TO REFUND OF SPECIAL FUELS TAX IN CERTAIN CASES.—The second sentence of subsection (c) of section 6427 of such Code (relating to use for farming purposes) is amended to read as follows: "For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that 'liquid taxable under section 4041' shall be substituted for 'gasoline' each place it appears in such paragraph (4)).". 26 USC 6427. 26 USC 4041.

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 6420(c)(3) of such Code is amended by striking out "except that" and all that follows down through the semicolon at the end of such subparagraph (A).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act. 26 USC 6420 note.

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER FROM EMPLOYEES' TRUSTS PERMITTED.—

Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows: 26 USC 402.

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any qualifying rollover distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

"(C) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFYING ROLLOVER DISTRIBUTION.—The term 'qualifying rollover distribution' means 1 or more distributions—

"(I) within 1 taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

"(II) which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)).

"(ii) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(I) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over 26 USC 72.

"(II) any amounts theretofore distributed to the employee which were not includible in gross income.

"(iii) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a). 26 USC 401. 26 USC 501.

"(iv) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(I) an individual retirement account described in section 408(a), 26 USC 408.

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409, 26 USC 409.
"(IV) a qualified trust, and
"(V) an annuity plan described in section 403(a). 26 USC 403.

"(E) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer 26 USC 408.
described in subparagraph (A) to an eligible retirement plan described in subclause (I), (II), or (III) of subparagraph (D)(iv) shall be treated as a rollover contribution described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were 26 USC 401.
made on his behalf under the plan."

(b) PARTIAL ROLLOVER OF ANNUITY CONTRACTS PERMITTED.—Subsection (a) of section 403 of such Code (relating to taxability of 26 USC 403.
beneficiary under a qualified annuity plan) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraph:

"(4) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him in a qualifying rollover distribution.

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of section 402 *Ante*, p. 1258.
(a)(5) and of paragraph (6) of section 402(a) shall apply 26 USC 402.
for purposes of subparagraph (A)."

(c) TAXATION OF PORTION NOT ROLLED OVER.—

(1) IN GENERAL.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which paragraph (5)(A) applies, paragraph (2) of sub- *Ante*, p. 1258.
section (a), and paragraphs (1) and (3) of subsection (e) shall not apply with respect to such lump sum distribution."

(2) CONFORMING AMENDMENTS.—Paragraph (6) of section 402(a) of such Code is amended—

(A) by striking out "For purposes of paragraph (5)(A)(i)",

(B) by striking out "A complete" in subparagraph (A) and inserting in lieu thereof "For purposes of paragraph (5)(D)(i), a complete", and

Ante, p. 1258.

(C) by inserting "For purposes of paragraph (5)(D)(i)—" after "ASSETS.—" in subparagraph (B).

26 USC 402 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1974.

(2) VALIDATION OF CERTAIN ATTEMPTED ROLLOVERS.—If the taxpayer—

(A) attempted to comply with the requirements of section 402(a)(5) or 403(a)(4) of the Internal Revenue Code of 1954 for a taxable year beginning before the date of the enactment of this Act, and

Ante, p. 1258.
26 USC 403.

(B) failed to meet the requirements of such section that all property received in the distribution be transferred,

such section (as amended by this section) shall be applied by treating any transfer of property made on or before December 31, 1978, as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of the preceding sentence, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the highest fair market value of the property distributed during the 60-day period beginning on the date on which the taxpayer received such property.

SEC. 5. CASH PAYMENTS IN LIEU OF FOOD STAMPS TO RECIPIENTS OF SSI BENEFITS.

42 USC 1382e notes.

(a) Section 8(d) of Public Law 93-233 is amended by adding at the end thereof the following new sentences: "For purposes of this subsection, if the State requests the Secretary to make the finding specified in the first sentence of this subsection and to make an additional cash payment under title XVI in lieu of food stamps, in the amount and the manner described below, to every individual in the State who does not have an eligible spouse and who receives a supplementary payment pursuant to an agreement under section 1616(a) of the Act (other than an individual who (i) receives such a supplementary payment at a level prescribed by the State by reason of his or her residence in an institution, or other living arrangement in which board and care are provided, or (ii) receives payments pursuant to section 212 of Public Law 93-66 at a level in excess of the level applicable to such individual as established by the State under such agreement), the Secretary shall make such payments if he finds that the conditions of paragraph (1) have been met (and for this purpose the conditions of paragraph (1) shall be considered to have been met to the extent that they involve amounts payable under the law referred to in paragraph (1)(B) notwithstanding the suspension in 1978 of the cost-of-living increase in State supplementary payments under such law) for months beginning with the first month in which, as determined by the Secretary, such additional cash payment can be made, and ending with the month before the first subsequent month for which the conditions of paragraph (1) are met without regard to this sentence (and the requirements of paragraph (2) shall also be considered to have been met, effective on the first day of such first subsequent month, for purposes

42 USC 1381.

42 USC 1382e.

87 Stat. 155.

of applying the first sentence of this subsection to that month and succeeding months). For purposes of the preceding sentence, the amount of an additional cash payment under title XVI in lieu of food stamps shall equal the cash value of the minimum allotment specified by section 8(a) of the Food Stamp Act of 1977 for one-person households, and such additional cash payment shall be appropriately included in or with the check issued to such individual in payment of his supplementary security income benefit (or supplementary payment under such section 1616(a)).". 42 USC 1381. 7 USC 2017. 42 USC 1382e.

(b) No additional cash payment under title XVI of the Social Security Act may be made pursuant to the third sentence of section 8(d) of Public Law 93-233 (as added by subsection (a) of this section) for any month beginning before October 1, 1978, or ending after September 30, 1979. 42 USC 1382e note. 42 USC 1381. 42 USC 1382e note.

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-976 (Comm. on Ways and Means).
SENATE REPORT No. 95-1127 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 16, considered and passed House.
Aug. 25, considered and passed Senate, amended.
Sept. 7, 12, House agreed to Senate amendments with amendments.
Sept. 28, Senate concurred in House amendments.

Public Law 95-459
95th Congress

An Act

Oct 14, 1978
[H.R. 13991]

To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land.

Susanville Indian Rancheria, Calif. Land in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all right, title, and interest of the United States in the following lands consisting of approximately one hundred and twenty acres situated within Lassen County, California, shall be held in trust by the United States for the Susanville Indian Rancheria, an Indian reservation organized under the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.):

MOUNT DIABLO MERIDIAN

Township 30 north, range 12 east:
Section 20: East half of the southeast quarter; and southeast quarter of the northeast quarter.

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1631 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 95-460
95th Congress

An Act

To require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes.

Oct. 14, 1978
[S. 3384]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Agricultural Foreign Investment Disclosure Act of 1978.
7 USC 3501 note.

SECTION 1. This Act may be cited as the "Agricultural Foreign Investment Disclosure Act of 1978".

REPORTING REQUIREMENTS

Land interests, acquistions or transfers.
7 USC 3501.

SEC. 2. (a) Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;

(8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and

(9) such other information as the Secretary may require by regulation.

(b) Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding

the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principle place of business of such holder.

CIVIL PENALTY

SEC. 3. (a) If the Secretary determines that a person— 7 USC 3502.

(1) has failed to submit a report in accordance with the provisions of section 2, or

(2) has knowingly submitted a report under section 2—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary determines to be appropriate to carry out the purposes of this Act, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

INVESTIGATIVE ACTIONS

SEC. 4. The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this Act and to determine whether the information contained in any report submitted under section 2 accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section. 7 USC 3503.

REPORTS TO CONGRESS AND THE PRESIDENT

SEC. 5. (a) In accordance with the schedule set forth in subsection (b) of this section, the Secretary shall— 7 USC 3504.

(1) with respect to each period set forth in such subsection, analyze information obtained by the Secretary under section 2 and determine the effects of foreign persons acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers, and holdings on family farms and rural communities; and

(2) transmit to the President and each House of the Congress a report on the Secretary's findings and conclusions regarding—

(A) each analysis and determination made under paragraph (1); and

(B) the effectiveness and efficiency of the reporting requirements contained in section 2 in providing the information required to be reported by such section.

(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination transmitted, pursuant to subsection (a) of this section—

(1) with respect to information obtained by the Secretary under section 2 during the 6-month period following the effective date of section 2, within 9 months after such effective date;

(2) with respect to information obtained by the Secretary under section 2 during the 12-month period following the effective date of section 2, within 15 months after such effective date; and

(3) with respect to each calendar year following the 12-month period referred to in paragraph (2), within 90 days after the end of such calendar year.

REPORTS TO THE STATES

7 USC 3505.

SEC. 6. Not later than 30 days after the end of each 6-month period beginning after the effective date of section 2, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 2 during such 6-month period and which involved agricultural land located in such State.

PUBLIC INSPECTION

7 USC 3506.

SEC. 7. Any report submitted to the Secretary under section 2 shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

REGULATIONS

7 USC 3507.

SEC. 8. Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this Act.

DEFINITIONS

7 USC 3508.

SEC. 9. For purposes of this Act—

(1) the term "agricultural land" means any land located in one or more States and used for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term "foreign person" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act;

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secretary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

EFFECTIVE DATES

SEC. 10. (a) Except as provided in subsection (b) of this section, this Act shall become effective on the date of the enactment of this Act. 7 USC 3501 note.

(b) Section 2 shall become effective on the date on which regulations prescribed by the Secretary under section 8 become effective.

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1570 accompanying H.R. 13356 (Comm. on Agriculture).
SENATE REPORT No. 95-1072 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 11, considered and passed Senate.
Sept. 26, H.R. 13356 considered and passed House; passage vacated and S. 3384, amended, passed in lieu.
Oct. 2, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:
Oct. 14, Presidential statement.

Public Law 95-461
95th Congress

An Act

Oct. 14, 1978
[S. 2916]

To amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug Abuse Prevention and Treatment Amendments of 1978.
21 USC 1101 note

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Prevention and Treatment Amendments of 1978".

EXTENSION OF SECTIONS 409, 410, AND 503

21 USC 1176.

SEC. 2. (a) The first sentence of section 409(a) of the Drug Abuse Office and Treatment Act of 1972 is amended (1) by striking out "and" after "1977,", and (2) by inserting after "1978," the following: "and September 30, 1979,".

21 USC 1177.

(b) Section 410(b) of such Act is amended by adding at the end the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) $153,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs, and (2) $24,000,000 for grants and contracts under such subsection for other programs and activities.".

21 USC 1193.

(c) Section 503(b) of such Act is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "and $7,000,000 for the fiscal year ending September 30, 1979".

REPORTS

42 USC 242 note.

SEC. 3. (a) Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

21 USC 1172.

(b) Section 405(b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried out through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, a description of the amount of funds expended in carrying out such functions, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year.".

(c) Not later than 120 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations respecting such functions in these areas. Report to Congress. 21 USC 1172 note.

STATE PLANS FOR FORMULA GRANTS

SEC. 4. Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended— 21 USC 1176.

(1) by striking out "July 15" and inserting in lieu thereof "July 31",

(2) by inserting after "groups," in paragraph (3) "of political subdivisions in the State,",

(3) by inserting after "areas of the State" in paragraph (3) "and from population groups in the State which are seriously affected by drug abuse",

(4) by striking out "in carrying out" in paragraph (3) and inserting in lieu thereof "in preparing and carrying out", and

(5) by amending paragraph (7) to read as follows:

"(7) provide reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan;".

TECHNICAL ASSISTANCE

SEC. 5. Section 502(b)(3) of the Drug Abuse Office and Treatment Act of 1972 is amended by striking out "control and treatment" and inserting in lieu thereof "prevention, control, and treatment". 21 USC 1192.

ACTIVITIES OF THE NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 6. (a) Section 410(a) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting ", acting through the National Institute on Drug Abuse," after "Secretary" the first place it appears.

21 USC 1177.

(b) (1) Title V of such Act is amended by adding at the end thereof the following new section:

21 USC 1194.

"§ 504. Review of programs and activities

"The Secretary, acting through the Institute, shall, by regulation, provide for review of all grants made, and contracts entered into, for research, training, treatment, prevention, and other programs and activities authorized under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of drug abuse.".

(2) The table of sections at the beginning of such title is amended by adding at the end thereof the following new item:

"504. Review of programs and activities.".

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1187 accompanying H.R. 12348 (Comm. on Interstate and Foreign Commerce).

SENATE REPORTS No. 95-820 (Comm. on Human Resources) and No. 95-151 accompanying S. 1232 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 123 (1977): June 6, S. 1232 considered and passed Senate.

Vol. 124 (1978): May 24, considered and passed Senate.

Sept. 18, H.R. 12348 considered and passed House; passage vacated and S. 2916, amended, passed in lieu.

Oct. 2, Senate concurred in House amendment.

Public Law 95-462
95th Congress

An Act

Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia

Oct. 14, 1978
[H.R. 13692]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the Historic Chattahoochee Compact between the States of Alabama and Georgia which compact reads as follows:

Historic Chattahoochee Compact, Alabama-Georgia. Consent of Congress.

"HISTORIC CHATTAHOOCHEE COMPACT

"ARTICLE I. The purpose of this compact is to promote the cooperative development of the Chattahoochee Valley's full potential for historic preservation and tourism and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II. This compact shall become effective immediately as to the States ratifying it whenever the States of Alabama and Georgia have ratified it and Congress has given consent thereto.

Effective date.

"ARTICLE III. The States which are parties to this compact (hereinafter referred to as 'party States') do hereby establish and create a joint agency which shall be known as the Historic Chattahoochee Commission (hereinafter referred to as the 'Commission'). The Commission shall consist of twenty-eight members who shall be appointed by the historical commission or organization or similar historical body or other designated authority in each of the counties represented by the Commission who shall be bona fide residents and qualified voters of the party State. In Alabama, two shall be residents of Barbour County, two shall be residents of Russell County, two shall be residents of Henry County, two shall be residents of Chambers County, two shall be residents of Lee County, two shall be residents of Houston County, and two shall be residents of Dale County. If there are two historical organizations in any of said counties, then one Commission member shall be selected from each organization; if there are more than two organizations in any such county, then the organization shall meet and decide on the designation of members which will represent their respective county. In Georgia, one shall be a resident of Troup County, one shall be a resident of Harris County, one shall be a resident of Muscogee County, one shall be a resident of Chattahoochee County, one shall be a resident of Stewart County, one shall be a resident of Randolph County, one shall be a resident of Clay County, one shall be a resident of Quitman County, one shall be a resident of Early County, one shall be a resident of Seminole County, and one shall be a resident of Decatur County. In addition, these 11 Georgia members shall choose three at large members who shall be selected from any three of the Georgia member counties listed above. The Commission at its discretion may appoint as many advisory members as it deems necessary from any Georgia or Alabama county which is located in the Chattachoochee Valley area. The contribution of each party State shall be in equal amounts. If the party States fail to appropriate equal amounts to the Commission during any given fiscal year, voting membership on the Commission Board shall be determined as follows: The State making the larger appropriation shall be entitled to full voting membership.

Historic Chattahoochee Commission. Establishment.

The total number of members from the other State shall be divided into the amount of the larger appropriation and the resulting quotient shall be divided into the amount of the smaller appropriation. The then resulting quotient, rounded to the next lowest whole number, shall be the number of voting members from the State making the smaller contribution. The members of the Commission from the State making the larger contribution shall decide which of the members from the other State shall serve as voting members, based upon the level of tourism, renovation and promotional activity, and general support of the Commission's activities by and in the county of residence of each of the members of the State making the smaller appropriation. Such determination shall be made at the next meeting of the Commission following September 30th of each year. Members of the Commission shall serve for terms of office as follows: Of the fourteen Alabama voting members, one from each of said counties shall serve for two years and the remaining member of each county shall serve for four years. The member appointed by the older organization of each county shall serve for the four year term for the initial term of this compact. Upon the expiration of the original terms of office of Alabama members, all successor Alabama voting members shall be appointed for four year terms of office, with seven vacancies in the Alabama voting membership occurring every two years. Of the fourteen Georgia voting members, seven shall serve four year terms and seven two year terms for the initial term of this compact. The terms of the individual Georgia voting members shall be determined by their place in the alphabet by alternating the four and two year terms beginning with Chattahoochee County—four years, Clay County—two years, Decatur County—four years, etc. Upon the expiration of the original terms of office of Georgia members, all successor Georgia voting members shall be appointed for four year terms of office, with seven vacancies in the Georgia voting membership occurring every two years. Of the three Georgia at large Board members, one shall serve a four year term and two shall serve two year terms.

All Board members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the members of the Commission. The first chairman of the Commission created by this compact shall be elected by the Board of Directors from among its voting membership. Annually thereafter, each succeeding chairman shall be selected by the members of the Commission. The chairmanship shall rotate each year among the party States in order of their acceptance of this compact. Members of the Commission shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of the Commission.

Commission headquarters.

"ARTICLE IV. The headquarters of the Commission shall be selected by the Commission and shall be centrally located in the Chattahoochee Valley area. Such headquarters shall be consistent with the legitimate need of the Commission. The Commission shall hold an annual meeting at the Commission Headquarters and one-half of the then members of the Commission shall constitute a quorum for the transaction of business. Additional meetings may be held at such times and places as may be considered necessary, desirable or convenient, upon call of the chairman, or, in the case of his absence or incapacity, of the vice chairman, or, on call of any three members of the Commission. The Commission shall determine and establish its own organization and procedure in accordance with the provisions of this Act and shall have an official seal. The Commission shall elect its chairman, its vice chairman, its secretary and its treasurer, and such officers shall hold

office for a period of one year or until a successor is elected. Neither the secretary nor the treasurer need be members of the Commission. The Commission may require that the treasurer thereof be bonded in an amount to be determined by the Commission.

"ARTICLE V. The Commission shall have the right to adopt such rules and regulations as may be necessary to carry out the intent and purposes of this Act, and shall be authorized to provide for an executive committee of not fewer than five of its members to whom it may delegate such powers and authority as the Commission may deem to be advisable. Rules and regulations.

"ARTICLE VI. No member of the Commission shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as a member of the Commission. All such expenses are to be paid from the funds of the Commission. Further, it shall be unlawful for any member of the Commission or any employee thereof to charge, receive, or obtain, either directly or indirectly, any fee, commission, retainer or brokerage out of the funds of the Commission, and no member of the Commission or officer or employee thereof shall have any interest in any land, materials, or contracts sold to, or made or negotiated with the Commission, or with any member or employee thereof acting in his capacity as a member of such Commission. Violation of any provisions of this section shall be a misdemeanor and upon conviction shall be punishable by removal from membership or employment and by a fine of not less than $100.00 or by imprisonment not to exceed six months or both. Expenses.

"ARTICLE VII. The Commission shall establish and maintain at such lawful depository or depositories as it shall select, a 'Historic Chattahoochee Fund' composed of the money or monies which may come into its hands from admission, inspection fees, gifts, donations, grants, bequests, loans, bond issues, governmental appropriations or other sources, either public or private. Such funds shall be used by the Commission to pay for the purposes herein set forth, and the servicing, retirement or amortization of any bonds or other evidences of indebtedness issued by the Commission. Historic Chattahoochee Fund.

"ARTICLE VIII. The Commission shall be authorized:

"1. To investigate and select available sites for housing historic exhibits, including the surrounding grounds, with such State, Federal, or local agencies and governments and private individuals, corporations, associations, or other organizations as may be involved, taking into consideration all pertinent factors affecting the suitability of such sites; to acquire, transport, renovate, maintain and exhibit appropriate and suitable military, or historic units, articles, exhibits, and attractions; to have full complete and exclusive jurisdiction over the sites, and any related exhibits; Historic exhibits.

"2. To promote tourism throughout the Chattahoochee Valley by attending travel shows; issuing news releases, calendars of events and newsletters; publishing brochures and pamphlets; constructing mobile travel exhibits; producing films and other visual presentations as may be necessary; and advertising in magazines and/or newspapers; Tourism.

"3. To acquire by rent or lease agreement or otherwise, the necessary housing facilities; and to establish, improve and enlarge available facilities, including providing them with necessary equipment, furnishings, landscaping, and related facilities, including parking areas and ramps, roadways, sewers, curbs, and gutters; Housing facilities, acquisition.

Contracts and cooperative agreements.

"4. To enter into such contracts and cooperative agreements with the local, State, and Federal government, with agencies of such governments, with private individuals, corporations, associations, and other organizations, as the Commission may deem necessary or convenient to carry out the purposes of this Act, with such contracts and agreements to include leases to private industry;

Money, borrowing.

"5. To borrow money from private sources, the State emergency fund, or such other source as may be acceptable to the Commission under such terms and conditions as may be provided by law, and, in order to provide security for the repayment of any such private loans, the Commission shall have the authority to pledge such future revenues from admissions and any other sources as may, from time to time, be necessary or desirable;

Revenue bonds.

"6. To issue and sell at any time and from time to time its revenue bonds for the purpose of providing funds to acquire, enlarge, improve, equip and maintain its property, and for the payment of obligations incurred for such purposes. The principal and interest on any such revenue bonds shall be payable solely out of the revenues derived from the project;

"7. To make such contracts in the issuance of its bonds as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the Commission from the investment of the proceeds of the sale of such bonds or from any other source whatsoever;

Gifts.

"8. To accept public or private gifts, grants and donations;

Acquisition of property.

"9. To acquire property by purchase, lease, gift, or license; and to dispose of any property of the Commission when, in the opinion of the Commission such disposition is deemed expedient;

Funds.

"10. To allocate and expend funds from all donations, income and revenue from any source whatsoever coming into its treasury, for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this Act;

Transactions.

"11. To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own, and to transfer, assign, sell, convey, or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

Employees, hiring.

"12. To hire such laborers, artisans, caretakers, technicians, stenographers and administrative employees and supervisory and professional personnel as may be necessary or advisable for the carrying out in the most efficient and beneficial manner of the purposes and provisions of this Act;

Executive director.

"13. To employ an executive director who shall serve at the pleasure of the Commission, who shall be responsible directly to the Commission, whose compensation shall be fixed by the Commission, whose duties and authority shall be designated by the Commission, and who shall be paid from funds of the Commission;

Rules and regulations.

"14. To make such rules and regulations as the Commission may deem necessary and desirable to provide for the operation, management and control of its facilities;

"15. To perform such other acts necessary or incidental to the accomplishment of the purposes of this Act whether or not specifically authorized in this section, and not otherwise prohibited by law.

"ARTICLE IX. The Commission shall constitute a public body corporate and shall have, in addition to those set forth specifically in this Act, all powers necessary or convenient to effect the purposes for which it has been established under and by the terms of this Act, together with all powers incidental thereto or necessary to the discharge of its said powers and duties. Powers.

"ARTICLE X. The Commission, its property and income and all bonds issued by the Commission, the income from such bonds, or from the investment of such income, and all conveyances, leases, mortgages, and deeds of trust by or to the Commission shall be exempt from all taxation in the State of Alabama and the State of Georgia. Taxation, exemption.

"ARTICLE XI. All obligations incurred by the Commission and all bonds issued by it shall be solely and exclusively an obligation of the Commission and shall not create an obligation or debt of the State of Alabama or the State of Georgia or any county or municipality of either. Obligations.

"ARTICLE XII. The Commission shall maintain at all times accurate records and books of account covering revenues and expenditures. Such records and books shall be available for audit at any time by the department of examiners of public accounts, and shall be audited at least every two years in the same manner as audits are made of other State agencies and departments.". Records and accounts.

SEC. 2. The Congress consents to the foregoing Historic Chattahoochee Compact between the States of Alabama and Georgia subject to the understanding that nothing contained therein shall be construed to confer upon the joint agency established thereby and known as the Historic Chattahoochee Commission, or upon any other person, the right of eminent domain. Consent of Congress.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1636 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 3, considered and passed Senate.

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Public Law 95-463
95th Congress

Joint Resolution

Oct. 14, 1978
[H.J. Res. 685]

To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day".

Whereas courageous firefighters have protected the lives and dreams of their neighbors from the ravages of fire since the beginning of civilization; and

Whereas many of the courageous firefighters have suffered permanent disability and some have made the ultimate expression of love for their neighbor by laying down their lives; and

Whereas numerous churches and many denominations have indicated a desire to participate in a designated memorial Sunday honoring these consecrated firefighters for their ultimate sacrifices for their fellow men;

Whereas jogging is an excellent form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of heart, blood vessels, and lungs, and serves as an advisable supplement to a weight-reducing or weight control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life;

Whereas over three hundred thousand persons all across America participated in hundreds of fun runs and fitness clinics last year and countless other individuals participated in jogging and running as a leisure time activity which is beneficial and enjoyable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday", and inviting the people of the United States to observe such day with appropriate ceremonies and activities to commemorate the firefighters who have been disabled or killed in the line of duty.

Firefighters' Memorial Sunday. Designation authorization.

SEC. 2. The President is authorized and requested to issue a proclamation declaring October 14, 1978, as "National Jogging Day", and calling upon the people of the United States and interested groups to celebrate such day by embarking upon or containing a program of regular exercise, participation in sports and games for fitness and fun.

National Jogging Day. Designation authorization.

National Inventors' Day. Designation authorization.

SEC. 3. In honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of inventors to the welfare of our people, February 11, 1979, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1376 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 29, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendments.

Public Law 95-464
95th Congress

An Act

Oct. 17, 1978
[S. 415]

To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn.

Anadromous Fish Conservation Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Anadromous Fish Conservation Act, as amended (16 U.S.C. 757a–f), is amended by inserting immediately after the words "Great Lakes", wherever they appear therein, the words "and Lake Champlain".

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1527 accompanying H.R. 13392 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-907 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed Senate.
Sept. 25, H.R. 13392 considered and passed House; passage vacated and S. 415, amended, passed in lieu.
Oct. 3, Senate concurred in House amendments.

Public Law 95-465
95th Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 17, 1978
[H.R. 12932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes, namely:

Department of the Interior and related agencies. Appropriations, fiscal year 1979.

TITLE I—DEPARTMENT OF THE INTERIOR LAND AND WATER RESOURCES

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, $286,853,000.

ACQUISITION, CONSTRUCTION, AND MAINTENANCE

For acquisition of lands and interests therein, and construction and maintenance of buildings, recreation facilities, roads, trails, and appurtenant facilities, $19,011,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 1601), $105,000,000, of which not to exceed $200,000 shall be available for administrative expenses: *Provided*, That this appropriation may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; an amount equivalent to 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands, to remain available until expended: *Provided*,

Transfer of funds.

That the amount appropriated herein for the purposes of this appropriation on lands administered by the Forest Service shall be transferred to the Forest Service, Department of Agriculture: *Provided further*, That the amount appropriated herein for road construction on lands other than those administered by the Forest Service shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That the amount appropriated herein is hereby made a reimbursable charge against the Oregon and California land grant fund and shall be reimbursed to the general fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876): *Provided further*, That not less than $60,119,000 available from receipts shall be obligated in fiscal year 1979 for Oregon and California grant lands.

43 USC 1181f.

RANGE IMPROVEMENTS

For rehabilitation, protection, and improvement of Federal range lands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), sums equal to fifty percent of all monies received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended.

43 USC 1751.

43 USC 315b, 315m.

RECREATION DEVELOPMENT AND OPERATION OF RECREATION FACILITIES

For recreation management activities and for construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, $300,000, to be derived from the special receipt accounts established by section 4(f) of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6a(f)), as amended.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701); and sections 101 and 203 of Public Law 93–153, to be immediately available until expended.

43 USC 1734, 1735, 1764.
30 USC 185.
43 USC 1652.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act.

43 USC 1737.

43 USC 1721.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, insurance on official motor vehicles, aircraft, and boats operated by the Bureau of Land Management in Canada; and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; $10,000 for payment, in the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the general fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended on a reimbursable basis for (1) surveys of lands other than those under the jurisdiction of the Bureau of Land Management and (2) protection of lands for the State of Alaska.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Water Resources Research Act of 1964, as amended (42 U.S.C. 1961–1961c–7), and the provisions of the Saline Water Conversion Act of 1971, as amended (42 U.S.C. 1959–1959h), $28,357,000, of which $9,900,000 shall remain available until September 30, 1980.

FISH AND WILDLIFE AND PARKS

HERITAGE CONSERVATION AND RECREATION SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Heritage Conservation and Recreation Service, not otherwise provided for, $14,874,000: *Provided*, That the unexpended balances in the account "Preservation of Historic Properties, Heritage Conservation and Recreation Service" shall be merged with this account.

LAND AND WATER CONSERVATION FUND

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including $7,247,000 for administrative expenses of the Heritage Conservation and Recreation Service during the current fiscal year, and acquisition of land or waters, or interest therein, in accord-

ance with the statutory authority applicable to the State or Federal agency concerned, to be derived from the Land and Water Conservation Fund, established by section 2 of said Act as amended, to remain available until expended, not to exceed $737,025,000, of which (1) not to exceed $369,790,000 shall be available for payments to the States in accordance with section 6(c) of said Act; (2) not to exceed $1,000,000 shall be available to the Bureau of Land Management; (3) not to exceed $51,692,000 shall be available to the Forest Service of which $12,500,000 for purchase of the Jennings and Kahle properties in the Lake Tahoe California/Nevada basin shall not become available for obligation until the States of California and Nevada have each (a) provided $6,250,000 to match the Forest Service grant and (b) established restrictions which will prohibit any additional unrestricted gaming establishments in the Lake Tahoe basin; (4) not to exceed $32,960,000 shall be available to the United States Fish and Wildlife Service; (5) not to exceed $171,957,000 shall be available to the National Park Service; and (6) not to exceed $102,379,000 shall be derived from the special account within the Fund established by Section 5 of said Act as amended, and shall be available in the amounts of $81,716,000 to the National Park Service, $19,693,000 to the Forest Service, $470,000 to the United States Fish and Wildlife Service, and $500,000 to the Bureau of Land Management: *Provided*, That not to exceed $12,000,000 of the amount provided for State assistance may be available as a contingency reserve to be administered by the Secretary to meet unforeseen needs of the States.

16 USC 460*l*–5.

16 USC 460*l*–8.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), $60,000,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, to remain available for obligation until September 30, 1980: *Provided*, That none of the funds in this appropriation may be used for grants for renovation of State and local government buildings still in use for governmental purposes: *Provided further*, That not to exceed $1,000,000 may be available as a discretionary reserve to be administered by the Secretary for special or innovative preservation programs.

ADMINISTRATIVE PROVISION

None of the funds appropriated to the Heritage Conservation and Recreation Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; and maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, $196,129,000, of which not to

exceed $3,000,000 shall remain available until expended: *Provided*, That funds in this appropriation may be used to issue regulations that will permit modification to the habitat of a threatened or endangered species when the net effect of the modification is equal to, favorable to, and not adverse to the protection of the species: *Provided further*, That $15,721,000 shall be available only upon enactment of legislation reauthorizing section 15 of the Endangered Species Act of 1973. 16 USC 1542.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f); $97,856,000, to remain available until expended.

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k–3, 5), $10,000,000, to remain available until expended.

DEVELOPMENT AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, $150,000, to be derived from the special receipt account established by section 4(f) of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6a(f)), as amended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 244 passenger motor vehicles, of which 203 are for replacement only (including 128 for police-type use); purchase of 2 aircraft, for replacement only; not to exceed $100,000 for payment, in the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Fish and Wildlife Service; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $75,000; publication and distribution of bulletins as authorized by law (7 U.S.C. 417); insurance on official motor vehicles, aircraft and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose, and the maintenance and improvement of aquaria, buildings and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis); the acquisition of water rights; expenses necessary for investigations and studies to determine suitability of areas to be included in the National Park System, the designation of wilderness areas, and the management of water resources; the preparation of plans for existing and proposed park and recreation areas; provisions of technical assistance to other Federal agencies, and to States and private institutions in the planning development, and operation of landmarks, parks and recreation areas; and for financial or other assistance in planning, development, and operation of areas as authorized by law or pursuant to agreements with other Federal agencies, States, or private institutions, including not to exceed $298,000 for the Roosevelt Campobello International Park Commission, $380,079,000: *Provided*, That not to exceed $4,258,000 may be available for operation of the National Visitor Center and of that amount not to exceed $3,500,000 may be used for payment of rent: *Provided further*, That $90,000 shall be available for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use.

National Visitor Center.

Harpers Ferry, W.Va., assistance.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $118,488,000, to remain available until expended.

PLANNING, DEVELOPMENT, AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451); including collection of special recreation use fees, to remain available until expended, $15,478,000, to be derived from the special receipt accounts established by section 4(f) of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6a(f)), as amended.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,055,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 158 passenger motor vehicles, of which 137 shall be for replacement only, including not to exceed 110 for police-type use; purchase of 1 aircraft for replacement only; and to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary,

to maintain law and order in emergency and other unforeseen law enforcement situations in the National Park System; and to provide insurance on official motor vehicles and aircraft operated by the National Park Service in Mexico and Canada.

ENERGY AND MINERALS

Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332, and 1340); classify lands as to mineral character and water and power resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; enforce departmental regulations applicable to oil, gas, and other mining leases, permits, licenses, and operating contracts; control the interstate shipment of contraband oil as required by law (15 U.S.C. 715); administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $409,095,000, of which $37,214,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

Cooperation, States or municipalities. 43 USC 50.

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

For necessary expenses in carrying out the provisions of section 104 of Public Law 94-258, $231,048,000, to remain available until expended. 42 USC 6504.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 33 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services, contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the U.S. National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.

Bureau of Mines

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the

development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $147,007,000, of which $123,282,000 shall remain available until expended.

HELIUM FUND

Contract authority, recission. 75 Stat. 246.

Contract authority for "Development and Operation of Helium Properties" provided by Public Law 87-122 for the fiscal year 1979 is rescinded in the amount of $47,500,000.

ADMINISTRATIVE PROVISION

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

30 USC 1201 note.

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, $53,944,000.

ABANDONED MINE RECLAMATION FUND

30 USC 1231.

For necessary expenses to carry out the provisions of Title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, to remain available until expended, $61,451,000, to be derived from receipts of the Abandoned Mine Reclamation Fund.

ADMINISTRATIVE PROVISION

Appropriations for the Office of Surface Mining Reclamation and Enforcement shall be available for the purchase of not to exceed 10 passenger motor vehicles.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission), of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order, and payment of rewards for information or evidence concerning violations of law on Indian reservation lands, or treaty fishing rights tribal use areas; management, development, improvement, and protection of resources

and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; and for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $774,752,000, of which not to exceed $60,581,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 shall remain available for obligation until September 30, 1980, and that the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1980: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531, $5,028,000, to remain available until expended: *Provided further*, That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963 as amended by the Act of June 3, 1977 (Public Law 95-40).

48 Stat. 596.
25 USC 452.
Contracts.
25 USC 640d-18.
20 USC 2303.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities; acquisition of lands and interests in land; preparation of lands for farming; and architectural and engineering services by contract, $126,554,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed $5,500,000 shall be available to assist the Tulalip Indian Tribes for construction of a fish hatchery on Puget Sound.

Transfer of funds.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, and 25 U.S.C. 13, 318a, $79,253,000, to remain available until expended.

ALASKA NATIVE FUND

For transfer to the Alaska Native Fund, in the fourth quarter of fiscal year 1979, to provide for settlement of certain land claims by Natives and Native groups of Alaska, and for other purposes, based on aboriginal land claims, as authorized by the Act of December 18, 1971 (Public Law 92-203), $30,000,000: *Provided*, That for purposes of meeting its obligation under section 6(a)(3) and section 9 of the Alaska Native Claims Settlement Act in connection with the requirement that $500,000,000 be paid into the Alaska Native Fund, any and all revenues paid into such fund by the State of Alaska from sources other than those specified in section 9 of such Act shall, notwithstanding any other provision of law, be construed as payments by the State of Alaska to the fund within the meaning of sections 6(a)(3) and 9 of the Alaska Native Claims Settlement Act and credited toward the $500,000,000 to be deposited in the Alaska Native Fund under such sections.

85 Stat. 688.
43 USC 1601 note.
43 USC 1605, 1608.

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance or from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government; relief of Indians, without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391) including cash grants: *Provided*, That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary.

18 USC 4124 and note.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans) shall be available for expenses of exhibits; purchase of not to exceed 301 passenger carrying motor vehicles of which 155 shall be for replacement only, which may be used for the transportation of Indians; advance payments for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes; and expenses required by continuing or permanent treaty provisions.

TERRITORIAL AFFAIRS

Office of Territorial Affairs

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, $52,023,000, of which (1) not to exceed $48,302,000 shall be available for compensation and expenses of the judiciary in American Samoa, as authorized by law (48 U.S.C. 1661(c)); grants to American Samoa, in addition to current local revenues, for support of governmental functions; grants to Guam, as authorized by law (48 U.S.C. 1428–1428e; Public Law 95–134; 91 Stat. 1161, 1162, 1163); direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241, 90 Stat. 272), to remain available until expended, of which $8,868,000 shall be available only upon enactment of authorizing legislation; and (2) not to exceed $3,721,000 shall be available for expenses of the offices of the Government Comptroller for the Virgin Islands, the Government Comptroller for Guam, Trust Territory of

48 USC 1681 note.

the Pacific Islands, and the Northern Mariana Islands as authorized by law (Public Law 95-134; 91 Stat. 1161, 1162), and the Government Comptroller for American Samoa, and for salaries and expenses of the Office of Territorial Affairs: *Provided*, That the Territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of Territories may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary: *Provided further*, That all financial transactions of the Territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23) as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That funds available to the Government Comptroller for American Samoa shall be available for purchase of not to exceed 2 passenger motor vehicles.

48 USC 1681 note.
48 USC 1401f, 1423*l*, 1665.
48 USC 1470a.
48 USC 1469b.
31 USC 1.
31 USC 65 note.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (91 Stat. 1159), including the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions; $114,608,000, to remain available until expended, of which $6,000,000 shall be available only upon enactment of authorizing legislation: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary in carrying out the provisions of article 6(2) of the Trusteeship Agreement approved by Congress.

22 USC 287 note.
48 USC 1681 note.
GAO audit.
48 USC 1683.
31 USC 1.
31 USC 65 note.
48 USC 1682.
48 USC 1687.
61 Stat. 3302.

MICRONESIAN CLAIMS FUND, TRUST TERRITORY OF THE PACIFIC ISLANDS

For payment to the Micronesian Claims Fund for settlement of claims of Micronesian inhabitants of the Trust Territory of the Pacific Islands as may be determined by the Micronesian Claims Commission pursuant to the provisions of title II of the Micronesian Claims Act of 1971 (85 Stat. 96), $12,600,000, to remain available until expended.

50 USC app. 2020.

SECRETARIAL OFFICES

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $14,585,000.

OFFICE OF THE SECRETARY

DEPARTMENTAL MANAGEMENT

For necessary expenses of the Office of the Secretary of the Interior, including necessary expenses for certain operations that provide departmentwide services, $42,200,000 of which not to exceed $5,000 may be for official reception and representation expenses: *Provided*, That the unexpended balances of the appropriations to the Office of the Secretary, Department of Interior for "Salaries and Expenses" and "Departmental Operations" shall be merged with this appropriation.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAMS)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses of the Office of the Secretary, as authorized by law, $1,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations, to such office for payments in the foregoing currencies (7 U.S.C. 1704).

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Facilities, emergency. Construction.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Forest or range fires.

SEC. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of $1,000,000 systems life cost, without prior approval of the Secretary.

Service facilities.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wher-

ever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Services.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Uniforms.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

Aircraft.

SEC. 106. In addition to the aircraft specifically authorized under this Act there is hereby authorized for acquisition 2 aircraft for replacement only, both of which shall be from surplus.

SEC. 107. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

GSA contractual obligations.

SEC. 108. Appropriations made in this title shall not be available for processing documents making grants or contracts for water research that have not been reviewed and approved by an organization designated by the Secretary.

SEC. 109. Notwithstanding the provisions of the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a), any adjustment or elimination by the Secretary of the indebtedness (including interest thereon) of the Hydaburg Cooperative Association to the United States shall be immediately effective.

SEC. 110. (a) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), construction of any feature of the Upper Colorado River Storage Project as authorized by the Act of April 11, 1956, as amended, shall proceed if a final Environmental Impact Statement has been filed on such feature.

(b) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), the Colorado River Basin Salinity Control Projects, as authorized by Public Law 93–320, and construction of any feature of the Central Arizona Project as authorized by Public Law 90–537, September 30, 1968 (43 U.S.C. 1501 et seq.), shall proceed if a final Environmental Impact Statement has been filed on such feature.

43 USC 1571 note.

(c) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), construction of any feature of the Southern Nevada Water Project as authorized by Public Law 89–292 (43 U.S.C. 616ggg), as amended, shall proceed if a final Environmental Impact Statement has been filed on any such feature.

79 Stat. 1068.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For expenses necessary for forest protection and utilization, as follows:

Forest land management: For necessary expenses of the Forest Service, not otherwise provided for, including the administration, improvement, development and management of lands, waters, or interests therein, under Forest Service administration, fighting and preventing forest fires on or threatening such lands and emergency rehabilitation and for liquidation of obligations incurred in the preceding fiscal year for such purposes, control of forest diseases and insects on Federal and non-Federal lands, implementation of forest advanced logging and conservation systems including necessary research and development related thereto, $682,892,000, of which $4,275,000 for fighting and preventing forest fires and for the emergency rehabilitation of burned-over lands under its jurisdiction and $2,025,000 for insect and disease control shall be apportioned for use, pursuant to section 3679 of the Revised Statutes, as amended, to the extent necessary under the then existing conditions: *Provided*, That funds appropriated for reforestation and stand improvement, $92,900,000, the cooperative law enforcement program, $4,500,000, and insect and disease control, $23,800,000, shall remain available for obligation until September 30, 1980.

31 USC 665.

Forest research: For forest research at forest and range experiment stations, the Forest Products Laboratory, or elsewhere, as authorized by law, $108,166,000.

State and private forestry cooperation: For cooperation with States in forest-fire prevention and suppression, in forest tree planting on non-Federal public and private lands, and in forest management and processing, and for advising timberland owners, associations, wood-using industries, and others in the application of forest management principles and processing of forest products, including related research at the Pinchot Institute, as authorized by law, $54,460,000.

CONSTRUCTION AND LAND ACQUISITION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection and utilization of national forest resources, point discharge monitoring and evaluation, and non-point discharge surveillance monitoring and evaluation, and the acquisition of lands and interests therein necessary to these objectives, $35,845,000, to remain available until expended: *Provided*, That not more than $3,500,000 of this appropriation may be used for acquisition of land under the Act of March 1, 1911, as amended (16 U.S.C. 513–519).

YOUTH CONSERVATION CORPS

For expenses necessary to carry out the provisions of the Act of August 13, 1970, as amended by Public Law 93–408, $60,000,000: *Provided*, That $30,000,000 shall be available to the Secretary of the Interior and $30,000,000 shall be available to the Secretary of Agriculture.

16 USC 1701.

FOREST ROADS

For the construction of roads by timber purchasers pursuant to clause (2) of section 4 of the Act of October 13, 1964 (78 Stat. 1089), $243,466,000. 16 USC 535.

FOREST ROADS AND TRAILS

For expenses necessary for carrying out the provisions of 16 U.S.C. 528–538 and 551, relating to the construction and maintenance of forest development roads and trails, $224,275,000, to remain available until expended: *Provided*, That funds available under the Act of March 4, 1913 (16 U.S.C. 501) shall be merged with and made a part of this appropriation.

TIMBER SALVAGE SALES

For design, engineering, and supervision of construction of roads for salvage timber sales and for sale preparation and supervision of harvesting of such timber, $3,000,000, to remain available until expended: *Provided*, That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94–588, October 22, 1976.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of land to facilitate the control of soil erosion and flood damage originating within the exterior boundaries of the following national forests, in accordance with the provisions of the following Acts, authorizing annual appropriations of forest receipts for such purposes, and in not to exceed the following amounts from such receipts, Cache National Forest, Utah, Act of May 11, 1938 (52 Stat. 347), as amended, $20,000; Uinta and Wasatch National Forests, Utah, Act of August 26, 1935 (49 Stat. 866), as amended, $30,000; Toiyabe National Forest, Nevada, Act of June 25, 1938 (52 Stat. 1205), as amended, $10,000; San Bernardino and Cleveland National Forests, California, Act of June 15, 1938 (52 Stat. 699), as amended, $325,000; in all, $385,000.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967 (16 U.S.C. 484a), to remain available until expended, $239,000, to be derived from deposits by public school authorities under said Act.

RANGELAND IMPROVEMENTS

For range revegetation, rehabilitation, construction, maintenance, protection of improvements, control of rodents, and eradication of poisonous and noxious plants on national forest lands in accordance with section 12 of the Act of April 24, 1950 (16 U.S.C. 580h), $700,000, and in accordance with section 401(b)(1) of the Act of October 21, 1976, Public Law 94–579, $4,700,000, to be derived from grazing fees as authorized by said sections, to remain available until expended. 43 USC 1751.

ASSISTANCE TO STATES FOR TREE IMPROVEMENT

For expenses necessary to carry out section 401 of the Agricultural Act of 1956, approved May 28, 1956 (16 U.S.C. 568e), $1,508,000, to remain available until expended.

CONSTRUCTION AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, $3,459,000, to be derived from the special receipt accounts established by section 4(f) of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6a(f)), as amended.

RIGHTS-OF-WAY

For administrative and other costs incurred in processing application documents for rights-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such rights-of-way, such amounts as may be collected under section 504(g) of the Act approved October 21, 1976, Public Law 94–579, to remain available until expended.

43 USC 1764.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 241 passenger motor vehicles of which 7 will be used primarily for law enforcement purposes and of which 215 shall be for replacement only, acquisition of 60 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 4 for replacement only, and acquisition of 53 aircraft from excess sources; (b) employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land and interests therein for sites for administrative purposes and not to exceed $75,000 for research purposes, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) expenses incident to acquisition by donation or exchange of land, waters, or interests in land or waters, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a): *Provided*, That such appropriation shall not be available for expenses incident to donations and exchanges which can be made pursuant to authorities other than the Act of August 3, 1956 (7 U.S.C. 428a); and (g) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note).

Funds appropriated under this title shall not be used for acquisition of forest lands under the provisions of the Act approved March 1, 1911, as amended (16 U.S.C. 513–519, 521), where such land is not within the boundaries of an established national forest or purchase unit.

Limitation.

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the U.S. Senate and the Committee on Agriculture in the U.S. House of Representatives.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, $576,888,000, to remain available until expended: *Provided*, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

FOSSIL ENERGY CONSTRUCTION

For necessary expenses in connection with the purchase and construction of fossil energy plants, including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition or expansion; $99,709,000, to remain available until expended.

ENERGY, PRODUCTION, DEMONSTRATION, AND DISTRIBUTION

For necessary expenses in carrying out energy production, demonstration, and distribution activities, $169,181,000, of which $151,862,000 shall remain available until expended: *Provided*, That not to exceed $5,000,000 shall be available for financial assistance as provided by section 20 of the Federal Non-Nuclear Research and Development Act of 1974 for feasibility and design studies for municipally owned and/or operated waste reprocessing demonstration facilities. 42 USC 5920.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $707,101,000, to remain available until expended: *Provided*, That of the total amount of this appropriation, not to exceed $1,750,000 shall be available for a reserve to cover any defaults from loan guarantees issued for electric or hybrid vehicle research, development, and production as authorized by section 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509): *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $8,750,000: *Provided further*, That $100,100,000 for assistance to schools and hospitals and $7,300,000 for energy conservation in local government buildings shall be available only upon enactment of suitable authorizing legislation: *Provided further*, That $20,000,000 for energy impact assistance shall be available only upon enactment of H.R. 5146 or similar legislation. *Post*, p. 3289.

ECONOMIC REGULATORY ADMINISTRATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration, $94,733,000: *Provided*, That none of the funds herein appropriated shall be available to pay the expenses of parties intervening in regulatory proceedings before the Economic Regulatory Administration.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 157 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $3,006,854,000, and shall remain available until December 31, 1980. 42 USC 6237-6246.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $59,286,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriation to the Department of Energy under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From this appropriation, transfers of sums may be made to other agencies of the government for the performance of work for which this appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in this or future appropriations acts.

The Secretary is authorized to accept lands, buildings, equipment and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That revenues received from the sale of any products produced in facilities operated as part of Department of Energy programs appropriated under this Act shall be covered into the Treasury as miscellaneous receipts.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

42 USC 2001.
25 USC 450 note, 1601 note.
42 USC 241, 219, 294y-1

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 757 of the Public Health Service Act, including hire of passenger motor vehicles and aircraft; purchase of reprints; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $483,829,000: *Provided*, That funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1980.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings; purchase of trailers; and provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $76,960,000, to remain available until expended: *Provided*, That not to exceed $20,000,000 of the amounts collected by the Secretary of Health, Education, and Welfare under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1980 for the purpose of achiev-

90 Stat. 1408.

ing compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction, or major renovation of Indian Health Service facilities). 42 USC 1395, 1396.

ADMINISTRATIVE PROVISIONS, HEALTH SERVICES ADMINISTRATION

Appropriations in this Act to the Health Services Administration, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities. 3 CFR 1978 Comp., p. 236. 5 USC 5332 note.

OFFICE OF EDUCATION

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, part A ($48,000,000), part B ($15,500,000), and part C ($5,930,000) of the Indian Education Act, and the General Education Provisions Act, $71,735,000. 20 USC 241aa note. 20 USC 1221.

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

INSTITUTE OF MUSEUM SERVICES

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, $7,852,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That none of the funds appropriated to the Institute of Museum Services may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913. 20 USC 961 note.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $8,752,000, of which $250,000 shall be available until expended for payments pursuant to section 14(b) of that Act, $7,512,000 shall be available until expended for payments pursuant to section 15, and $990,000 shall be available for operating expenses of the Commission: *Provided*, That not to exceed $91,300 herein made available for operating expenses of the Commission shall be for expenses of the Commissioners. 25 USC 640d. 25 USC 640d-13. 25 USC 640d-14.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance,

alteration, operation, and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 3 passenger replacement vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $96,302,000: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That not to exceed $390,000 may be used to make grant awards to employees of the Smithsonian Institution: *Provided further*, That none of these funds shall be available to the Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $3,700,000, to remain available until expended and to be available only to United States institutions: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: *Provided further*, That none of these funds shall be available to the Smithsonian Research Foundation: *Provided further*, That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.

SCIENCE INFORMATION EXCHANGE

For necessary expenses of the Science Information Exchange, $2,000,000.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,900,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $2,100,000, to remain available until expended.

20 USC 53a.

CONSTRUCTION

For necessary expenses to plan museum support facilities, including not to exceed $50,000 for services as authorized by 5 U.S.C. 3109, $575,000, to remain available until expended.

SALARIES AND EXPENSES, NATIONAL GALLERY OF ACT

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939

20 USC 71.

(Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards and elevator operators, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and not to exceed $70,000 for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $19,041,000.

SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $1,567,000. 20 USC 80e note.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

SALARIES AND EXPENSES

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $111,935,000, of which $102,160,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and $9,775,000 shall be available for administering the functions of the Act. 20 USC 951 note. 20 USC 954.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $37,500,000, to remain available until September 30, 1980, to the National Endowment for the Arts of which $30,000,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman under the provisions of section 10(a)(2) during the current and preceding fiscal years and the transition period, for which equal amounts have not previously been appropriated. 20 USC 959.

NATIONAL ENDOWMENT FOR THE HUMANITIES

SALARIES AND EXPENSES

20 USC 951 note. For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $108,546,000, of which $98,300,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities pursuant to 20 USC 956. section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and $10,246,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

20 USC 959. To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $36,500,000, to remain available until September 30, 1980, of which $27,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amount of gifts, bequests, and devises of money, and other property accepted by the Chairman under the provisions of section 10(a)(2) during the current and preceding fiscal years and the transition period, for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISION

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $263,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

16 USC 470i. For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 94-422, $1,178,000: *Provided*, That none of these funds shall be available for the compensation of Executive level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $1,963,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $20,000, to remain available for obligation until September 30, 1980.

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

SALARIES AND EXPENSES

For necessary expenses of the Joint Federal-State Land Use Planning Commission for Alaska, established by the Act of December 18, 1971 (Public Law 92-203), as amended, $594,000: *Provided*, That this appropriation shall not be available to pay more than one-half of the expenses of the Commission. 43 USC 1601 note.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $1,630,000 for operating and administrative expenses of the Corporation. 40 USC 885.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $13,400,000, pursuant to the terms and conditions specified in paragraph 10, section 6, of Public Law 92-578. 40 USC 875.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $12,355,000, to remain available for obligation until September 30, 1990. 40 USC 885.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs. Unprocessed timber, sale restrictions.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals. Oil and natural gas leasing, limitation.

SEC. 303. No part of any appropriation under this Act shall be made available to the Secretary of the Interior for the leasing of oil and natural gas on publicly owned lands within the boundaries of the Flathead National Forest, Montana, except for such leases which the Forest Service determines will not significantly impact these lands and for which the Forest Service in granting the leases specifically outlines exploration and development guidelines designed to protect these lands from significant adverse environmental impact.

Legislative proposal, publication or distribution of literature.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913.

SEC. 305. No funds appropriated by this Act shall be available for use in implementing or otherwise carrying out, in the State of Alaska, the provisions of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

Hunting of waterfowl with steel shot.

SEC. 306. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

Domestic crude oil, allocation.

SEC. 307. (a) No funds appropriated under this Act may be used to implement the provisions with respect to the allocation of domestic crude oil specified in 10 CFR 211.67 on the date of enactment of this section, unless the President within thirty days after such enactment has amended the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as provided in this section.

15 USC 753.

Entitlements to eligible firms importing residual fuel oil.

(b)(1) The amendment to the regulation required under subsection (a) shall provide that for the period between the effective date of such amendment and July 1, 1979 the provisions of the regulation specified in 10 CFR 211.67(a)(3) on the date of enactment of this section (relating to the issuance of entitlements to eligible firms importing residual fuel oil) shall be amended by replacing the words "thirty (30%) percent" wherever they appear by the words "fifty (50%) percent", except that for the purposes of this section the State of Michigan will be treated as if it were part of the East Coast market as defined in 10 CFR 211.62.

(2) Such amendment shall provide that on and after July 1, 1979 the provisions of the regulation referred to in paragraph (1) shall revert to those provisions in effect on the date of enactment of this section.

Reduction in entitlement value for sales into East Coast market.

(c) The amendment required under subsection (a) shall amend the provisions of the regulation specified in 10 CFR 211.67(d)(4) on the date of enactment of this section (relating to the reduction in entitlement value for sales into the East Coast market) to delete the provisions exempting the first 5,000 barrels per day of a refiner's crude oil runs to stills from the operation of that subsection and to provide that 10 CFR 211.67(d)(4) is applicable only to domestic refiners that transport residual fuel oil for sale in the East Coast market in foreign flag tankers.

Effective date.

(d) The effective date of the amendment required under subsection (a) shall be July 1, 1978 unless the Secretary finds it impracticable to implement such amendment on such date.

(e) In promulgating the amendment required under subsection (a) and any related implementing or conforming amendments the President shall not be subject to the provisions of section 553 of title 5 or of sections 7174 and 7191 of title 42 of the United States Code.

(f) Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973. 15 USC 753.

SEC. 308. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Approved October 17, 1978

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1251 (Comm. on Appropriations) and No. 95-1672 (Comm. of Conference).
SENATE REPORT No. 95-1063 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 21, considered and passed House.
Aug. 8, 9, considered and passed Senate, amended.
Oct. 5, House agreed to conference report; concurred in certain Senate amendments, and in others with amendments.
Oct. 7, Senate agreed to conference report; concurred in House amendments.

Public Law 95-466
95th Congress

Joint Resolution

Oct. 17, 1978
[S.J. Res. 16]

To restore posthumously full rights of citizenship to Jefferson F. Davis.

Jefferson F. Davis. Citizenship restored posthumously. USC prec. title 1.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3 of amendment XIV of the Constitution of the United States, the legal disabilities placed upon Mr. Jefferson F. Davis are hereby removed, and that Mr. Jefferson F. Davis is posthumously restored to the full rights of citizenship, effective December 25, 1868.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1488 accompanying H.J. Res. 1041 (Comm. on the Judiciary).
SENATE REPORT No. 95-100 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Apr. 27, considered and passed Senate.
Vol. 124 (1978): Sept. 26, H.J. Res. 1041 considered and passed House; passage vacated and S.J. Res. 16, amended, passed in lieu.
Oct. 3, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 42 (1978): Oct. 17, Presidential statement.

Public Law 95-467
95th Congress

An Act

To promote a more adequate and responsive national program of water research and development, and for other purposes.

Oct. 17, 1978
[S. 2704]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Water Research and Development Act of 1978".

Water Research and Development Act of 1978.
42 USC 7801 note.

SEC. 2. The Congress finds and declares that—

(a) providing for the protection of the Nation's water resources, assuring an adequate supply of water of good quality for the production of food, materials, and energy for the Nation's needs, and increasing the efficient use of the Nation's water resources are essential to national economic stability and growth, and to the well-being of our people;

(b) the Nation's capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at both the Federal and State levels;

(c) there should be a continuing national investment in water-related research and technology which is commensurate with growing national needs; and

(d) the manpower pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

42 USC 7801.

SEC. 3. It is the purpose of this Act to assist the Nation and the States through water resources science and technology—

42 USC 7802.

(a) to provide a supply of water sufficient in quantity and quality to meet the Nation's expanding needs for the production of food, materials, and energy;

(b) to preserve and enhance our water resources and the water-related environment;

(c) to promote conservation and efficient use of the Nation's water resources;

(d) to promote research and development, demonstration, and technology transfer dealing with both quality and quantity of water resources;

(e) to identify and find practical solutions to the Nation's water and water resources related problems;

(f) to promote the training of scientists, engineers, and other skilled personnel in the fields related to water resources;

(g) to foster and supplement present programs for the conduct of research, technology development and transfer, and innovative water resources management, conservation, and operating practices;

(h) to provide for research, development, technology demonstration, and transfer with respect to converting saline and other impaired waters to waters suitable for municipal, agricultural, industrial, recreational, or other beneficial uses;

(i) to disseminate information through the maintenance of a water resources scientific information center with adequate information bases so that the Nation's water research community, by utilizing the center, can be fully informed of research activi-

ties and other types of information necessary for them to effectively conduct their work;

(j) to better coordinate the Nation's water resources and development programs; and

(k) to enhance the capacity of the Federal water establishment, and of water interests nationwide for recommending to the President and the Congress changes in national water resources research and technology policy as appropriate.

TITLE I—WATER RESOURCES RESEARCH AND DEVELOPMENT

Research and technology institutes.
42 USC 7811.

SEC. 101. (a) The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is hereby authorized and directed to assist in carrying on the work of a competent and qualified water resources research and technology institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in each State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or some other institution designated by Act of the legislature of the State concerned: *Provided*, That (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has, or may reasonably be expected to have the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; (3) the designated State institute shall cooperate closely with other colleges and universities in the State with demonstrated research, information dissemination, and gradaute training capabilities in developing a statewide program directed to resolving State and regional water and related land problems; and (4) the designated State institute shall cooperate closely with regional consortia, as may be designated by the Secretary, to increase the effectiveness of the nationwide network of institutes and for the purpose of regional coordination, particularly with river basin commissions and other interagency river basin organizations as may be established by the Congress.

7 USC 301.

Duties.

(b) (1) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated or other qualified colleges or universities within the State, to conduct competent research and development including investigations and experiments of either a basic or practical nature, or both, in relation to water resources, to promote dissemination and application of the results of these efforts, and to provide for the training of scientists and engineers through such research, investigations, and experiments.

(2) The research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; saline water conversion; conservation and best use of available supplies of water and methods of increasing such supplies; water reuse; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems; scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resources problems; and providing means for improved communication of research results, having due regard for the varying conditions and needs for the respective States and regions, for water research and development projects now being conducted by agencies of the Federal and State governments, the agricultural and engineering experiment stations, and other university research centers and for the need to avoid undue displacement of scientists and engineers elsewhere engaged in water resources research and development.

Annual programs and reports, submittal to Secretary of the Interior.

(3) The annual program submitted by the State institutes to the Secretary for approval shall include assurances satisfactory to the Secretary, that such programs were developed in close consultation and collaboration with leading water resources officials within the State and region to promote research, training, information dissemination and other work meeting the needs of the State. Additionally, it shall be the duty of each State institute to provide the Secretary with periodic information, at the Secretary's discretion, on water resources research and development activities, needs, and priorities within the State which shall be coordinated with State, local, regional and river basin entities, and to cooperate with the Secretary in preparing periodic reports of ongoing research within the State and its funding by both Federal and non-Federal organizations. Institutes are required to see that notices of research projects are submitted to the center referred to under title III, section 302.

(4) The designated State institutes shall cooperate with the Secretary in the development of five-year water resources research and development goals and objectives.

(5) The designated institutes will receive comment on and transmit all research and development proposals from the academic community to the Secretary for consideration and funding.

Information dissemination program.

(c) There is further hereby authorized a program of technology transfer and/or information dissemination to be carried out by the State institutes. Such funds, as are appropriated for this purpose, shall be made available on a competitive basis to the State institutes, based on the merit of project or program proposals submitted to the Secretary, for the purpose of transferring research and development results to other organizations for further development, demonstration, and practical application.

Publication of program results. 42 USC 7812.

SEC. 102. Funds appropriated pursuant to this title, in addition to being available for expenses for research and development experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof in the furtherance of technology transfer and for planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and funds appropriated

pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

Responsibilities. 42 USC 7813.

SEC. 103. (a) The Secretary is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, may prescribe such procedures, rules, and policies as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated by the institutes under this title, indicate to them such lines of inquiry as to him seem most important, and assist the establishment and maintenance of cooperation among the institutes, other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) The Secretary shall develop a five-year water resources research program in cooperation with the institutes and appropriate water entities, indicating goals, objectives, priorities, and funding requirements.

(c) The Secretary shall annually ascertain that the requirements of subsection 101(b) have been met as to each institute, whether it is entitled to receive its share of the annual appropriations for water resources research and development under section 401(a) of this Act and the amount which it is entitled to receive.

42 USC 7814.

SEC. 104. Nothing in this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

Grants. 42 USC 7815.

SEC. 105. (a) The Secretary is authorized to make grants to institutes to match, on a dollar-for-dollar basis, funds available to institutes from non-Federal sources to meet the necessary expenses of specific water and related land resources research projects which the institute could not otherwise undertake, including the expenses of planning and coordinating regional projects by two or more institutes. Each application for a grant pursuant to this subsection shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation, region, and State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for training of water resources scientists. No grant shall be made under this subsection except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists.

Contract authority.

(b) The Secretary is authorized to make grants to, and finance contracts and matching or other agreements with qualified educational institutions; private foundations or other institutions; and with private firms and individuals whose training, experience, and qualifications are adequate in his judgment for the conduct of water research and development projects; and with local, State, and Federal Govern-

ment agencies to undertake research and development concerning any aspect of water-related problems which he may deem desirable in the national interest.

42 USC 7816.

SEC. 106. Water resources research and development programs carried out in accordance with this title may include, without being limited to water use conservation and efficiencies; water and related planning; saline water conversion; water reuse; management and operations; legal systems; protection and enhancement of the water-based environment; institutional arrangements; salinity management; and economic, social, and environmental impact assessment. Due consideration shall be given to priority problems identified by water and related land resources planning, data acquisition, and like studies conducted by other agencies and organizations.

"State."
42 USC 7817.

SEC. 107. As used in this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

42 USC 7818.

SEC. 108. Contracts or other arrangements for water resource work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary, advance payments of initial expenses are necessary to facilitate such work.

42 USC 7819.

SEC. 109. (a) The Secretary is authorized to study, design, implement, operate, and maintain water resources programs and activities demonstrating the technical and economic viability of processes, systems, or techniques for the purpose of improving the water or water-related environment and to demonstrate the application of water resources research and development results and technology for beneficial purposes.

Report to congressional committees.

(b)(1) Funds appropriated pursuant to the authority provided by sections 401(d) and 403 for use under this section may not be expended until thirty calendar days (including days on which either the House of Representatives or the Senate are not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following transmittal of a report to the chairman of the Committee on Interior and Insular Affairs and the chairman of the Comittee on Science and Technology of the House of Representatives and the chairman of the Committee on Environment and Public Works of the United States Senate.

(2) Such report shall present information that includes, but is not limited to, the location of the demonstration activities, the characteristics of the water and water-related problem, the processes or concepts to be demonstrated, the estimated initial investment cost of the demonstration, the estimated annual operating cost of the demonstration, the source of energy for the demonstration and its cost, environmental consequences of the demonstrations; and the estimated costs associated with the demonstration considering the amortization of all components of the demonstration.

Proposed contract or agreement.

(3) Such report shall also be accompanied by a proposed contract or agreement between the Secretary and a duly authorized Federal or non-Federal public or private entity, in which such entity shall agree to share cost to the extent deemed important to the purposes of the activity as determined by the Secretary. Such proposed contract or agreement may provide that either the contractual entity or the United States will develop the activity described in the report and that the

United States will either operate and maintain the activity or may participate in the operation and maintenance during which, in either case, access to the activity and its operating data will not be denied to the Secretary or his representatives.

(4) The Secretary is authorized to include in the proposed contract or agreement a provision for conveying all rights, title, and interests of the Federal Government to the Federal or non-Federal, public or private entity subject to a future right to reenter the activity for the purpose of financing at Federal expense modifications for advanced technology and for its operation and maintenance for a successive term under the same conditions as pertain to the original term.

TITLE II—WATER RESEARCH AND DEVELOPMENT FOR SALINE AND OTHER IMPAIRED WATERS

42 USC 7831.

SEC. 200. Consistent with the Federal responsibility for water resources development and conservation by means of comprehensive planning, water resources development projects, protection of water quality standards, and other measures for the beneficial use of water from various sources, the Congress finds it necessary to provide for the development of technology for the conversion of saline and other impaired waters for beneficial uses. It is the policy therefore to assist and encourage the development of practical means to utilize saline water technology to convert impaired waters of any type from any source to a quality suitable for municipal, industrial, agricultural, and other beneficial uses to transfer research and development results.

Functions.
42 USC 7832.

SEC. 201. The Secretary is authorized and directed to—

(a) conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting impaired water into water suitable for beneficial uses;

(b) pursue the findings of research and studies authorized by this title having potential practical applications, including application to matters other than water conversion, and to other supply sources such as brackish waters, staged development, and use with energy sources;

(c) conduct engineering and technical work including the design, construction, and testing of various processes, systems, and pilot plants to develop saline water conversion processes to the point of demonstration;

(d) study methods for recovery, beneficial uses and disposal of residuals, and marketing of byproducts resulting from the improvement or conversion of impaired water in an environmentally acceptable manner;

(e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various parts of the United States by saline water conversion processes and, by means of models, or other methodologies, prepare and maintain information concerning the relation of such conversion processes and systems to other aspects of State, regional, and national comprehensive water resources planning.

Cooperative agreements with non-Federal utilities and governmental entities.
42 USC 7833.

SEC. 202. (a) The Secretary is authorized to conduct preliminary investigations and explore potential cooperative agreements with non-Federal utilities and governmental entities in order to develop

recommendations for Federal participation in the design, construction, operation, and maintenance of demonstration and prototype plants utilizing advanced saline water technologies for the production of water for beneficial use.

(b) In carrying out the provisions of this section, the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior or of other Federal agencies to insure that the recommended project and the supporting agreements are fully integrated and compatible with the water and power systems of the region.

Financial assistance from any State or public agency.

(c) The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to impaired water and facilities and to enter into contract with respect to such assistance.

Rules and regulations. 42 USC 7834.

SEC. 203. The Secretary may issue rules and regulations to effectuate the purposes of this title.

Definitions. 42 USC 7835.

SEC. 204. As used in this title—

(a) the term "saline and other impaired water" includes but is not limited to seawater, brackish water, mineralized ground or surface water, irrigation return flows, and other similarly contaminated waters;

(b) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(c) the term "pilot plant" means an experimental unit of sufficient size used to evaluate and develop new or improved processes or systems and to obtain technical and engineering data;

(d) the term "demonstration" means a plant of sufficient capacity and reliability to demonstrate on a day-to-day operating basis that the process or system is feasible and that such process or system has potential for application to water system improvement;

(e) the term "prototype" means a full-size, first-of-a-kind production plant used for the development and study of full-sized technology, energy, and process economics.

42 USC 7836. 42 USC 1959i.

SEC. 205. (a) Subsection 2(a) of the Act of August 2, 1977 (Public Law 95-84) is hereby amended by striking "four" and inserting "five" and by striking "Puerto Rico, Virgin Islands, and Guam :" and inserting "the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands:".

Waiver.

(b) Subsection 2(b) of the Act of August 2, 1977 (Public Law 95-84) is hereby amended by striking the period at the end of the third full sentence and adding the following: ": *Provided*, That, the Secretary may waive the obligation of the non-Federal public entity to furnish brine disposal facilities if he finds that such entity is unable financially to bear the cost of such facilities.".

Appropriation authorization. 42 USC 7836 note.

(c) In addition to the sums previously authorized to be appropriated to carry out the purpose of section 2 of the Act of August 2, 1977 (Public Law 95-84) there is hereby authorized to be appropriated for the fiscal year ending September 30, 1980 and thereafter, the sum of $10,000,000 to remain available until expended.

TITLE III—TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION

42 USC 7851.

SEC. 300. The Secretary is authorized to conduct a research assessment and technology transfer program which transfers research and development results to other organizations and individuals for further development and practical application to water and water-related problems. The Secretary may enter into agreements with the State and local governments and with other public and private organizations and individuals, including cost-sharing or cost-participation agreements, for the transfer or application of research results for the solution of water-related problems and to further the transfer developed by programs authorized under this Act. The Secretary may issue publications and may conduct seminars, conferences, training sessions, or use other such techniques he deems necessary to expedite the transfer of research results and technology development. The technology transfer activities will be coordinated with activities undertaken under titles I and II of this Act.

National center for information acquisition, processing and dissemination.
42 USC 7852.

SEC. 301. The Secretary is further authorized to maintain a national center for the acquisition, processing, and dissemination of information dealing with all areas of water resources research, technology development, and demonstration. Each Federal agency engaged in water resources including research, technology development, and demonstration, shall cooperate by providing the center with documents and other pertinent information. The center shall (a) maintain for general use a collection of water resources information provided by Federal and non-Federal government agencies, colleges, universities, private institutions, and individuals; (b) issue publications or utilize other media to disseminate research, technology development, and demonstration information for the purposes of this Act and enter into agreements with public or private organizations or individuals to stimulate acquisition and dissemination of information, thus contributing to a comprehensive, nationwide program of research and development in water resources and the avoidance of unnecessary duplication of effort; (c) make generally available abstracts and other summary type information concerning water resources activities including research projects accomplished and in progress by all Federal agencies and by non-Federal agencies, private institutions, and individuals, to the extent such information can be obtained, and reports completed on research projects funded under provisions of this Act; and (d) in carrying out the information dissemination activities authorized by this section, the Secretary shall to the extent feasible use the resources and facilities of other agencies and of the clearinghouse for scientific, technical, and engineering information established in the Department of Commerce pursuant to sections 1151 through 1157 of title 15, United States Code.

Center for cataloging scientific research.
42 USC 7853.

SEC. 302. There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway. The cataloging center shall classify and maintain for general use a file of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available.

TITLE IV—GENERAL PROVISIONS

"Secretary." 42 USC 7871.

SEC. 400. (a) As used in this Act, the term "Secretary" means the Secretary of the Interior.

(b) In carrying out his functions under this Act, the Secretary may:

(1) make grants to educational institutions and scientific organizations, and enter into contracts with institutions and organizations and with industrial or engineering firms;

(2) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(3) utilize the facilities of Federal scientific laboratories;

(4) establish and operate necessary facilities and test sites to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of this title;

(5) acquire processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation pursuant to the Federal Property and Administrative Services Act (40 U.S.C. 471) as amended, where applicable;

(6) assemble and maintain pertinent and current scientific literature, publications, patents, licenses, land and interests in land (including water rights thereto);

(7) cause onsite inspections to be made of promising projects, domestic and foreign, and in the case of projects located in the United States, cooperate and participate in their development when the purposes of this title will be served thereby;

(8) foster and participate in regional, national, and international conferences relating to water resources;

(9) accept financial and other assistance from any local, State, Federal, or other agency or entity in connection with studies or surveys relating to water problems and facilities and enter into contracts with regard to such assistance;

(10) coordinate, correlate, and publish information with a view to advancing the development of practicable water conversion projects; and

(11) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

Appropriation authorization. 42 USC 7872.

SEC. 401. (a)(1) There is hereby authorized to be appropriated for the purpose of carrying out the program described in subsection 101(a) of this Act an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1979, and an amount sufficient to provide $175,000 to each participating institute on a cost-sharing basis, for the fiscal year ending September 30, 1980.

(2) There is authorized to be appropriated, on a cost-sharing basis, for the purpose of carrying out the provisions of subsection 101(c) of this Act the sum of $750,000 for the fiscal year ending September 30, 1979, and the sum of $1,350,000 for the fiscal year ending September 30, 1980, all to remain available until expended.

Cost sharing.

(2) Cost sharing under sections 101(a) and 101(c) shall be on the basis of two Federal shares to not less than one non-Federal share. Federal funds made available under this section shall not be used for

support of indirect costs as defined by current Federal regulations; however, such indirect costs may be credited as a non-Federal contribution to the total cost of activities to be carried out pursuant to the Federal grant or contract.

(b) There is authorized to be appropriated for purposes of carrying out the provisions of section 105(a) of this Act for the fiscal year ending September 30, 1979, the sum of $6,000,000, and for the fiscal year ending September 30, 1980, the sum of $8,500,000, all to remain available until expended, to match on a dollar-for-dollar basis, funds made available by non-Federal sources to meet the necessary expenses of specific water resources research and development projects which could not otherwise be undertaken.

(c) There is authorized to be appropriated for purposes of carrying out the provisions of section 105(b) of this Act for the fiscal year ending September 30, 1979, the sum of $5,200,000, and for the fiscal year ending September 30, 1980, the sum of $8,000,000 all to remain available until expended, which shall be available on a competitive basis to any organization or individual to finance grants, contracts, matching grants, or other arrangements which equal 100 per centum, or any lesser per centum of the total cost of the project involved.

(d) There is authorized to be appropriated for purposes of carrying out the provisions of section 109 of this Act for the fiscal year ending September 30, 1980, the sum of $1,000,000 to remain available until expended, which shall be available on a competitive basis to any organization or individual to finance projects pursuant to the terms of said section 109.

Appropriation authorization. 42 USC 7873.

SEC. 402. (a) There is authorized to be appropriated to carry out the provisions of title II of this Act for the fiscal year ending September 30, 1979, the sum of $12,000,000, and for the fiscal year ending September 30, 1980, the sum of $14,000,000, all of which is to remain available until expended. The categories for which such funds are authorized are research, development and demonstration plant studies. The funds appropriated to such authorization shall be distributed to the foregoing categories as determined by prevailing budgetary priorities.

(b) Not more than 5 per centum of the funds to be made available in any fiscal year for research under the authority of this title may be expended for foreign activities subject to the approval of the Secretary of State to assure that such activities are consistent with the foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the programs in the United States.

Appropriation authorization. 42 USC 7874.

SEC. 403. There is authorized to be appropriated the sum of $4,464,000 for the fiscal year ending September 30, 1979, and the sum of $5,100,000 for the fiscal year ending September 30, 1980, to carry out the sections of titles I, II, III, and IV of this Act other than those for which special specific authorizations are made.

Grant applications. 42 USC 7875.

SEC. 404. Each application for a grant, pursuant to this Act, shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the water problem it addresses, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water-related economy of the Nation, the need for and expected utilization of the results, the region and the State concerned, its relation to other known research projects previously conducted or currently being pursued, the procedures by which the results can be disseminated, and the extent to

which it will provide opportunities for the training of water resources scientists and engineers. No grant shall be made except for projects approved by the Secretary and all grants shall be made upon the basis of the merit of the project, the need for the knowledge it is expected to produce when completed, and the opportunities it provides for the training of water resources scientists and engineers. Conditions.

SEC. 405. (a) Sums appropriated pursuant to this Act may be paid at such times and in such amounts during each fiscal year as determined by the Secretary and upon vouchers approved by him. Except as may be otherwise specified by this Act, funds received pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions. 42 USC 7876.

(b) Each State institute operating pursuant to title I of this Act shall have an officer appointed by its governing authority who shall receive and account for all funds paid to the institute under the provisions of this Act and who shall provide to the Secretary an annual statement of the amounts received under any of the provisions of this Act during the preceding fiscal year, and of its disbursement. If any of the moneys received by the authorized receiving officer of any State institute under the provisions of this Act shall, by any action or contingency, be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced and until so replaced no subsequent disbursement of Federal funds shall be made to any institute of such State.

SEC. 406. (a) The Secretary shall cooperate fully with, and shall obtain the continuing advice and cooperation of, all agencies of the Federal Government concerned with water problems, State and local governments, and private institutions and individuals, to assure that the programs conducted under this Act will supplement and not duplicate other water research and technology programs, will stimulate research and development in neglected areas, and will provide a comprehensive, nationwide program of water resources research and development. In order to further these purposes, as well as to assure research undertaken by the Secretary on wastewater treatment and treatment of water for potable use is most responsive to needs in implementing the Federal Water Pollution Control Act, as amended (Public Law 92-500), and the Safe Drinking Water Act, as amended (Public Law 93-523), the Secretary will consult with the Administrator of the Environmental Protection Agency in developing and implementing programs in these areas. The Secretary will encourage utilization of the center referred to in title III, section 302, for cataloging current research projects in order to assure that programs conducted under this Act will supplement and not duplicate other research and technology programs and will encourage other Federal agencies to do likewise. 42 USC 7877. Consultation with EPA. 33 USC 1251 note. 42 USC 201 note.

(b) The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and development and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include (1) continuing review of the adequacy of the Government-wide program in water resources research and development and identification of technical needs in various water resources research categories, (2) identification and elimination of Interagency coordination.

duplication and overlaps between two or more programs, (3) recommendations with respect to allocation of technical effort among the Federal agencies, (4) review of technical manpower needs and findings concerning the technical manpower base of the program, (5) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (6) actions to facilitate interagency communication at management levels.

Report to congressional committee.

(c) The Secretary shall report within one year of the date of enactment of this Act to the chairman of the Committee on Science and Technology of the House of Representatives concerning actions taken by the Secretary and the President to implement this section.

Property conveyance.
42 USC 7878.

SEC. 407. (a) Property acquired by the Secretary under this Act for use in furtherance of the purposes of this Act may be conveyed to a cooperating institute, educational institution, or nonprofit organization in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

40 USC 471 note.

(b) The Secretary may dispose of water and byproducts resulting from his operations under this Act. All moneys received from dispositions under this Act shall be paid into the Treasury as miscellaneous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of the reclamation laws (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) shall govern.

Patent policy.
42 USC 7879.

SEC. 408. With respect to patent policy and to the definition of title to, and licensing of inventions made or conceived in the course of, or under any contract or grant pursuant to this Act, and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Nonnuclear Energy, Research, and Development Act of 1974 (Public Law 93-577; 88 Stat. 1887, 1891; 42 U.S.C. 5908, 5909): *Provided however*, That subsections (l) and (n) of section 9 of such Act shall not apply to this Act: *Provided further, however*, That, subject to the patent policy of section 408, all research or development contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided in such manner that all information, data, and knowhow, regardless of their nature or mediums, resulting from such research and development will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be usefully available for practice by the general public consonant with the purpose of this Act.

Report to Secretary of the Interior.
42 USC 7880.

SEC. 409. The institutes shall submit a summary report to the Secretary on or before January 31 of each year which highlights research and development work accomplished during the preceding fiscal year, the status of projects underway, and recommended future projects. This report is in addition to such other reports as may be required by sections 101(b) and 405(b) of this Act. The Secretary shall submit a summary report to the President and the Congress on or before April 1 of each year which summarizes program activities of the preceding fiscal year and projects for the future.

Report to Congress and the President.

Repeals.
42 USC 1961-1961a-5, 1961b, 1961c-1961c-8, 1959-1959h.
42 USC 7881.

SEC. 410. (a) The Water Resources Research Act of 1964 (Public Law 88-379, 78 Stat. 329; 42 U.S.C. 1961 et seq.), as amended, and the Saline Water Conversion Act of 1971 (Public Law 92-60, 85 Stat. 159; 42 U.S.C. 1959 et seq.), as amended, are hereby repealed.

(b) Nothing elsewhere in this Act is intended to repeal, supersede, or diminish existing authorities or responsibilities of any agency of the Federal Government concerning water resources.

(c) Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

Transmittal to Speaker of the House and President of the Senate.
42 USC 7882.
42 USC 1959i.

SEC. 411. Any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Secretary of the Interior in connection with, or affecting, the administration of any program authorized by this Act or by section 2 of the Act of August 2, 1977 (Public Law 95-84) shall be transmitted to the Speaker of the House of Representatives and the President of the Senate and shall not become effective for thirty days after the date of such transmittal. The thirty day period shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days.

42 USC 7883.

SEC. 412. Notwithstanding any other provision of this Act, authority to enter into contracts or cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1156 accompanying H.R. 11226 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-836 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed Senate.
July 11, H.R. 11226 considered and passed House; passage vacated and S. 2704, amended, passed in lieu.
Sept. 25, Senate concurred in House amendment with amendments.
Oct. 2, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:
Oct. 17, Presidential statement.

Public Law 95-468
95th Congress

An Act

Oct. 17, 1978
[S. 2801]

To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building".

Henry R. Koen Forest Service Building, Ark. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Russellville, Arkansas, commonly known as the Ozark National Forest Headquarters Building, shall hereafter be known and designated as the "Henry R. Koen Forest Service Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Henry R. Koen Forest Service Building".

Approved October 17, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-974 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 14, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 95-469
95th Congress

An Act

To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes.

Oct. 17, 1978
[H.R. 8394]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401 of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act", 16 U.S.C. 715s) is amended as follows:

Refuge Revenue Sharing Act, amendment.

(1) Subsection (a) is amended—

(A) by inserting "salmonoid carcassas," after "animals,"; and

(B) by inserting after "National Wildlife Refuge System" the second time it appears ", National Fish Hatcheries, or other areas,".

(2) Subsection (b) is amended by inserting "and revenue-sharing" immediately after "revenue-producing"; and by striking out "set forth in subsection (a)".

(3) Subsections (c), (d), (e), (f), and (g) are amended to read as follows:

"(c)(1) The Secretary shall pay out the fund, for each fiscal year beginning with the fiscal year ending September 30, 1979, to each county in which is situated any fee area whichever of the following amounts is greater:

Payments.

"(A) An amount equal to the product of 75 cents multiplied by the total acreage of that portion of the fee area which is located within such county.

"(B) An amount equal to three-fourths of 1 per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county.

"(C) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

"(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

"(3) For purposes of this section, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

"(4)(A) For purposes of determining the fair market value of fe areas under paragraph (1)(B), the Secretary shall—

"(i) appraise before September 30, 1979, all fee areas for whic payments under this section were not authorized for fiscal yea occurring before October 1, 1977; and

"(ii) appraise all other fee areas, within five years after the dat of the 1978 amendment to this subsection, in the order in whic such areas were first established by the Service.

After initial appraisal under clause (i) or (ii), each fee area shal thereafter be reappraised by the Secretary at least once during eacl five-year period occurring after the date of the initial appraisal. Unti any fee area referred to in clause (ii) is initially appraised under thi subparagraph, the fair market value of such area shall be deemed tc be that adjusted cost of the area which was used to determine payments under this subsection for fiscal year 1977; and in no case may the amount of any payment to any local government under paragraph (1)(B) with respect to any fee area be less than the amount paid under paragraph (2)(A) of this subsection (as in effect on September 30, 1977) with respect to such area.

Determinations. "(B) The Secretary shall make the determinations required under this subsection in such manner as the Secretary considers to be equitable and in the public interest. All such determinations shall be final and conclusive.

"(5)(A) Each county which receives payments under paragraphs (1) and (2) with respect to any fee area or reserve area shall distribute, under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction of real property tax revenues by reason of the existence of such area. In any case in which a unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments under paragraphs (1) and (2) shall be made to such other unit which shall distribute the payments in accordance with the guidelines.

Regulations. "(B) The Secretary may prescribe regulations under which payments under this paragraph may be made to units of local government in cases in which subparagraph (A) will not effect the purposes of this paragraph.

"(C) Payments received by units of local government under this subsection may be used by such units for any governmental purpose.

"(d) If the net receipts in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

"(e) If the net receipts in the fund which are attributable to revenue collections for any fiscal year exceed the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, the amount of such excess shall be transferred to the Migratory Bird Conservation Fund for use in the acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715–715r).

"(f) The Secretary shall carry out any revenue producing activity referred to in subsection (a) (1), (2), and (3) within any fee area or reserve area subject to such terms, conditions, or regulations, includ-

ing sales in the open markets, as the Secretary determines to be in the best interest of the United States. The Secretary may, in accordance with such regulations as the Secretary may prescribe, dispose of animals which are surplus to any such area by exchange of the same or other kinds, gift or loan to public institutions for exhibition or propogation purposes, and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife. Disposal of animals.

"(g) As used in this section— Definitions.

"(1) The term 'Secretary' means the Secretary of the Interior.

"(2) The term 'fee area' means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

"(3) The term 'reserve area' means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service.

"(4) The term 'Service' means the United States Fish and Wildlife Service.

"(5) The term 'county' means any county, parish, or organized or unorganized borough.".

(4) Such section is amended by adding at the end thereof the following new subsection:

"(h) In administering the Act of October 20, 1976 (Public Law 94-565, 31 U.S.C. 1601-1607), for fiscal years occurring after September 30, 1978—

"(1) reserve areas shall be deemed to be entitlement lands for purposes of section 6(a) of such Act; and

"(2) payments received by any unit of local government pursuant to subsection (c)(2) shall be deemed to be payments under a provision of law specified in section 4 of such Act.".

(b) Title IV of such Act of June 15, 1935, is amended by amending the center heading immediately preceding section 401 thereof to read as follows: 16 USC 715s.

"TITLE IV—PARTICIPATION OF LOCAL GOVERNMENTS IN REVENUE FROM AREAS ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE".

SEC. 2. The amendments made by this Act shall apply with respect to payments made to counties under title IV of the Act of June 15, 1935, for the fiscal year ending September 30, 1979, and for fiscal years thereafter; except that the amendments made to such title IV which amend section 401 (a) and (g), add paragraph (4) to section 401(c), and amend the title heading shall take effect on the date of the enactment of this Act. No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980. 16 USC 715s note. 16 USC 715s.

SEC. 3. The Act entitled "An Act to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601) is amended as follows:

(1) in subsection (a) of section 6 delete clause (4) and insert in lieu thereof the following new clause: 31 USC 1606.

"(4) effective October 1, 1978, lands on which are located semi-active or inactive installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training; or".

(2) at the end of section 5 insert the following new subsection: 31 USC 1605.

"(c) Nothing in this Act shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of section 6 if such lands were owned and/or administered by a State or unit of local government and exempt from payment of real estate taxes at the time title to such lands is conveyed to the United States, except that, beginning in fiscal year 1979, this subsection shall cease to be applicable to payments for any land which is or was acquired by a State or unit of local government from private parties for the purpose of donation of such land to the Federal Government and which is or was so donated within eight years of the date of acquisition thereof by the State or unit of local government."; and

31 USC 1606.

(3) at the end of section 3 insert the following new subsection:

31 USC 1603.

"(e) Notwithstanding the provisions of subsection (c) of section 6 of this Act as it applies to the State of Alaska, for purposes of this section, beginning in fiscal year 1979 a unit of local government in Alaska located outside the boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes shall be eligible to receive payments under the foregoing provisions of this section.".

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1197 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-1174 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 6, considered and passed House.
Sept. 25, considered and passed Senate, amended; vote vitiated; reconsidered and passed Senate, amended.
Sept. 29, House concurred in Senate amendments.

Public Law 95-470
95th Congress

An Act

To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations.

Oct. 17, 1978
[S. 2376]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term—

Congressional employees, contributions to charitable organizations.
2 USC 60c–4.

(1) "Secretary" means the Secretary of the Senate; and

(2) "Architect" means the Architect of the Capitol.

(b)(1) The Secretary and the Architect shall notify individuals whose pay is disbursed by the Secretary or who are employees of the Architect, including employees of the Botanic Garden or the Senate Restaurants of the opportunity to have amounts withheld from their pay pursuant to this section for contribution to national voluntary health and welfare agencies designated by the Chairman of the Civil Service Commission pursuant to Executive Order 10927, dated March 18, 1961.

(2) Upon request by such an individual specifying the amount to be withheld and one Combined Federal Campaign Center in the Washington metropolitan area to receive such amount, the Secretary, the Architect, or any other officer who disburses the pay of such individual, as the case may be, shall—

(A) withhold such amount from the pay of such individual; and

(B) transmit (not less than once each calendar quarter) the amount so withheld to the Combined Federal Campaign Center as specified in such request.

(c) The Secretary and the Architect shall, to the extent practicable, carry out subsection (b) at or about the time of the Combined Federal Campaign and other fundraising in the executive branch of the Federal Government conducted pursuant to Executive Order 10927, dated March 18, 1961, and at such other times as each such officer deems appropriate.

(d)(1) No amount shall be withheld under subsection (b) from the pay of any individual for any pay period if the amount of such pay for such period is less than the sum of—

(A) the amount specified to be withheld from such pay under subsection (b) for such period; plus

(B) the amount of all other withholdings from such pay for such period.

(2) No amount may be specified by an individual to be withheld for any pay period under subsection (b) which is less than—

(A) 50 cents, if the pay period of such individual is biweekly or semimonthly; or

(B) $1, if the pay period of such individual is monthly.

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(e) This section imposes no duty, burden, or requirement upon the United States, the Senate, or any officer or employee of the United States, except as specifically provided in this section. Nothing in this section shall be deemed to consent to the application of any provision of law which has the effect of subjecting the United States, the Senate, or any officer or employee of the United States to any penalty or liability by reason of the provisions of this section. Any paper, form, document, or any other item filed with the Secretary under this section is a paper of the Senate within the provisions of rule XXX of the Standing Rules of the Senate.

Rules and regulations.

(f) The Secretary and the Architect are authorized to issue rules and regulations they consider appropriate in carrying out their duties under this section.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-1162 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 11, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 95-471
95th Congress

An Act

To provide for grants to tribally controlled community colleges, and for other purposes.

Oct. 17, 1978
[S. 1215]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

Tribally Controlled Community College Assistance Act of 1978.
25 USC 1801 note.

DEFINITIONS

25 USC 1801.

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

20 USC 1141.

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "full-time equivalent Indian student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) in each tribally controlled community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students.

25 USC 1802.

GRANTS AUTHORIZED

25 USC 1803.

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the post-secondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray the expense of activities related to education programs for Indian students. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

25 USC 1804.

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

TECHNICAL ASSISTANCE CONTRACTS

25 USC 1805.

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

FEASIBILITY STUDIES

Agreement.
25 USC 1806.

SEC. 105. (a) The Secretary is authorized to enter into an agreement with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the feasibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

Feasibility study.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a feasibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. The Secretary shall not consider any grant application unless a feasibility study has been conducted under section 105 and it has been found that the applying community college will service a reasonable student population. 25 USC 1807.

(b) The Secretary shall consult with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(e) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action. Report to Congress.

AMOUNT OF GRANTS

SEC. 107. (a) Except as provided in section 110, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him, an amount equal to $4,000 for each full-time equivalent Indian student in attendance at such college during such academic year, as determined by the Secretary in accordance with such regulations as he may prescribe, except that no grant shall exceed the total annual cost of the education program provided by such college. 25 USC 1808.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges. The Secretary shall report annually to the Congress on such needs. Report to Congress.

EFFECT ON OTHER PROGRAMS

25 USC 1809.

SEC. 108. Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

20 USC 1001 note.

APPROPRIATIONS AUTHORIZED

25 USC 1810.

SEC. 109. (a) (1) There are authorized to be appropriated, for carrying out section 106, $25,000,000 for each of the fiscal years beginning October 1, 1979, and October 1, 1980, and $30,000,000 for the fiscal year beginning October 1, 1981.

(2) There are authorized to be appropriated $3,200,000 for each of such three fiscal years, for the provision of technical assistance pursuant to section 104.

(b) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

(c) Nothing in this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

GRANT ADJUSTMENTS

25 USC 1811.

SEC. 110. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be increased on the same basis as they were reduced. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 106(a) of this title.

REPORT ON CURRENT FACILITIES

Report to Congress.
25 USC 1812.

SEC. 111. The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges, including in his report a survey of Bureau of Indian Affairs existing and planned facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

STUDY OF FACILITIES NEEDS

SEC. 112. The Secretary shall conduct a detailed survey and study of the academic facilities needs of tribally controlled community colleges and shall report to the Congress not later than November 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of any such college and by the governing body of the tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need. 25 USC 1813.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title. 25 USC 1814.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

RULES AND REGULATIONS

SEC. 114. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title. 25 USC 1815.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties. Publication in Federal Register.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

TITLE II—NAVAJO COMMUNITY COLLEGE

SHORT TITLE

SEC. 201. This title may be cited as the "Navajo Community College Assistance Act of 1978". Navajo Community College Assistance Act of 1978. 25 USC 640a note.

CONGRESSIONAL FINDINGS

SEC. 202. The Congress after careful study and deliberation, finds that— 25 USC 640a note.

(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.

AMENDMENT

SEC. 203. (a) The Navajo Community College Act (25 U.S.C. 640c) is amended by striking out section 4 and inserting in lieu thereof the following:

"STUDY OF FACILITIES NEEDS

Report to Congress. 25 USC 640c.

"SEC. 4. (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

"(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

"AUTHORIZATION OF APPROPRIATIONS

25 USC 640c-1.

"SEC. 5. (a) (1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year beginning October 1, 1979, and for the two succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

"(b) (1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, for operation and maintenance of the college, an amount equal to $4,000 for each full-time equivalent Indian student (determined in accordance with section 2(7) of the Tribally Controlled Community College Assistance Act of 1978) which the Secretary of the Interior estimates will be in attendance at such college during such year.

"(2) No grant under this subsection shall exceed—

"(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

"(B) the total annual cost of the education program provided by such college,

whichever is less.

"(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other fac-

tors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.".

(b) Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978. 25 USC 640c-1 note.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1558 accompanying H.R. 9158 (Comm. on Education and Labor).
SENATE REPORT No. 95-582 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 4, considered and passed Senate.
Vol. 124 (1978): Sept. 26, H.R. 9158 considered and passed House; passage vacated and S. 1215, amended, passed in lieu.
Oct. 3, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 42 (1978): Oct. 17, Presidential statement.

Public Law 95-472
95th Congress

An Act

Oct. 17, 1978
[H.R. 8811]

To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

U.S. Tax Court, judges' retirement pay.
26 USC 7447.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7447 of the Internal Revenue Code of 1954 (relating to retirement of Tax Court judges) is amended by adding at the end thereof the following new subsection:

"(i) REVOCATION OF ELECTION TO RECEIVE RETIRED PAY.—

"(1) IN GENERAL.—Notwithstanding subsection (e)(2), an individual who has filed an election to receive retired pay under subsection (d) may revoke such election at any time before the first day on which retired pay (or compensation under subsection (c) in lieu of retired pay) would (but for such revocation) begin to accrue with respect to such individual.

"(2) MANNER OF REVOKING.—Any revocation under this subsection shall be made by filing a notice thereof in writing with the Civil Service Commission. The Civil Service Commission shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) EFFECT OF REVOCATION.—In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (d),

26 USC 7448.

"(B) for purposes of section 7448—

"(i) the individual shall be treated as not having filed an election under section 7448(b), and

"(ii) section 7448(g) shall not apply, and the amount credited to such individual's account (together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Tax Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Tax Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (e), and

"(E) if subparagraph (D) is complied with, service on the Tax Court shall be treated as service with respect to which deductions and contributions had been made during the period of service."

26 USC 7447 note.

SEC. 2. (a) The amendment made by the first section of this Act shall

apply with respect to revocations made after the date of the enactment of this Act.

(b) Any individual who elects to revoke under section 7447(i) of the Internal Revenue Code of 1954 within one year after the date of enactment of this Act shall be treated as having the requisite current service for purposes of redepositing funds in the Civil Service Retirement and Disability Fund and for purposes of reviving creditable service under subchapter III of chapter 83 of title 5 of the United States Code. 26 USC 7447. 5 USC 8331.

SEC. 3. TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS FOR PURPOSES OF UNEMPLOYMENT AND SOCIAL SECURITY TAXES.

(a) Section 3306(b) of the Internal Revenue Code of 1954 (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended— 26 USC 3306.

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12) any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).". 26 USC 120.

(b) Section 3121(a) of such Code (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended— 26 USC 3121. 26 USC 3101 *et seq.*

(1) by striking out "or" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(17) any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).".

(c) Section 209 of the Social Security Act is amended— 42 USC 409.

(1) by striking out "or" at the end of subsection (n);

(2) by striking out the period at the end of subsection (o) and inserting in lieu thereof "; or"; and

(3) by inserting after subsection (o) and before the sentence beginning with "For purposes of this title, in the case of domestic service" the following new subsection:

"(p) Any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans).".

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976. 26 USC 3121 note.

SEC. 4. INVOLUNTARY CONVERSION OF SPECIALLY VALUED FARM, ETC., REAL PROPERTY.

26 USC 2032A. (a) IN GENERAL.—Section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROPERTY.—

"(1) TREATMENT OF CONVERTED PROPERTY.—

"(A) IN GENERAL.—If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subsection—

"(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

"(2) TREATMENT OF REPLACEMENT PROPERTY.—For purposes of subsection (c)—

"(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property—

"(i) the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property, and

26 USC 1033.

"(ii) the phaseout period under paragraph (3) of subsection (c) shall be appropriately adjusted to take into account the extension referred to in clause (i),

"(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (7) of subsection (c) shall be applied—

"(i) by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

"(ii) by treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) INVOLUNTARY CONVERSION.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033. 26 USC 1033.

"(B) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means—

"(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified real property is converted, or

"(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the qualified real property qualified under subsection (a).

"(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (3)(B)(ii).

"(5) ELECTION.—Any election under this subsection shall be made at such time and in such manner as the Secretary may by regulations prescribe.".

(b) ADJUSTMENT OF BASIS.—Section 1016 of such Code (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: 26 USC 1016.

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If there is a complusory or involuntary conversion (within the meaning of section 1033) of any property the basis of which is determined under section 1023 and an additional estate tax is imposed on such conversion under section 2032A(c), then the adjusted basis of such property shall be increased by an amount which bears the same ratio to such tax with respect to the conversion of that property as— 26 USC 1023. 26 USC 2032A.

"(A) the net appreciation in value of such property, bears to

"(B) the excess of—

"(i) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent without regard to section 2032A; over 26 USC 2001.

"(ii) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent with regard to section 2032A.

"(2) NET APPRECIATION IN VALUE.—For purposes of this subsection, the net appreciation in value of any property shall be determined in accordance with section 1023(f)(2) except that—

"(A) the adjusted basis taken into account shall be increased by any adjustment under section 1023,

"(B) the fair market value of such property shall be determined without regard to section 2032A, and

"(C) any net appreciation in value in excess of the amount determined under paragraph (1)(B) shall be disregarded.

"(3) TIME ADJUSTMENT MADE.—Any adjustment under para-

graph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

26 USC 2032A.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 2032A(f) of such Code (relating to period of limitations) is amended by inserting "(or if later in the case of an involuntary conversion to which an election under subsection (h) applies, 3 years from the date the Secretary is notified of the replacement of the converted property or of an intention not to replace)" immediately before ", and".

26 USC 1016 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary conversions after December 31, 1976.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-744 (Comm. on Ways and Means).
SENATE REPORT No. 95-1113 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 24, considered and passed House.
Aug. 23, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendments with amendments.
Sept. 28, Senate concurred in House amendments.

PUBLIC LAWS

(CONTINUED)

Public Law 95-473
95th Congress

An Act

Oct. 17, 1978
[H.R. 10965]

To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation".

Interstate Commerce Act and related laws. Enactment as title 49, Subtitle IV, U.S. Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted as title 49, United States Code, "Transportation", as follows:

TITLE 49—TRANSPORTATION

SUBTITLE	Sec.
I. [RESERVED—DEPARTMENT OF TRANSPORTATION]	
II. [RESERVED—TRANSPORTATION PROGRAMS]	
III. [RESERVED—AIR TRANSPORTATION]	
IV. INTERSTATE COMMERCE	10101
V. [RESERVED—MISCELLANEOUS]	

SUBTITLE IV—INTERSTATE COMMERCE

CHAPTER	Sec.
101. GENERAL PROVISIONS	10101
103. INTERSTATE COMMERCE COMMISSION	10301
105. JURISDICTION	10501
107. RATES, TARIFFS, AND VALUATIONS	10701
109. LICENSING	10901
111. OPERATIONS OF CARRIERS	11101
113. FINANCE	11301
115. FEDERAL-STATE RELATIONS	11501
117. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES	11701
119. CIVIL AND CRIMINAL PENALTIES	11901

CHAPTER 101—GENERAL PROVISIONS

Sec.
10101. Transportation policy.
10102. Definitions.
10103. Remedies as cumulative.

§ 10101. Transportation policy

49 USC 10101.

(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to this subtitle, and in regulating those modes—

(1) to recognize and preserve the inherent advantage of each mode of transportation;

(2) to promote safe, adequate, economical, and efficient transportation;

(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

(5) to cooperate with each State and the officials of each State on transportation matters; and

(6) to encourage fair wages and working conditions in the transportation industry.

(b) This subtitle shall be administered and enforced to carry out the policy of this section.

49 USC 10102.

§ 10102. Definitions

In this subtitle—

(1) "broker" means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(2) "carrier" means a common carrier and a contract carrier.

(3) "car service" includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier.

(4) "common carrier" means an express carrier, a pipeline carrier, a rail carrier, a sleeping car carrier, a motor common carrier, a water common carrier, and a freight forwarder.

(5) "contract carrier" means a motor contract carrier and a water contract carrier.

(6) "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means.

(7) "express carrier" means a person providing express transportation for compensation.

(8) "freight forwarder" means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title.

Post, pp. 1359, 1361, 1365.

(9) "highway" means a road, highway, street, and way in a State.

(10) "motor carrier" means a motor common carrier and a motor contract carrier.

(11) "motor common carrier" means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

(12) "motor contract carrier" means a person, other than a motor common carrier, providing motor vehicle transportation for compensation under continuing agreements with a person or a limited number of persons—

(A) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

(B) designed to meet the distinct needs of each such person.

(13) "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 10521(a) (1) and (2) of this title; *Post*, p. 1361.

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(14) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Commission, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) "person", in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(16) "pipeline carrier" means a person providing pipeline transportation for compensation.

(17) "rail carrier" means a person providing railroad transportation for compensation.

(18) "railroad" includes—

(A) a bridge, car float, lighter, and ferry used by or in connection with a railroad;

(B) the road used by a rail carrier and owned by it or operated under an agreement; and

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation.

(19) "rate" means a rate, fare, or charge for transportation.

(20) "sleeping car carrier" means a person providing sleeping car transportation for compensation.

(21) "State" means a State of the United States and the District of Columbia.

(22) "tariff", when used in reference to a contract carrier, means a schedule.

(23) "transportation" includes—

(A) a locomotive, car, vehicle, motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

(24) "United States" means the States of the United States and the District of Columbia.

(25) "vessel" means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

(26) "water carrier" means a water common carrier and a water contract carrier.

(27) "water common carrier" means a person holding itself out to the general public to provide water transportation for compensation.

(28) "water contract carrier" means a person, other than a water common carrier, providing water transportation for compensation under an agreement with another person, including transportation on a vessel provided to a person other than a carrier subject to the jurisdiction of the Commission under this subtitle when the vessel is used to transport only the property of the other person.

49 USC 10103.

§ 10103. Remedies as cumulative

The remedies provided under this subtitle are in addition to remedies existing under another law or at common law.

CHAPTER 103—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER I—ORGANIZATION

Sec.
10301. General.
10302. Divisions of the Commission.
10303. Secretary of the Commission; public records.
10304. Employee boards.
10305. Delegation of authority.
10306. Conduct of proceedings.
10307. Office and sessions.
10308. Admission to practice.
10309. Access to records by congressional committees.
10310. Reporting official action.
10311. Annual report.

SUBCHAPTER II—ADMINISTRATIVE

10321. Powers.
10322. Initial decisions—nonrail proceedings.
10323. Rehearing, reargument, and reconsideration—nonrail proceedings.
10324. Commission action.
10325. Judicial review—nonrail proceedings.
10326. Limitations in rulemaking proceedings related to rail carriers.
10327. Commission action and appellate procedure in rail carrier proceedings.
10328. Intervention.
10329. Service of notice in Commission proceedings.
10330. Service of process in court proceedings.

SUBCHAPTER III—JOINT BOARDS

10341. Jurisdiction.
10342. Establishment.
10343. Powers.
10344. Administration.

SUBCHAPTER IV—RAIL SERVICES PLANNING OFFICE

10361. Organization.
10362. Duties.
10363. Director.
10364. Powers.

SUBCHAPTER V—OFFICE OF RAIL PUBLIC COUNSEL

10381. Organization.
10382. Duties; standing.
10383. Director.
10384. Office staff.
10385. Powers.
10386. Reports.
10387. Budget requests and estimates.
10388. Authorizations of appropriations.

SUBCHAPTER I—ORGANIZATION

§ 10301. General

49 USC 10301.

(a) The Interstate Commerce Commission is an independent establishment of the United States Government.

Membership. Chairman.

(b) The Commission is composed of 11 members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members as Chairman. Not more than 6 members may be appointed from the same political party.

Term.

(c) The term of each member of the Commission is 7 years and begins when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) A member of the Commission may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(e) A vacancy in the membership of the Commission does not impair the right of the remaining members to exercise all of the powers of the Commission. The Commission may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

Responsibilities.

(f) Subject to the general policies, decisions, findings, and determinations of the Commission, the Chairman is responsible for administering the Commission. The Chairman may delegate the powers granted under this subsection to an officer, employee, or administrative unit of the Commission. The Chairman shall—

(1) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Commission, including attorneys to provide legal aid and service to the Commission and its members, to represent the public interest in investigations and proceedings of the Commission, and to represent the Commission in any case in court;

(2) appoint the heads of major administrative units with the approval of the Commission;

(3) distribute Commission business among officers and employees and administrative units of the Commission;

(4) prepare requests for appropriations for the Commission and submit those requests to the President and Congress with the prior approval of the Commission; and

(5) supervise the expenditure of funds allocated by the Commission for major programs and purposes.

(g) The Commission shall have a seal that shall be judicially recognized.

(h) The expenses of the Commission shall be paid after presentation and approval by the Chairman of itemized vouchers.

49 USC 10302.

§ 10302. Divisions of the Commission

(a) The Interstate Commerce Commission may establish and assign Commissioners to serve on as many divisions as may be necessary and may designate any division as an appellate division. Each division shall be composed of at least 3 Commissioners. The Commission may assign a Commissioner to serve on more than one division.

(b) Unless otherwise directed by the Commission—

(1) the Commissioner senior in service of the Commissioners on a division is chairman of the division; and

(2) the Chairman of the Commission, or another Commissioner designated by the Chairman, may serve on a division temporarily, when there is a vacancy in the membership of the division or when another Commissioner is absent or unable to serve.

(c) The Commission shall designate each division numerically or by a term descriptive of the function of that division.

49 USC 10303.

§ 10303. Secretary of the Commission; public records

(a) The Chairman of the Interstate Commerce Commission, with its approval, shall appoint the Secretary of the Commission.

(b) The Secretary is the custodian of public records filed with the Commission. Copies of classifications, tariffs, and all arrangements filed with the Commission under this subtitle, and the statistics, tables, and figures contained in reports made to the Commission under this subtitle, are public records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Commission is competent evidence in a proceeding of the Commission and in a judicial proceeding.

49 USC 10304.

§ 10304. Employee boards

The Interstate Commerce Commission may establish employee boards composed of at least 3 employees. An employee who is a director or assistant director of a bureau, a chief of a section, an employee designated by the Commission, or an attorney may serve on a board.

49 USC 10305.

§ 10305. *Delegation of authority*

(a) The Interstate Commerce Commission may delegate to a division, an individual Commissioner, an employee board, or an employee appointed under section 3105 of title 5, a matter before the Commission for action, including a matter referred to it by either House of Congress or by Congress. However, the Commission may not delegate a matter required to be referred to a joint board under section 10341 of this title, or a function vested in the Commission under this chapter. The Commission may change or rescind a delegation under this subsection at any time. When a Commissioner or employee cannot act on a matter delegated under this section because of absence or another reason, the Chairman of the Commission may designate another Commissioner or employee, as the case may be, to serve temporarily until the Commission otherwise orders.

(b) Delegation to a division of a matter related to the validity of rates shall be made according to the character of regulation exercised.

The delegation of any such matter may not be made according to the kind or class of carrier involved or to the form or mode of transportation in which that carrier may be engaged.

(c) A division, individual Commissioner, employee board, or an employee may act on a matter delegated under subsection (a) of this section. When acting under this section, a division, individual Commissioner, board, or an employee has the same power and authority and is subject to the same duties and obligations as the Commission. Action taken under this section has the same force and is taken in the same manner as if taken by the Commission.

§ 10306. Conduct of proceedings 49 USC 10306.

(a) A majority of the Interstate Commerce Commission, a division, or an employee board is a quorum for the transaction of business. A Commissioner, the Secretary of the Commission, a member of an employee board, or an employee delegated to act under section 10305 of this title may administer oaths.

(b) A party may appear and be heard before the Commission, a division, an individual Commissioner, a board, or an employee delegated to act under section 10305 of this title in person or by an individual admitted to practice under section 10308 of this title. A hearing before the Commission, a division, an individual Commissioner, a board, or an employee shall be made public on the request of an interested party.

(c) The Commission shall conform its forms for giving notice and their manner of service, to the extent practical, to those used by the courts of the United States.

(d) Votes and other official acts of the Commission, a division, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall be recorded and shall be made public on the request of an interested party.

(e) A member of a board and an employee delegated to act under section 10305 of this title may not have a pecuniary interest in, hold an official relation to, or own securities of a carrier providing transportation by any mode.

(f) The Commission shall review at least once every 3 years and revise as necessary the rules of practice for matters related to rail carriers adopted under section 305(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (90 Stat. 53). Rail carriers practice rules, review. 49 USC 17 note.

§ 10307. Office and sessions 49 USC 10307.

(a) The principal office of the Interstate Commerce Commission is in the District of Columbia. Until otherwise provided by law, the Commission may obtain suitable offices for its use and may procure all necessary office supplies.

(b) General sessions of the Commission are held at its principal office. However, the Commission may hold special sessions in any part of the United States, for the convenience of the public or the parties and to avoid delay and expense. The Commission, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title may conduct proceedings under this subtitle in any part of the United States for the convenience of the parties.

§ 10308. Admission to practice 49 USC 10308.

Subject to section 500 of title 5, the Interstate Commerce Commission may regulate the admission of individuals to practice before it and may impose a reasonable admission fee. Fee.

49 USC 10309.

§ 10309. Access to records by congressional committees

(a) When the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate makes a written request for a record in the possession or under the control of the Interstate Commerce Commission related to a matter involving a rail carrier providing transportation subject to this subtitle, the Commission shall send that record or a copy to the committee by the 10th day after the date of receipt of the request. If the record is not sent, the Commission shall send a written report to that committee within the 10-day period stating the reason why the record has not been sent and the anticipated date on which it will be sent. If the Commission transfers a record in its possession or under its control to another department, agency, or instrumentality of the United States Government, or to a person, it must condition the transfer on the guaranteed return of the record by the transferee to the Commission so that the Commission can comply with this subsection.

Report to congressional committee.

(b) Subsection (a) of this section does not apply to a record obtained by the Commission from a person subject to regulation by it if the record contains trade secrets or commercial or financial information of a privileged or confidential nature. Subsection (a) of this section does not limit other authority of Congress, either House of Congress, or a committee or subcommittee of either House, to obtain a record.

49 USC 10310.

§ 10310. Reporting official action

(a) The Interstate Commerce Commission shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Commission and, if damages are awarded, the findings of fact supporting the award. The Commission may have its reports published for public use. A published report of the Commission is competent evidence of its contents.

(b)(1) When action of the Commission in a matter related to a rail carrier is taken by the Commission, a division, a group of Commissioners, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another individual or group of individuals designated to take official action for the Commission, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

(A) the official designation of the individual or group taking the action;

(B) the name of each individual taking, or participating in taking, the action; and

(C) the vote or position of each participating individual.

(2) If an individual member of a group taking an official action referred to in paragraph (1) of this subsection does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

§ 10311. Annual report 49 USC 10311.

The Interstate Commerce Commission shall prepare and send to Congress an annual report before April 3 of each year. The Commission shall include in the annual report information that may be of value in answering questions related to regulation of transportation and the names and pay of individuals employed by the Commission. The Commission may include in its annual report, or send to Congress at any time, recommendations for additional legislation related to regulation of transportation. Submittal to Congress.

SUBCHAPTER II—ADMINISTRATIVE

§ 10321. Powers 49 USC 10321.

(a) The Interstate Commerce Commission shall carry out this subtitle. Enumeration of a power of the Commission in this subtitle does not exclude another power the Commission may have in carrying out this subtitle. The Commission may prescribe regulations in carrying out this subtitle. Regulations.

(b) The Commission may—

(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and service subject to this subtitle;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker; and

(3) obtain from those carriers, brokers, and persons information the Commission decides is necessary to carry out this subtitle.

(c)(1) The Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title may subpena witnesses and records related to a proceeding of the Commission from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Commission, or a party to a proceeding before the Commission, may petition a court of the United States to enforce that subpena. Subpenas.

(2) Subpenas may be signed by a Commissioner, the Secretary of the Commission, or a member of a board when the subpena relates to a matter delegated to the board under section 10305 of this title.

(3) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

(d)(1) In a proceeding, the Commission may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Commission may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer. Depositions.

(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Commission may subpena the witness to take a deposition, produce the records, or both.

(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor

or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Commission or agreed on by the parties by written stipulation filed with the Commission. A deposition shall be filed with the Commission promptly.

(e) Each witness summoned before the Commission or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

49 USC 10322.

§ 10322. Initial decisions—nonrail proceedings

(a) When testimony is taken at a public hearing, an individual Commissioner, an employee board, or an employee delegated to act under section 10305 of this title shall issue an initial decision that includes a statement of reasons for the decision and an order. The decision and order shall be filed with the Interstate Commerce Commission. An initial decision becomes an action of the Commission on the 20th day after the initial decision is served on the interested parties, including persons referred to in section 10328(b) of this title if the proceeding involves a motor carrier, unless—

Filing.

(1) an exception to the initial decision is filed by an interested party during that 20-day period or by the end of an extended period if authorized by the Commission, or a division or board designated by the Commission; or

(2) the Commission, or a division or board designated by the Commission, stays or postpones the initial decision.

Review.

(b) Before an initial decision of an individual Commissioner, a board, or an employee becomes an action of the Commission, a division or board designated by the Commission, or the Commission, may review the initial decision on its own initiative and shall review the initial decision if exception to it is filed under subsection (a)(1) of this section. An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it is stayed or postponed pending final determination of the matter, and it is an action of the Commission only after the final determination is made.

49 USC 10323.

§ 10323. Rehearing, reargument, and reconsideration—nonrail proceedings

(a) The Interstate Commerce Commission may grant rehearing, reargument, or reconsideration of a decision that has become an action of the Commission. A party to the proceeding may apply for rehearing, reargument, or reconsideration under Commission regulations. Except as provided in subsection (b)(2) of this section, the Commission

may limit the right to apply for rehearing, reargument, or reconsideration of a decision of the Commission or a division to a proceeding or class of proceedings involving issues of general transportation importance.

(b)(1) An application for rehearing, reargument, or reconsideration shall be considered and acted on—

(A) by the Commission if the action of the Commission was taken by it; or

(B) by the Commission, or by an appellate division designated by the Commission, if the initial decision was made by a division, individual Commissioner, board, or employee.

(2) An application for rehearing, reargument, or reconsideration shall be granted and referred to an appellate division for action if—

(A) the matter was delegated for an initial decision to an individual Commissioner, board, or employee;

(B) the application is filed by the 20th day after the date the initial decision became an action of the Commission under section 10322(a) of this title; and

(C) the matter has not been previously reviewed under section 10322(b) of this title.

(c) The Commission or an appellate division may change a decision of a division, an individual Commissioner, board, or employee if the decision appears unreasonable after rehearing, reargument, or reconsideration. However, the subsequent decision is subject to rehearing, reargument, or reconsideration under this section.

§ 10324. Commission action 49 USC 10324.

(a) Unless otherwise provided in this subtitle, the Interstate Commerce Commission may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect. However, an action of the Commission in a proceeding involving a motor carrier, a broker, a water carrier, or freight forwarder may not take effect for 30 days.

(b) An action of the Commission remains in effect under its own terms or until superseded. The Commission may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Commission. A court of competent jurisdiction may suspend or set aside any such action.

(c) An action of the Commission is enforceable unless—

(1) application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the effective date of the action; or

(2) the Commission stays or postpones the action.

§ 10325. Judicial review—nonrail proceedings 49 USC 10325.

A civil action to enforce, enjoin, suspend, or set aside an action of the Interstate Commerce Commission taken by a division, individual Commissioner, employee board, or employee delegated to act under section 10305 of this title may be started in a court of the United States only—

(1) on denial of an application for rehearing, reargument, or reconsideration; or

(2) if the application is granted, after a rehearing, reargument, reconsideration or other disposition by the Commission or an appellate division under section 10323 of this title.

49 USC 10326.

§ 10326. Limitations in rulemaking proceedings related to rail carriers

Petitions.

(a) When, under section 553(e) of title 5, an interested person (including a governmental authority) petitions the Interstate Commerce Commission to begin a rulemaking proceeding in a matter related to a rail carrier providing transportation subject to this subtitle, the Commission, or a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or another person authorized to act on behalf of the Commission for any part of the proceeding, shall grant or deny that petition by the 120th day after receiving it. If the petition is granted, the Commission, or its delegate, shall begin an appropriate proceeding as soon as practicable. If the petition is denied, the reasons for the denial shall be published in the Federal Register.

Publication in Federal Register.

Civil action.

(b)(1) If a petition is denied or action is not taken within the 120-day period under subsection (a) of this section, the petitioner may begin a civil action in an appropriate court of appeals of the United States for an order directing the Commission to begin a proceeding to take the action requested in the petition. A civil action under this subsection must be filed by the 60th day after the date of the denial or by the 60th day after the end of the 120-day period, whichever is appropriate.

(2) The court of appeals shall order the Commission to begin the action requested in the petition to the Commission if the court finds that the action requested in that petition is necessary and failure to take that action will result in the continuation of practices that are not consistent with the public interest or are not in accordance with this subtitle. The finding of the court must be based on a preponderance of the evidence in the record before the Commission or its delegate, or, if the civil action is based on a petition on which action was not taken, in a new proceeding before the court. The court may not require the Commission to take action under this subtitle other than to begin a rulemaking proceeding.

49 USC 10327.

§ 10327. Commission action and appellate procedure in rail carrier proceedings

(a) Notwithstanding sections 10322, 10323, and 10324(c) of this title, this section applies to a matter before the Interstate Commerce Commission involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title. However, other sections of this subtitle related to action of the Commission in proceedings involving rail carriers supersede this section to the extent that they are inconsistent with the provisions of this section related to deadlines.

Initial decisions.

(b) A division, individual Commissioner, employee board, or employee delegated under section 10305 of this title to make an initial decision in a matter related to one of those rail carriers shall complete all evidentiary proceedings related to the matter by the 180th day after assignment of the matter. The initial decision shall be submitted to the Commission in writing. If evidence is submitted in writing or testimony is taken at a public hearing, the initial decision shall be submitted to the Commission in writing by the 120th day after completion of all evidentiary proceedings and shall include—

(1) specific findings of fact;

(2) specific and separate conclusions of law;

(3) an order; and

(4) justification of the findings of fact, conclusions of law, and order.

(c) The Commission, or a division designated by the Commission, may void the requirement of an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or that division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions.

(d) In a proceeding under this section, after the parties have had at least an opportunity to submit evidence in written form, the Commission shall give them an opportunity for briefs, written statements, or conferences of the parties. A conference of the parties must be chaired by a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or an employee designated by the Commission.

(e) Copies of an initial decision under subsection (b) of this section shall be served on the interested parties. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless—

(1) an interested party files an appeal during the 20-day period, or by the end of an additional period of not more than 20 days, if authorized by the Commission or division designated by the Commission; or

(2) the Commission stays or postpones the initial decision under subsection (g)(2) or (j) of this section within the period or additional period referred to in clause (1) of this subsection.

(f)(1) Before an initial decision becomes an action of the Commission, the Commission, or a division or board designated by the Commission, may review the initial decision on its own initiative, and shall review an initial decision if an appeal is filed under subsection (e)(1) of this section. However, a board may not decide an appeal from an initial decision if the appeal may be further appealed to the Commission. Review.

(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter, and it is an action of the Commission only after the final determination is made. If an appeal is filed under subsection (e)(1) of this section, the final determination shall be made by the 180th day after the appeal is filed.

(3) Review of, or appeal from, an initial decision shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title. Rules.

(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

(A) reopen a proceeding;

(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission. Petition.

(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division designated by the Commission if it finds that—

(A) the action involves a matter of general transportation importance; or

(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

Petition. An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

(h) An action of the Commission under this section and an action of a designated division under subsection (c) of this section is effective on the 30th day after service on the parties to the proceeding unless the Commission provides for it to become effective on an earlier date.

(i) Notwithstanding this subtitle, an action of the Commission under this section and an action of a designated division under subsection (c) of this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

Extensions. (j) The Commission may extend a time period established by this section for a period of not more than 90 days. The extension shall be granted if a majority of the Commissioners agree to it by public vote.

Annual report to Congress. The Commission shall send a written annual report to each House of Congress about extensions granted under this subsection. The report shall specify each extension granted (classified by the type of proceeding involved) together with the reasons for and duration of each extension.

(k) If an extension granted under subsection (j) of this section is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if—

(1) at least 7 Commissioners agree to the further extension by public vote; and

(2) not later than the 15th day before expiration of the extension granted under subsection (j) of this section, the Commission submits a written report to the Congress that a further extension has been granted. The report shall include—

(A) a full explanation of the reasons for the further extension;

(B) the anticipated duration of the further extension;

(C) the issues involved in the matter before the Commission; and

(D) the names of personnel of the Commission working on the matter.

49 USC 10328.

§ 10328. Intervention

(a) Designated representatives of employees of a carrier may intervene and be heard in a proceeding arising under this subtitle that affects those employees.

(b) Under regulations of the Interstate Commerce Commission, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this subtitle related to transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title that is, or is proposed to be, provided in a State shall

be given to interested persons and to the authority of that State having jurisdiction to regulate transportation by motor vehicles in intrastate commerce on the highways of that State, or, if there is no such authority, to the chief executive officer of the State.

§ 10329. Service of notice in Commission proceedings 49 USC 10329.

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Commission may be made. Agent designation.

(2) A motor carrier, a broker, a water carrier, or a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title shall designate an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Commission may be made.

(b) A designation under subsection (a) of this section shall be in writing and filed with the Commission. A motor carrier or broker providing transportation under a certificate or permit issued under this subtitle shall also file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(c) Except as otherwise provided, notices of the Commission shall be served as follows:

(1) A notice of the Commission to a rail, express, sleeping car, or pipeline carrier is served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Commission shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(2) A notice to a motor carrier or broker is served personally or by mail on the motor carrier or broker or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier or broker does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier or broker maintains headquarters and in the office of the Secretary of the Commission.

(3) A notice to a water carrier or freight forwarder is served personally or by mail on the water carrier or freight forwarder or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when notice is served. If a water carrier or freight forwarder does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(d) In a proceeding involving the lawfulness of classifications, rates, or practices of (1) a rail, express, sleeping car, or pipeline car-

rier that has not designated an agent under this section, or (2) a freight forwarder, service of notice of the Commission on an attorney in fact who filed the tariff for the carrier constitutes service of notice on the carrier.

(e) In a proceeding involving the lawfulness of classifications, rates, or practices—

(1) service of notice of the suspension of a tariff on an attorney in fact of a carrier or broker, except a freight forwarder, constitutes service of notice on the carrier or broker if that attorney filed the tariff and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved; and

(2) service of notice of the suspension of a joint tariff or schedule on a carrier or a broker, except a freight forwarder, that filed that tariff or schedule to which another carrier or broker is a party and, if the carrier is a water carrier, the notice specifies the classifications, rates, or practices involved, constitutes service of notice on all carriers or brokers that are parties to the joint tariff.

Service of notice under this subsection may be made by mail on that attorney or carrier at the address shown in the tariff.

49 USC 10330.

§ 10330. Service of process in court proceedings

Agent designation.

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Secretary of the Commission.

(b) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Commission and with the authority of each State in which the motor carrier or broker operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

(c) A designation under this section may be changed at any time in the same manner as originally made.

SUBCHAPTER III—JOINT BOARDS

49 USC 10341.

§ 10341. Jurisdiction

(a) The Interstate Commerce Commission may refer a matter related to motor carriers providing, or brokers for, transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, to a joint board established under section 10342 of

this title for action. When the operation of a motor carrier or broker involves not more than 3 States, the Commission shall refer the following matters to a joint board for action when an opportunity for a proceeding is required or when the Commission finds that it is desirable:

(1) an application for a certificate, permit, or license.

(2) a suspension, change, or revocation of a certificate, permit, or license.

(3) an application for approval and authorization of a consolidation, merger, or acquisition of control or of an operating contract.

(4) a complaint about a violation by a motor carrier or broker of a requirement established under section 10321(a), 10525, 11101 (b), or 11142(b) of this title. *Post*, pp. 1419, 1425.

(5) a complaint about rates of motor carriers or practices of brokers.

(b) Notwithstanding subsection (a) of this section, if the Commission is prevented by legal proceedings from referring a matter to a joint board, the Commission may determine the matter under subchapter II of this chapter.

§ 10342. Establishment 49 USC 10342.

(a) The Interstate Commerce Commission may establish and abolish joint boards as necessary to carry out section 10341 of this title. Except as provided in this section, a joint board is composed of a member from each State in which transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is, or is proposed to be, provided. The Commission may appoint an individual nominated under subsection (b) of this section as a member of a joint board. Membership.

(b) The member of a joint board from a State shall be nominated by the State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State. If there is no such authority in that State or if that authority does not nominate a member when requested by the Commission, the chief executive officer of the State may nominate the member. If both that State authority and the chief executive officer of that State do not nominate a member when requested, the board is constituted without a member from that State if the Commission has appointed members for at least 2 other States to the board.

(c) When a matter required to be referred to a joint board involves the operation of a motor carrier in or through a place outside the United States, if only one State is involved or if only one State nominates an individual to be a member of the joint board, that State may nominate and the Commission may appoint not more than 3 members to the board.

(d) A substitution in the membership of a joint board may be made at any time in the same manner as an initial nomination and appointment under this section.

§ 10343. Powers 49 USC 10343.

(a) When conducting a proceeding involving a matter referred under section 10341 of this title, a joint board may make an initial decision under section 10322 of this title. Subchapter II of this chapter applies to an initial decision of a joint board. However, a joint board may report to the Interstate Commerce Commission its conclusions on evidence received without making an initial decision. When a joint board makes a report instead of an initial decision, the Commission Report.

shall decide the matter. The Commission may consider the conclusions of the joint board in making its decision.

(b) A joint board may make an initial decision or report of its conclusions only by a majority vote. However, if only one member of the board participates in the proceeding, that member shall make the initial decision alone.

Waiver.

(c) When a member of a joint board does not participate in a proceeding referred to that board, after notice of the proceeding, the State from which that member was appointed waives its right to act in that proceeding. The waiver does not affect the duty or power of remaining members of the board to continue the proceeding and make an initial decision.

(d) In addition to decisions made under subsection (a) of this section, the Commission shall decide a matter referred to a joint board when—

(1) the authority of each State from which a member of the board may be appointed waives action on a matter referred to that board;

(2) a joint board does not act, or cannot agree, on a matter referred to it in 45 days after the matter is referred to it (or in another period authorized by the Commission); or

(3) a member is nominated for only one State, except as provided in section 10342(c) of this title.

49 USC 10344.

§ 10344. Administration

(a) Meetings and procedures of joint boards shall be conducted under regulations of the Interstate Commerce Commission. The Commission may designate an employee appointed under section 3105 of title 5 to advise and assist a joint board.

(b) When practicable and when directed by the Commission, a proceeding involving a matter referred to a joint board shall be held at a place in the United States that is convenient to the parties to the proceeding.

(c) The members of joint boards and employees designated to advise and assist them under subsection (a) of this section may administer oaths, subpena witnesses and the production of records, and take depositions under section 10321 of this title related to matters referred to the boards.

Travel expenses.

(d) When carrying out this subtitle, members of joint boards shall receive an allowance for travel and subsistence expenses as the Commission shall provide.

Conflict of interest, prohibition.

(e) A member of a joint board may not have a pecuniary interest in, hold an official relation to, or own securities of, a carrier providing transportation by any mode.

Facilities.

(f) The Administrator of General Services shall assign space and facilities in the Interstate Commerce Commission building not required by the Commission for the use of the national organization of the State commissions and their representatives. The space and facilities shall be available for the use of joint boards and for members and representatives of those boards cooperating with the Commission or with another department, agency, or instrumentality of the United States Government. If suitable space is not available in the Interstate Commerce Commission building, the Administrator shall assign space in another building in convenient proximity to it.

SUBCHAPTER IV—RAIL SERVICES PLANNING OFFICE

§ 10361. Organization 49 USC 10361.

The Rail Services Planning Office is an office in the Interstate Commerce Commission.

§ 10362. Duties 49 USC 10362.

(a) In this section— Definitions.

(1) "avoidable costs of providing transportation", "reasonable management fee", "reasonable return on the value", and "revenue attributable to the rail properties" have the same meanings as they have when used in section 744 of title 45.

(2) "avoidable cost of providing rail freight transportation" has the same meaning as it has when used in section 10905(b)(2)(A) of this title. *Post*, p. 1405.

(b) The Rail Services Planning Office shall— Assistance.

(1) assist the Interstate Commerce Commission in studying and evaluating proposals, submitted to the Commission under subchapter III of chapter 113 of this title for a merger, consolidation, unification, or coordination project, joint use of tracks or other facilities, or acquisition or sale of assets involving a rail carrier subject to this subtitle; *Post*, p. 1434.

(2) assist the Commission in developing, with respect to economic regulation of transportation, policies likely to result in a more competitive, energy-efficient, and coordinated transportation system using each mode of transportation to its maximum advantage to meet the transportation needs of the United States;

(3) assist States and local and regional transportation authorities in deciding whether to provide rail transportation continuation subsidies to continue in operation particular rail properties, by establishing criteria for determining whether particular rail properties are suitable for rail transportation continuation subsidies; Criteria.

(4) conduct continuously an analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of the analysis, and advise the Commission of the results of the evaluation; Analysis and evaluation.

(5) maintain regulations that contain— Regulations.

(A) standards for the computation of subsidies for rail passenger service (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under section 562(a) of title 45) that are consistent with the compensation principles described in the final system plan established under the Regional Rail Reorganization Act of 1973 (87 Stat. 985), as amended, and which avoid cross-subsidization among commuter, intercity, and freight rail transportation; and 45 USC 701 note.

(B) standards for determining emergency commuter rail passenger transportation operating payments under section 1613 of this title; 49 USC 1613.

(6) maintain, and from time to time revise and republish after a proceeding under section 553 of title 5, standards for determining the revenue attributable to the rail properties, the avoidable costs of providing transportation, a reasonable return on the value, and a reasonable management fee;

(7) maintain regulations that—

Accounting system.

(A) develop an accounting system permitting the collection and publication by the Consolidated Rail Corporation or by profitable rail carriers providing transportation over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units; and

(B) determine the avoidable cost of providing rail freight transportation; and

(8) carry out other duties conferred on the Office by law.

(c) The criteria referred to in subsection (b)(3) of this section shall provide that rail properties are suitable for rail transportation continuation subsidies if the cost of the required subsidy to the taxpayers for the properties each year is less than—

(1) the cost of termination of rail transportation over the properties measured by increased fuel consumption and operational costs for alternative modes of transportation;

(2) the cost to the gross national product in terms of reduced output of goods and services;

(3) the cost of relocating or assisting, through unemployment, retraining, and welfare benefits, individuals and firms adversely affected if the rail transportation is terminated; and

(4) the cost to the environment measured by damage caused by increased pollution.

(d) The Office may at any time revise and republish the standards and regulations required by this section to incorporate changes made necessary by the accounting system developed under subsection (b)(7) of this section.

49 USC 10363.

§ 10363. Director

(a) The Director is the head of the Rail Services Planning Office and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed for a term of 6 years by the Chairman of the Interstate Commerce Commission with the concurrence of at least 5 members of the Commission. The Director may be removed by the Commission only for cause.

(c) The Director is appointed without regard to those provisions of title 5 governing appointments in the competitive service and is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS–18.

5 USC 5101 *et seq.*, 5331.

(d) The Director is subject to the direction of, and shall report to, a Commissioner or the Chairman, as designated by the Chairman.

49 USC 10364.

§ 10364. Powers

(a) With the concurrence of the Commissioner designated under section 10363(d) of this title or, if the Director of the Rail Services Planning Office and the Commissioner disagree (and that Commissioner is not the Chairman), with the concurrence of the Chairman of the Commission, the Director may enter into agreements or other transactions necessary to carry out the duties of the Office. The transactions may be entered into with any person, including a governmental authority, and without regard to section 5 of title 41.

(b) On written request of the Director for assistance, each department, agency, and instrumentality of the United States Government

shall consider the request, and may furnish assistance the Director considers necessary to carry out the duties of the Office. Assistance may be furnished on a reimbursable or nonreimbursable basis. Assistance includes the transfer of an officer or employee, with the consent, and without prejudice to the position and rating, of the officer or employee.

SUBCHAPTER V—OFFICE OF RAIL PUBLIC COUNSEL

§ 10381. Organization

49 USC 10381.

The Office of Rail Public Counsel is an independent office affiliated with the Interstate Commerce Commission.

§ 10382. Duties; standing

49 USC 10382.

(a) The Office of Rail Public Counsel—

(1) may petition the Interstate Commerce Commission to begin a proceeding on a matter within the jurisdiction of the Commission involving a rail carrier subject to this subtitle;

(2) may seek judicial review of Commission action on a matter involving a rail carrier providing transportation subject to this subtitle, to the extent, and on the same basis, that a person may seek judicial review;

(3) shall solicit, study, evaluate, and present before an informal or formal proceeding of the Commission, the views of those communities and users of rail transportation affected by a proceeding begun by, or pending before, the Commission, when the Director of the Office determines, for whatever reason (such as size or location), that any such community or user might not otherwise be represented adequately at the proceeding;

(4) shall—

(A) before the Commission and other departments, agencies, and instrumentalities of the United States Government when the policies and activities of any such department, agency, or instrumentality affect rail transportation subject to the jurisdiction of the Commission, evaluate and represent the public interest in safe, efficient, reliable, and economical rail transportation; and

(B) assist in constructively representing that public interest by other means;

(5) in carrying out its duties under clauses (1)–(4) of this subsection, shall assist the Commission in developing a public interest record in proceedings before the Commission; and

(6) shall carry out other duties conferred on the Office by law.

(b) The Office has standing as a party to any informal or formal proceeding that is pending or begun before the Commission involving a rail carrier providing transportation subject to this subtitle.

§ 10383. Director

49 USC 10383.

(a) The Director is the head of the Office of Rail Public Counsel and is responsible for administering and carrying out the duties of the Office.

(b) The Director is appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years.

(c) The Director is paid without regard to chapter 51 and subchapter III of chapter 53 of title 5. However, the annual rate of basic pay of the Director may not exceed the rate for GS–18.

5 USC 5101 *et seq.*, 5331.
3 CFR 1978 Comp., p. 236
5 USC 5332 note.

49 USC 10384.

§ 10384. Office staff

The Director of the Office of Rail Public Counsel may—

(1) appoint and fix the pay of employees of the Office; and

(2) procure under section 3109 of title 5 the temporary or intermittent services of experts and consultants.

49 USC 10385.

§ 10385. Powers

(a) Without regard to section 5 of title 41, the Director of the Office of Rail Public Counsel may enter into agreements or other transactions necessary to carry out the duties of the Office.

(b) On request of the Director for information, each department, agency, and instrumentality of the United States Government may furnish the information requested.

49 USC 10386.

§ 10386. Reports

The Director of the Office of Rail Public Counsel shall submit each month to the Chairman of the Interstate Commerce Commission a report on the activities of the Office for the preceding month. In its annual report to Congress, the Commission shall include its evaluation and recommendations with respect to the activities, accomplishments, and shortcomings of the Office.

49 USC 10387.

§ 10387. Budget requests and estimates

The Office of Rail Public Counsel shall submit its budget requests and budget estimates concurrently to Congress and to the President.

49 USC 10388.

§ 10388. Authorizations of appropriations

Not more than $1,000,000 may be appropriated to the Office of Rail Public Counsel for the fiscal year ending September 30, 1978, to carry out this subchapter.

CHAPTER 105—JURISDICTION

SUBCHAPTER I—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

Sec.

10501. General jurisdiction.
10502. Express carrier transportation.
10503. Railroad and water transportation connections and rates.
10504. Exempt rail mass transportation.
10505. Authority to exempt rail carrier transportation.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

10521. General jurisdiction.
10522. Exempt transportation between Alaska and other States.
10523. Exempt motor vehicle transportation in terminal areas.
10524. Transportation furthering a primary business.
10525. Exempt motor carrier transportation entirely in one State.
10526. Miscellaneous motor carrier transportation exemptions.

SUBCHAPTER III—WATER CARRIER TRANSPORTATION

10541. General jurisdiction.
10542. Exempt bulk transportation.
10543. Exempt incidental water transportation.
10544. Miscellaneous water carrier transportation exemptions.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

10561. General jurisdiction.
10562. Exempt freight forwarder service.

SUBCHAPTER I—RAIL, RAIL-WATER, EXPRESS, AND PIPELINE CARRIER TRANSPORTATION

§ 10501. General jurisdiction

49 USC 10501.

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation—

(1) by rail carrier, express carrier, sleeping car carrier, water common carrier, and pipeline carrier that is—

(A) only by railroad;

(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment; or

(C) by pipeline or by pipeline and railroad or water when transporting a commodity other than water, gas, or oil; and

(2) to the extent the transportation is in the United States and is between a place in—

(A) a State and a place in another State;

(B) the District of Columbia and another place in the District of Columbia;

(C) a State and a place in a territory or possession of the United States;

(D) a territory or possession of the United States and a place in another such territory or possession;

(E) a territory or possession of the United States and another place in the same territory or possession;

(F) the United States and another place in the United States through a foreign country; or

(G) the United States and a place in a foreign country.

(b) The Commission does not have jurisdiction under subsection (a) of this section over—

(1) the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this subtitle; or

(2) transportation by a water common carrier when that transportation would be subject to this subchapter only because the water common carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, a switching, terminal, lighterage, car rental, trackage, handling, or other charge by a rail carrier for services in the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(c) This subtitle does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Commission under this subchapter unless the State requirement is inconsistent with an order of the Commission issued under this subtitle or is prohibited under this subtitle.

49 USC 10502.

§ 10502. Express carrier transportation

The Interstate Commerce Commission has jurisdiction under this subchapter, and not under subchapter II or III of this chapter, over transportation of an express carrier—

(1) by motor vehicle, to the extent the transportation was subject to the jurisdiction of the Commission on September 18, 1940, under part I of the Interstate Commerce Act (24 Stat. 379), as amended; and

49 USC prec. 1 note.

(2) by water in providing express transportation.

49 USC 10503.

§ 10503. Railroad and water transportation connections and rates

Jurisdiction.

(a) When a rail carrier and a water common carrier may or do provide jointly, transportation, not entirely in one State from a place in the United States to another place in the United States, even if part of the transportation is outside the United States, the Interstate Commerce Commission has the following jurisdiction over that transportation:

(1) To establish a physical connection between the railroad lines of the rail carrier and the dock at which an interchange is to be made, the Commission may—

(A) require the rail carrier to make a suitable connection between its lines and tracks that have been constructed from the dock to the limits of the railroad right-of-way;

(B) subject to the same restrictions on findings of public convenience and necessity and other matters that are imposed on construction under sections 10901, 10902, and 10907 of this title, require the rail carrier or water common carrier, or both, to construct to the dock at least one track connecting with the lines of the rail carrier;

Post, pp. 1402, 1403, 1407.

(C) determine and prescribe the conditions under which a connecting track is to be operated; and

(D) in the construction or operation of the track, determine the sum to be paid to, or by, either carrier.

(2) The Commission may—

(A) prescribe proportional rates, maximum proportional rates, minimum proportional rates, or maximum and minimum proportional rates, of a rail carrier to and from the ports to which the passengers or property is transported by the water common carrier; and

(B) determine the passengers, property, vessels, and on which conditions those rates apply.

"Proportional rates."

In this paragraph, "proportional rates" means those rates that differ from the corresponding local rates to and from a port and apply only to passengers or property brought to the port or carried from the port by a water common carrier.

Hearing.

(b) The Commission may act under this section only after a full hearing. An order entered as the result of an action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

49 USC 10504.

§ 10504. Exempt rail mass transportation

(a) In this section—

"Local public body."

(1) "local public body"—

(A) has the same meaning given that term by section 1608(c)(2) of this title; and

(B) includes a person or entity that contracts with the local public body to provide transportation services.

(2) "rail mass transportation" means transportation services described in section 1608(c)(5) of this title that are provided by rail. "Rail mass transportation." 49 USC 1608.

(b) The Interstate Commerce Commission does not have jurisdiction under this subtitle over rail mass transportation provided by a local public body if— Jurisdiction.

(1) the Commission would have jurisdiction but for this section; and

(2) the fares of the local public body, or its authority to apply to the Commission for changes in those fares, is subject to the approval or disapproval of the chief executive officer of the State in which the transportation is provided.

§ 10505. Authority to exempt rail carrier transportation 49 USC 10505.

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title; *Ante*, p. 1337.

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary— Revocation.

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

SUBCHAPTER II—MOTOR CARRIER TRANSPORTATION

§ 10521. General jurisdiction 49 USC 10521.

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation by motor carrier and the procurement of that transportation to the extent that passengers, property, or both, are transported by motor carrier—

(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

(b) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a motor carrier;

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation provided by a motor carrier;

(3) allow a motor carrier to provide intrastate transportation on the highways of a State; or

Post, p. 1446. (4) except as provided in section 11504(b) of this title, affect the taxation power of a State over a motor carrier.

49 USC 10522. **§ 10522. Exempt transportation between Alaska and other States**

To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 10521 of this title is provided in a foreign country—

(1) the Interstate Commerce Commission does not have jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this subtitle related to rates and practices applicable to the transportation.

49 USC 10523. **§ 10523. Exempt motor vehicle transportation in terminal areas**

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iii) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter; and

(C) is incidental to transportation provided by the carrier or service provided by the freight forwarder that is subject to the jurisdiction of the Commission under any of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier, under subchapter III of this chapter when provided by such a water carrier, and under subchapter IV of this chapter when provided by such a freight forwarder.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

(A) is a transfer, collection, or delivery; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under this subchapter;

(iii) a water carrier subject to the jurisdiction of the Commission under subchapter III of this chapter; or

(iv) a freight forwarder subject to the jurisdiction of the Commission under subchapter IV of this chapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier or express carrier, under this subchapter when provided for such a motor carrier, under subchapter III of this chapter when provided for such a water carrier, and under subchapter IV of this chapter when provided for such a freight forwarder.

§ 10524. Transportation furthering a primary business 49 USC 10524.

The Interstate Commerce Commission does not have jurisdiction under this subchapter over the transportation of property by motor vehicle when—

(1) the property is transported by a person engaged in a business other than transportation; and

(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

§ 10525. Exempt motor carrier transportation entirely in one State 49 USC 10525.

(a) The Interstate Commerce Commission shall exempt transportation of a motor carrier subject to the jurisdiction of the Commission under this subchapter from compliance with this subtitle when—

(1) the motor carrier provides transportation entirely in one State; and

(2) the Commission finds that the nature or quantity of transportation provided by the motor carrier does not substantially affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title. *Ante*, p. 1337.

(b) The Commission may begin a proceeding under this section on its own initiative or on application of a motor carrier, a State authority having jurisdiction to regulate intrastate transportation by motor vehicle on the highways of that State, or an interested party. An application must be under oath and must contain information required by Commission regulation. The Commission may exempt the transportation by motor carrier or class of motor carriers. When an exemption is granted, the Commission shall issue a certificate of exemption describing the conditions required by the public interest under which the certificate is issued. Proceedings. Exemption certificate.

(c) When an application for exemption is accompanied by a certificate of the authority of the State in which the applicant provides transportation stating the finding of the State authority that the applicant is entitled to a certificate of exemption under this section, the exemption is effective on the 60th day after the application is filed with the Commission unless the Commission denies the application before

that date. If not denied before that date, the exemption remains effective until the Commission thereafter denies or revokes it.

Revocation.

(d) The Commission may revoke any part of an exemption granted under this section when it finds that the nature or quantity of the transportation by the motor carrier or class of motor carriers is, or is likely substantially to affect or impair uniform regulation by the Commission of motor carrier transportation in carrying out the transportation policy of section 10101 of this title. If the exemption is revoked, the Commission shall restore without further proceedings the authority any such motor carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption was effective.

Ante, p. 1337.

(e) State regulation of the operations of a motor carrier covered by an exemption under this section is not a burden on interstate or foreign commerce.

49 USC 10526.

§ 10526. Miscellaneous motor carrier transportation exemptions

(a) The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) a motor vehicle transporting only school children and teachers to or from school;

(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and is not operated on a regular route or between specified places;

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer's agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

(ii) may not exceed in each fiscal year 15 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transporta-

tion between those places for the cooperative association or federation and its members during that fiscal year;

(6) a motor vehicle carrying, for compensation, only property and that property consists of —

(A) ordinary livestock;

(B) agricultural or horticultural commodities (other than manufactured products thereof);

(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted); and

(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products;

(7) a motor vehicle used only to distribute newspapers;

(8) transportation by motor vehicle incidental to transportation by aircraft; or

(9) the operation of a motor vehicle in a national park or national monument.

(b) Except to the extent the Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over— *Ante*, p. 1337.

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from the jurisdiction of the Commission only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or certificate or permit issued, under this subtitle; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

SUBCHAPTER III—WATER CARRIER TRANSPORTATION

§ 10541. General jurisdiction

49 USC 10541.

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over transportation insofar as water carriers are concerned—

(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

(2) by water carrier and rail carrier or motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Commission only has jurisdiction over that part of the transportation provided—

(A) by rail carrier or motor carrier that is in the United States; and

(B) by water carrier that is from a place in the United States to another place in the United States; and

(3) by water carrier or by water carrier and rail carrier or motor carrier between a place in the United States and a place outside the United States, to the extent that—

(A) when the transportation is by rail carrier or motor carrier, the transportation is provided in the United States;

(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

(b) If transportation by a carrier would be subject to the jurisdiction of the Commission under both subsection (a) of this section and subchapter I of this chapter, then that transportation is subject to the jurisdiction of the Commission under subsection (a) of this section. However, that transportation is also subject to the jurisdiction of the Commission under subchapter I of this chapter to the extent that this subtitle imposes requirements on transportation by carriers subject to the jurisdiction of the Commission under subchapter I that are not imposed on transportation by carriers subject to the jurisdiction of the Commission under subsection (a) of this section.

(c) This subtitle does not—

(1) affect the power of a State to regulate intrastate transportation provided by a water carrier; or

(2) authorize the Commission to prescribe or regulate a rate for intrastate transportation by a water carrier.

49 USC 10542.

§ 10542. Exempt bulk transportation

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by a water carrier of commodities in bulk that, under an existing custom of the trade in the handling and transportation of commodities in bulk as of June 1, 1939—

(A) are loaded and carried without wrappers or containers; and

(B) are received and delivered by the carrier without transportation mark or count.

(2) This subsection does not apply to transportation subject to chapter 23A of title 46 on September 18, 1940. 46 USC 843 *et seq.*

(b) The Commission does not have jurisdiction under this subchapter over transportation by a water contract carrier of commodities in bulk in a non-oceangoing vessel on a normal voyage during which—

(1) the cargo space of the vessel is used for carrying not more than 3 commodities in bulk; and

(2) the vessel passes in or through waters that are international for navigational purposes by a treaty to which the United States is a party.

(c) The Commission does not have jurisdiction under this subchapter over transportation by water carrier of liquid cargoes in bulk in tank vessels—

(1) designed exclusively for transporting such a cargo; and

(2) certified under regulations of the Secretary of Transportation under section 391a of title 46.

§ 10543. Exempt incidental water transportation 49 USC 10543.

(a)(1) The Interstate Commerce Commission does not have jurisdiction under this subchapter when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage;

(B) is provided by—

(i) a rail carrier subject to the jurisdiction of the Commission under subchapter I of this chapter; or

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; and

(C) is incidental to transportation provided by the carrier subject to the jurisdiction of the Commission under either of those subchapters.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided by such a rail carrier and under subchapter II of this chapter when provided by such a motor carrier.

(b)(1) Except to the extent provided in paragraph (2) of this subsection, the Commission does not have jurisdiction under this subchapter over transportation by water when the transportation—

(A)(i) is provided in a terminal area and is a transfer, collection, or delivery; or

(ii) is flotage, car ferrying, lighterage, or towage; and

(B) is provided by a person as an agent or under other arrangement for—

(i) a rail carrier or express carrier subject to the jurisdiction of the Commission under subchapter I of this chapter;

(ii) a motor carrier subject to the jurisdiction of the Commission under subchapter II of this chapter; or

(iii) a water carrier subject to the jurisdiction of the Commission under this subchapter.

(2) Transportation exempt from the jurisdiction of the Commission under paragraph (1) of this subsection is considered transportation provided by the carrier for whom the transportation was provided and is subject to the jurisdiction of the Commission under subchapter I of this chapter when provided for such a rail carrier

or express carrier, under subchapter II of this chapter when provided for such a motor carrier, and under this subchapter when provided for such a water carrier.

49 USC 10544.

§ 10544. Miscellaneous water carrier transportation exemptions

(a) Except to the extent the Interstate Commerce Commission finds it necessary to exercise jurisdiction to carry out the transportation policy of section 10101 of this title, the Commission does not have jurisdiction under this subchapter over transportation by water carrier when the transportation is provided—

Ante, p. 1337.

(1) entirely in one harbor or between places in contiguous harbors, other than transportation under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the limits of the harbor or the contiguous harbors;

(2) by a vessel of not more than 100 tons carrying capacity or 100 indicated horsepower;

(3) by a vessel carrying only passengers and equipped to carry not more than 16 passengers;

(4) by a ferry;

(5) by a water carrier transporting equipment of contractors used, or to be used, in construction or repair for the water carrier; or

(6) to carry out salvage operations.

(b) The Commission may exempt from its jurisdiction under this subchapter the transportation of passengers between places in the United States through a foreign port when the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

Proceeding.

(c) The Commission shall exempt from its jurisdiction under this subchapter the transportation of commodities by water contract carrier when the Commission finds that the transportation is not actually and substantially competitive with transportation provided by a carrier subject to the jurisdiction of the Commission under subchapter I or II of this chapter because of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk. The Commission may prescribe conditions applicable to an exemption under this subsection. The Commission may begin a proceeding under this subsection on application of a water contract carrier.

Conditions.
Proceeding.

(d) (1) The Commission does not have jurisdiction under this subtitle over transportation by a water common carrier provided between the 48 contiguous States and Alaska if, before January 3, 1959—

(A) the carrier provided that transportation, was also a motor common carrier, and has continued to provide the transportation since before that date; and

(B) the transportation was subject to chapters 23 and 23A of title 46.

46 USC 801 *et seq.*, 843 *et seq.*

(2) The transportation remains subject to the jurisdiction of the Federal Maritime Commission.

(e) The Commission shall exempt the transportation of property on a vessel furnished by a water contract carrier to a person not a carrier providing transportation or service subject to the jurisdiction of the Commission under this subtitle when the person uses the vessel to trans-

port its own property and the Commission finds its jurisdiction is not necessary to carry out the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this section on its own initiative or on application of an interested party. The Commission may exempt the transportation by person or class of persons. The Commission shall specify the period of time during which the exemption is effective. The Commission may revoke the exemption when it finds that its jurisdiction over the transportation of the property is necessary to carry out the transportation policy of section 10101. The Commission may deny or revoke an exemption only after an opportunity for a proceeding.

Ante, p. 1337.
Proceeding.

(f) (1) The Commission shall exempt the transportation of property by a water carrier under this subchapter when the Commission finds that the carrier is transporting only the property of a person owning substantially all of the voting stock of the carrier. When an exemption is granted, the Commission shall issue a certificate of exemption. The Commission may begin a proceeding under this subsection on its own initiative or on application of an interested party.

Exemption certificate.
Proceeding.

(2) The Commission may revoke an exemption granted under this subsection when it finds the water carrier is no longer entitled to the exemption. If the exemption is revoked, the Commission shall restore without further proceedings the authority the water carrier had to provide transportation subject to the jurisdiction of the Commission under this subchapter at the time the exemption became effective.

Revocation.

SUBCHAPTER IV—FREIGHT FORWARDER SERVICE

§ 10561. General jurisdiction

49 USC 10561.

(a) Subject to this chapter and other law, the Interstate Commerce Commission has jurisdiction over service that a freight forwarder—

(1) undertakes to provide; or

(2) is authorized or required under this subtitle to provide; to the extent transportation is provided in the United States and is between—

(A) a place in a State and a place in another State, even if part of the transportation is outside the United States;

(B) a place in a State and another place in the same State through a place outside the State; or

(C) a place in the United States and a place outside the United States.

(b) The Commission does not have jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation—

(1) of an air carrier subject to chapter 20 of this title; or

49 USC 1301 *et seq.*

(2) by motor vehicle exempt under section 10526(a)(8) of this title.

§ 10562. Exempt freight forwarder service

49 USC 10562.

The Interstate Commerce Commission does not have jurisdiction under this subchapter over—

(1) service provided by, or under the direction of, a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association;

(2) service subject to the jurisdiction of the Commission and provided with respect to only one of the following categories:

(A) ordinary livestock;
(B) fish (including shellfish);
(C) agricultural or horticultural commodities (other than manufactured products thereof); or
(D) used household goods;

(3) the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, for the shipper or members of the group to secure carload, truckload, or other volume rates; or

(4) the service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed.

CHAPTER 107—RATES, TARIFFS, AND VALUATIONS

SUBCHAPTER I—GENERAL AUTHORITY

Sec.
10701. Standards for rates, classifications, through routes, rules, and practices.
10702. Authority for carriers to establish rates, classifications, rules, and practices.
10703. Authority for carriers to establish through routes.
10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission.
10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission.
10706. Rate agreements: exemption from antitrust laws.
10707. Investigation and suspension of new rail carrier rates, classifications, rules, and practices.
10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices.
10709. Determination of market dominance in rail carrier rate proceedings.
10710. Elimination of discrimination against recyclable materials.
10711. Effect of certain sections on rail rates and practices.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

10721. Government traffic.
10722. Special passenger rates.
10723. Charitable purposes.
10724. Emergency rates.
10725. Special freight forwarder rates.
10726. Long and short haul transportation.
10727. Demand-sensitive rates.
10728. Separate rates for distinct rail services.
10729. Rail carriers; incentive for capital investment.
10730. Rates and liability based on value.
10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials.

SUBCHAPTER III—LIMITATIONS

10741. Prohibitions against discrimination by common carriers.
10742. Facilities for interchange of traffic.
10743. Payment of rates.
10744. Liability for payment of rates.
10745. Continuous carriage of freight.
10746. Transportation of commodities manufactured or produced by a rail carrier.
10747. Transportation services or facilities furnished by shipper.
10748. Transportation of livestock by rail carrier.
10749. Exchange of services and limitation on use of common carriers by freight forwarders.
10750. Demurrage charges.

SUBCHAPTER IV—TARIFFS AND TRAFFIC

10761. Transportation prohibited without tariff.
10762. General tariff requirements.
10763. Designation of certain routes by shippers or Interstate Commerce Commission.
10764. Arrangements between carriers: copy to be filed with Interstate Commerce Commission.
10765. Water transportation under arrangements with certain other carriers.
10766. Freight forwarder traffic agreements.

SUBCHAPTER V—VALUATION OF PROPERTY

10781. Investigation and report by Interstate Commerce Commission.
10782. Requirements for establishing value.
10783. Cooperation and assistance of carriers.
10784. Revision of property valuations.
10785. Finality of valuation: notice, protest, and review.
10786. Applicability.

SUBCHAPTER I—GENERAL AUTHORITY

§ 10701. Standards for rates, classifications, through routes, rules, and practices 49 USC 10701.

(a) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title must be reasonable. A through route established by such a carrier must be reasonable. Divisions of joint rates by those carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

(b) (1) A rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that contributes, or would contribute, to the going concern value of that carrier does not violate subsection (a) of this section because it is below a reasonable minimum rate for the service rendered or to be rendered. This subsection does not prohibit increasing a rate to a level that contributes to the going concern value of a rail carrier if the increase is otherwise reasonable. The increased rate is presumed reasonable if it does not exceed the incremental costs of rendering the transportation to which the increase applies. Rate increases.

(2) (A) A rate for transportation by a rail carrier that equals or exceeds the variable costs of providing the transportation is presumed to contribute to the going concern value of the rail carrier proposing the rate. However, the presumption may be rebutted by clear and convincing evidence.

(B) Variable and incremental costs shall be determined under formulas prescribed by the Commission. However, when making a determination of variable costs, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of that carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title may not discriminate in its rates against a connecting line of another carrier providing transportation subject to the juris- Nondiscrimination.

diction of the Commission under either of those subchapters or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

(d) In a proceeding to determine whether a rate for transportation or service provided by a common carrier subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 of this title complies with subsection (a) of this section, the good will, earning power, or certificate or permit under which that carrier is operating may not be considered or admitted as evidence of the value of the property of that carrier. When the carrier receives a certificate or permit under chapter 109 of this title, it is considered to have agreed to this subsection for itself and for all transferees of that certificate or permit.

Post, p. 1402.

49 USC 10702.

§ 10702. Authority for carriers to establish rates, classifications, rules, and practices

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish—

(1) rates, including divisions of joint rates, and classifications for transportation and service it may provide under this subtitle; and

(2) rules and practices on matters related to that transportation or service, including rules and practices on—

(A) issuing tickets, receipts, bills of lading, and manifests;

(B) carrying of baggage;

(C) the manner and method of presenting, marking, packing, and delivering property for transportation; and

(D) facilities for transportation.

Filing.

(b) A contract carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title shall establish, and file with the Commission, actual and minimum rates for the transportation it may provide under this subtitle and rules and practices related to those rates. However, this subsection does not require a motor contract carrier to maintain the same rates and rules related to those rates for the same transportation provided to shippers served by it. The Commission may grant relief from this subsection when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers or on its own initiative for a water contract carrier or group of water contract carriers.

Relief.

Ante, p. 1337.

Proceeding.

49 USC 10703.

§ 10703. Authority for carriers to establish through routes

(a) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall establish through routes as follows:

(1) Rail, express, sleeping car, and pipeline carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(2) Rail and water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes.

(3) A motor common carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

(4)(A) A motor common carrier of property may establish through routes and joint rates and classifications applicable to them with other carriers of the same type, with rail and express carriers, and with water common carriers, including those referred to in subparagraph (D) of this paragraph.

(B) A motor common carrier of passengers may establish through routes and joint rates applicable to them with rail carriers or water common carriers, including those referred to in subparagraph (D) of this paragraph, or both.

(C) Water common carriers shall establish through routes with each other and shall establish rates and classifications applicable to those routes and may establish—

(i) through routes and rates and classifications applicable to them with motor common carriers; and

(ii) through routes and joint rates and classifications applicable to them with water common carriers referred to in subparagraph (D)(ii) of this paragraph.

(D) A through route or joint rate or classification authorized to be established with a carrier referred to in this subparagraph may be established with a water common carrier providing transportation subject to—

(i) the jurisdiction of the Commission under subchapter III of chapter 105 of this title; or

(ii) section 801 or sections 843–848 of title 46 (including persons holding themselves out to transport goods by water but not owning or operating vessels) and providing transportation of property between Alaska or Hawaii and the other 48 States.

A through route and a rate, classification, rule, or practice related to a through route with a water common carrier referred to in this subparagraph is subject to the provisions of this subtitle governing the type of carrier establishing the rate, classification, rule, or practice.

Operating rules.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title that establishes a through route with another carrier under this section shall establish rules for its operation and provide—

(1) reasonable facilities for operating the through route; and

(2) reasonable compensation to persons entitled to compensation for services related to the through route.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Interstate Commerce Commission

49 USC 10704.

Violations.

(a)(1) When the Interstate Commerce Commission, after a full hearing, decides that a rate charged or collected by a carrier for transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or that a classification, rule, or practice of that carrier, does or will violate this subtitle, the Commission may prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed. The Commission may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Commission.

Revenue levels, standards and procedures.

(2) The Commission shall maintain standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under that subchapter that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Commission shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. However, a rate, classification, rule, or practice of a rail carrier may be maintained at a particular level to protect the traffic of another carrier or mode of transportation only if the Commission finds that the rate or classification, or rule or practice related to it, reduces or would reduce the going concern value of the carrier charging the rate. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(b) (1) When the Commission decides that a rate charged or collected by—

(A) a motor common carrier for providing transportation subject to its jurisdiction under subchapter II of chapter 105 of this title by itself, with another motor common carrier, with a rail, express, or water common carrier, or any of them;

(B) a water common carrier for providing transportation subject to its jurisdiction under subchapter III of chapter 105 of this title; or

(C) a freight forwarder for providing service subject to its jurisdiction under subchapter IV of chapter 105 of this title;

or that a classification, rule, or practice of that carrier, does or will violate this chapter, the Commission shall prescribe the rate (including a maximum or minimum rate, or both), classification, rule, or practice to be followed.

(2) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the following:

(A) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier; and

(B) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.

(3) If the carrier is a motor or water common carrier or a freight forwarder, the Commission shall also consider the need, in the public interest, of adequate and efficient transportation of service by that carrier at the lowest cost consistent with providing that transportation or service.

(4) If the carrier is a motor common carrier or a freight forwarder, the Commission shall also consider the inherent advantages of transportation by motor common carrier or the inherent nature of freight forwarding, respectively.

(c) (1) When the Commission finds that a minimum rate of a contract carrier for transportation subject to the jurisdiction of the Com-

mission under subchapter II or III of chapter 105 of this title, or a rule or practice related to the rate or the value of the service under it, violates this chapter or the transportation policy of section 10101 of this title, the Commission may prescribe the minimum rate, rule, or practice for the carrier that is desirable in the public interest and will promote that policy. In prescribing the rate, the Commission may not give a motor or water contract carrier an advantage or preference in competition with a motor or water common carrier, respectively, if an advantage or preference is unreasonable or inconsistent with the public interest and the transportation policy of section 10101 of this title.

Ante, p. 1337.

(2) When prescribing a minimum rate, or rule or practice related to a rate, for a contract carrier, the Commission shall consider—

(A) the cost of the transportation provided by the carrier; and

(B) the effect of a prescribed minimum rate, or rule or practice, on the movement of traffic by that carrier.

(d) In a proceeding involving competition between carriers of different modes of transportation subject to this subtitle, except rail carriers, the Commission, in determining whether a rate is less than a reasonable minimum rate, shall consider the facts and circumstances involved in moving the traffic by the mode of carrier to which the rate is applicable. Subject to the transportation policy of section 10101 of this title, rates of a carrier may not be maintained at a particular level to protect the traffic of another mode of transportation.

Proceedings.

(e) In a proceeding involving a proposed increase or decrease in rail carrier rates, the Commission shall specifically consider allegations that the increase or decrease would (1) change the rate relationships between commodities, ports, places, regions, areas, or other particular descriptions of traffic (without regard to previous Commission consideration or approval of those relationships), and (2) have a significant adverse effect on the competitive position of shippers or consignees served by the rail carrier proposing the increase or decrease. The Commission shall investigate to determine whether the change or effect violates this subtitle when it finds that those allegations are substantially supported on the record. The investigation may be made either before or after the proposed increase or decrease becomes effective and either in that proceeding or in another proceeding.

Investigation.

(f) The Commission may begin a proceeding under this section on its own initiative or on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Commission. A complaint under subsection (c) of this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

Post, p. 1449.

§ 10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Interstate Commerce Commission

49 USC 10705.

(a)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II (except a motor common carrier of property),

Differential.

or III of chapter 105 of this title. When one of the carriers on a through route is a water carrier, the Commission shall prescribe a differential between an all-rail rate and a joint rate related to the water carrier if the differential is justified.

(2) The Commission may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

Post, p. 1419.

(A) required under section 10741–10744 or 11103 of this title;

(B) one of the carriers is a water carrier;

(C) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(D) the Commission decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Commission shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

Prohibition.

(3) The Commission may not prescribe—

(A) a through route, classification, practice, or rate between a street electric passenger railway not engaged in the general business of transporting freight in addition to its passenger and express business and (i) a rail carrier of a different character, or (ii) a water common carrier; or

(B) a through route or joint rate applicable to it to assist a participating carrier to meet its financial needs.

(b) The Commission shall prescribe the division of joint rates to be received by a carrier providing transportation subject to its jurisdiction under chapter 105 of this subtitle when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Commission under subsection (a) of this section, does or will violate section 10701 of this title. When prescribing the division of joint rates of a rail or water carrier under this subsection, the Commission shall consider—

(1) the efficiency with which the carriers concerned are operated;

(2) the amount of revenue required by the carriers to pay their operating expenses and taxes and receive a fair return on the property held and used for transportation;

(3) the importance of the transportation to the public;

(4) whether a particular participating carrier is an originating, intermediate, or delivering line; and

(5) other circumstances that ordinarily, without regard to the mileage traveled, entitle one carrier to a different proportion of a rate than another carrier.

(c) If a division of a joint rate prescribed under a decision of the Commission is later found to violate section 10701 of this title, the Commission may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Commission decides is justified. The Commission may make a decision under this paragraph effective as part of its original decision.

(d) When the Commission suspends, for investigation, a rail or water common carrier tariff that would cancel a through route, joint rate, or classification without the consent of all carriers that are parties to it or without authorization of the Commission, the carrier proposing the cancellation has the burden of proving that cancellation is consistent with the public interest without regard to subsection (a)(2) of this section. In determining whether a cancellation involving a rail carrier is consistent with the public interest, the Commission shall, to the extent applicable—

(1) compare the distance traveled and the average transportation time and expense required using (A) the through route, and (B) alternative routes, between the places served by the through route;

(2) consider any reduction in energy consumption that may result from cancellation; and

(3) consider the overall impact of cancellation on the shippers and carriers that are affected by it.

Hearing and proceeding.

(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint and may take action only after a full hearing. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by rail carrier within one year after the complaint is filed if the proceeding is brought on complaint or within 2 years after the commencement of a proceeding on the initiative of the Commission and must take final action by the 270th day after completion of the evidentiary proceedings. The Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but when the Commission cannot meet those time limits, it must report its reasons to Congress.

Extension, report to Congress.

(2) When a carrier begins a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section by filing a complaint with the Commission, the carrier must also file all of the evidence in support of its position with the complaint and, during the course of the proceeding may only file rebuttal or reply evidence unless otherwise ordered by the Commission.

Discovery.

(3) When the Commission receives a notice of intent to begin a proceeding to adjust the division of joint rates for transportation by a rail carrier under this section, the Commission shall allow the party filing the notice the same right to discovery that a party would have on filing a complaint under this section.

Emergency.

(f) When there is a shortage of equipment, congestion of traffic, or other emergency declared by the Commission, it may prescribe temporary through routes that are desirable in the public interest on its own initiative or on application without regard to subsection (e) of this section, subchapter II of chapter 103 of this title, and subchapter II of chapter 5 of title 5.

Ante, p. 1345.
5 USC 551.

§ 10706. Rate agreements: exemption from antitrust laws

49 USC 10706.

Definitions.

(a)(1) In this subsection—

(A) "affiliate" means a person controlling, controlled by, or under common control or ownership with another person and "ownership" refers to equity holdings in a business entity of at least 5 percent.

(B) "single-line rate" refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by

switching, drayage or other terminal carriers or agencies) can be provided by that carrier.

Approval.

(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that is a party to an agreement of at least 2 rail carriers or an agreement with a class of carriers referred to in subsection (c)(1)(B)-(E) of this section, that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, shall apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Commission may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

Verified statement, filing.

(B) The Commission may approve an agreement under subparagraph (A) of this paragraph only when the carriers applying for approval file a verified statement with the Commission. Each statement must specify for each rail carrier that is a party to the agreement—

(i) the name of the carrier;

(ii) the mailing address and telephone number of its headquarter's office; and

(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

Final disposition.

(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

(i) permit a rail carrier to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, or on rates related to a particular interline movement unless that rail carrier can practicably participate in that movement; or

(ii) permit, provide for, or establish a procedure for joint consideration or joint action to protest or seek the suspension of a rate or classification filed by a rail carrier under section 10707 of this title when that rate or classification is established by independent action.

(B) Subparagraph (A) (i) and (ii) of this paragraph does not apply to—

(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or Notice and comments.

(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply.

(C) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title (except a rail carrier) that is a party to an agreement of at least 2 carriers related to rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them, may apply to the Commission for approval of that agreement under this subsection. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in section 12 of title 15, do not apply to parties and other persons with respect to making or carrying out the agreement. *Ante*, p. 1358. *Ante*, p. 1337.

(c) (1) In this subsection, carriers are classified as follows: Carrier classification.

(A) Rail, express, and sleeping car carriers are a class.

(B) Pipeline carriers are a class.

(C) Motor carriers are a class.

(D) Water carriers are a class.

(E) Freight forwarders are a class.

(2) The Commission may not approve an agreement under this section. Unapprovable agreements.

(A) between or among carriers of different classes unless, in addition to the finding required under subsection (a) or (b) of this section, the Commission finds that the agreement is limited to matters related to transportation under joint rates or over through routes;

(B) related to a pooling, division, or other matter to which subchapter III of chapter 113 of this title applies; or *Post*, p. 1434.

(C) establishing a procedure for determination of a matter through joint consideration unless the Commission finds that each party to the agreement has the absolute right under it to take independent action before or after a determination is made under that procedure.

(d) The Commission may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Commission, or its delegate, may inspect a record maintained under this section. Records maintenance.

Review.

(e) The Commission may review an agreement approved under subsection (a) or (b) of this section and shall change the conditions of approval or terminate it when necessary to comply with (1) the public interest and subsection (a), or (2) subsection (b). The Commission shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

Postponement.

Proceeding.

(f) The Commission may begin a proceeding under this section on its own initiative or on application. Action of the Commission under this section (1) approving an agreement, (2) denying, ending, or changing approval, (3) prescribing the conditions on which approval is granted, or (4) changing those conditions, has effect only as related to application of the antitrust laws referred to in subsection (a) or (b) of this section.

Review.

(g) The Commission shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years (1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest, and (2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system. If the Commission finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval. The Commission shall report to the President and Congress the results of the review as a part of its annual report under section 10311 of this title.

Report to President and Congress.

Ante, p. 1345.

Assessment report by FTC, publication.

(h)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Commission on—

(A) possible anticompetitive features of—

(i) agreements approved or submitted for approval under subsection (a) of this section; and

(ii) an organization operating under those agreements; and

(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this subtitle and of the transportation policy of section 10101 of this title.

(2) Reports received by the Commission under this subsection shall be published and made available to the public under section 552(a) of title 5.

49 USC 10707.

§ 10707. Investigation and suspension of new rail carrier rates, classifications, rules, and practices

(a) When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is filed with the Interstate Commerce Commission by a rail carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, the Commission may begin a proceeding, on its own initiative or on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading in response to its decision to begin the proceeding.

Ante, p. 1359.

Notice.

(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 7th month after the rate, classification, rule, or practice was to become effective. However, if the Commission reports to Congress by the end of the 7th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice— Extension, report to Congress.

(A) is effective at the end of that time period; or

(B) if already in effect at the end of that time period, remains in effect.

(2) If an interested party has filed a complaint under subsection (a) of this section, the Commission may set aside a rate, classification, rule, or practice that has become effective under this section if the Commission finds it to be in violation of this chapter.

(c)(1) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice for 7 months after the time it would otherwise go into effect or, if a report is made under subsection (b) of this section, for 10 months after the time it would otherwise go into effect. However, the Commission may suspend a rate under this subsection only if it appears from specific facts shown by the verified complaint of a person that—

(A) without suspension, the proposed rate change will cause substantial injury to the complainant or the party represented by the complainant; and

(B) it is likely that the complainant will prevail on the merits.

(2) The burden is on the complainant to prove the facts required under paragraph (1) (A) and (B) of this subsection.

(d) If the Commission does not suspend a proposed rate increase that is the subject of a proceeding under this section, the Commission shall require the rail carriers involved to account for all amounts received under the increase until the Commission completes the proceeding or until 7 months after the increase becomes effective, whichever occurs first, or, if the proceeding is extended under subsection (b) of this section, until the Commission completes the proceeding or until 10 months after the increase becomes effective, whichever occurs first. The accounting must specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unjustified, plus interest at a rate equal to the average yield (on the date the proposed increase is filed) of marketable securities of the United States Government having a duration of 90 days. When any part of a proposed rate decrease is suspended and later found to comply with this subtitle, the rail carrier may refund any part of the portion of the decrease found to comply with this subtitle if the carrier makes the refund available equally to the shippers who participate in the rate according to the relative amounts of traffic shipped at that rate. Accounting. Refund requirement.

(e) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall specifically consider proof that the proposed rate, classification, rule, or practice will have a significantly adverse effect (in violation of section 10701, 10741–

10744, or 11103 of this title) on the competitive posture of shippers or consignees affected by the proposed rate, classification, rule, or practice. The Commission shall give proceedings under this section preference over all other proceedings related to rail carriers pending before it and make its decision at the earliest practical time.

49 USC 10708.

§ 10708. Investigation and suspension of new nonrail carrier rates, classifications, rules, and practices

(a)(1) The Interstate Commerce Commission may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice immediately, on its own initiative or on application of an interested party when—

(A) a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is filed with the Commission by a common carrier, other than a rail carrier, under this subtitle; or

(B) a new or reduced rate or rule or practice that causes a reduction of a rate is filed with the Commission by a contract carrier under this subtitle.

Notice.

(2) The Commission must give reasonable notice before beginning a proceeding under this section but may act without allowing an interested carrier to file an answer or other formal pleading in response to its decision to begin the proceeding. The Commission may take whatever final action on a rate, classification, rule, or practice under this section, after a full hearing (whether completed before or after the rate, classification, rule, or practices goes into effect), as it could in a proceeding begun after a rate, classification, rule, or practice became effective.

(b) Pending final Commission action in a proceeding under subsection (a) of this section, the Commission may suspend the proposed rate, classification, rule, or practice at any time for not more than 7 months beyond the time it would otherwise go into effect by (1) delivering to each affected carrier, and (2) filing with the proposed rate, classification, rule, or practice, a statement of reasons for the suspension. If the Commission does not take final action during the suspension period, the proposed rate, classification, rule, or practice is effective at the end of that period. However, if an increase in a rate for, or related to, transportation of property by an express, sleeping car, or pipeline carrier becomes effective under this subsection, the Commission may require the interested carrier to account for all amounts received under it and specify by whom and on whose behalf those amounts were paid. When the Commission takes final action, it may require the carrier to refund, with interest, to the persons on whose behalf those amounts were paid, the part of the increased rate found to be in violation of this subtitle.

Accounting.

Refund requirement.

(c) In a proceeding under this section, the burden is on the carrier proposing the changed rate, classification, rule, or practice to prove that the change is reasonable. The Commission shall give proceedings under this section preference over all other proceedings related to that type of carrier pending before it and make its decision at the earliest practical time.

49 USC 10709.

§ 10709. Determination of market dominance in rail carrier rate proceedings

"Market dominance."

(a) In this section, "market dominance" means an absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is challenged as being unreasonably high, the Commission shall determine, within 90 days after the start of a proceeding under section 10707 of this title to investigate the lawfulness of that rate, whether the carrier proposing the rate has market dominance over the transportation to which the rate applies. The Commission may make that determination on its own initiative or on complaint. A finding by the Commission that the carrier does not have market dominance is determinative in a proceeding under this subtitle related to that rate or transportation unless changed or set aside by the Commission or set aside by a court of competent jurisdiction. *Ante*, p. 1359.

(c) When the Commission finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum. This subsection does not limit the power of the Commission to suspend a rate under section 10707(c) of this title. However, if the Commission has found that a carrier does not have market dominance over the transportation to which the rate applies, the Commission may suspend an increase in that rate as being in excess of a reasonable maximum for that transportation only if it specifically changes or sets aside its prior determination of market dominance. Suspension.

§ 10710. Elimination of discrimination against recyclable materials 49 USC 10710.

The Interstate Commerce Commission shall maintain regulations that will eliminate discrimination against the transportation of recyclable materials in rate structures and in other Commission practices where discrimination exists.

§ 10711. Effect of certain sections on rail rates and practices 49 USC 10711.

Sections 10701 (a) and (b), 10707, 10709, 10727, and 10728 of this title, related to rail carriers, do not—

(1) modify the application of sections 10701(c), 10726, 10741–10744, or 11103 of this title in determining whether a rate or practice complies with this subtitle;

(2) make a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition that is necessary in the public interest comply with this subtitle;

(3) affect a law in existence on February 5, 1976, or the authority of the Interstate Commerce Commission related to rate relationships between ports; or

(4) affect the authority and responsibility of the Commission to guarantee the equalization of rates in the same port.

SUBCHAPTER II—SPECIAL CIRCUMSTANCES

§ 10721. Government traffic 49 USC 10721.

(a)(1) Except as provided in this section, the full applicable commercial rate shall be paid for transportation for the United States Government by a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission

under this subtitle. Section 5 of title 41 does not apply when transportation for the United States Government can be obtained from a common carrier lawfully operating in the area where the transportation will be provided. When prescribing rates for transportation or service by those common carriers, the Commission shall consider increased revenues those carriers receive under this subsection to reflect those increases in appropriate readjustments of their rates.

Increased revenues.

(2) Paragraph (1) of this subsection does not apply, and the law related to compensation for transportation for the United States Government in effect immediately before September 18, 1940, applies to a rail carrier if that carrier, or its predecessor in interest, received a grant of land from the United States to aid in constructing the railroad it operates but did not file a release with the Secretary of the Interior before September 18, 1941, of claims against the United States Government to, or arising out of, lands that were granted, claimed to have been granted, or claimed should have been granted to that carrier or its predecessor in interest. This paragraph does not require a rail carrier to reconvey to the United States land patented or certified to it or prevent the patent of land that the Secretary of the Interior found was sold by the carrier to an innocent purchaser for value or as preventing the patent of land listed or selected by the carrier and finally approved by the Secretary of the Interior to the extent that issuance of those patents is authorized by law.

(b) (1) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may transport individuals for the United States Government without charge or at reduced rates. The carriers may transport custom inspectors and immigration officers without charge. A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title shall provide transportation for the United States Postal Service under chapters 50 and 52 of title 39, and may transport property for the United States Government, a State, or municipal government without charge or at reduced rates.

Ante, pp. 1359, 1361, 1365.

Ante, p. 1358.

39 USC 5001 *et seq.*, 5201 *et seq.*

Quoted or tendered rate, filing.

(2) Unless a carrier is advised by the United States Government that disclosure of a quotation or tender of a rate established under paragraph (1) of this subsection for transportation provided to the United States Government would endanger the national security, the carrier shall file the quoted or tendered rate, including a retroactive rate made after the transportation has been provided, concurrently, with the Commission and the department, agency, or instrumentality of the United States Government for which the quotation or tender was made or for which the proposed transportation is to be provided. A carrier may quote or tender a rate established under an agreement made and approved under section 10706 of this title, but the exemption from the antitrust laws provided by that section applies only when the filing requirements of this paragraph are met.

(c) A different policy, rule of rate making, system of accounting, method of determining costs of transportation, value of property, or rate of return may not be applied to a water carrier owned or controlled by the United States Government than is applied to a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title.

49 USC 10722.

§ 10722. Special passenger rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I,

II, or III of chapter 105 of this title may establish mileage, excursion, and commutation passenger rates including joint interchangeable 5,000 mile passenger rates with the privilege of carrying an amount of baggage without charge for at least 1,000 miles. A carrier that establishes a rate under this subsection may issue tickets reflecting that rate. A carrier that establishes a joint interchangeable 5,000 mile passenger rate shall also establish rules related to that rate specifying the amount of baggage that may be carried without charge under it.

Ante, pp. 1359, 1361, 1365.

Ticket issuance.

Baggage charge, rules.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may establish reduced rates for individuals when the cost of that transportation is an expense of an individual who—

(1) is a member of the armed forces of the United States or another country when that individual is traveling in uniform on official leave, furlough, or pass; or

(2) has been released from the armed forces of the United States not more than 30 days before beginning that transportation and is traveling home or to a prospective place of abode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under one of those subchapters may provide transportation without charge for an individual who is—

(1) a necessary caretaker of livestock, poultry, milk, or fruit;

(2) an executive officer, general chairman, or counsel of an employee organization authorized to represent employees of that carrier under chapter 8 of title 45;

45 USC 151 *et seq.*

(3) an employee in charge of the mails when working or traveling to or from work;

(4) a newsboy on a train;

(5) a baggage agent; or

(6) a witness attending a legal investigation in which that carrier has an interest.

(d) (1) In this subsection—

Definitions.

(A) "employee of a carrier" includes an individual who—

(i) is furloughed, pensioned, or not on active duty because of advanced age or infirmity that occurred while the individual was employed by that carrier;

(ii) is being transported for purposes of reemployment by that carrier; or

(iii) was killed while employed by a carrier.

(B) "family" refers to the family of an individual named in clause (A) of this paragraph and includes the widow or minor child of an employee who died while employed by a carrier.

(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title may provide transportation without charge for officers and employees (and their families) of that carrier, another carrier (by exchange of passes or tickets), or a telegraph, telephone, or cable company. A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter may provide services related to movement of property for those individuals without charge. However, transportation of, or service provided for, household goods must be due to a change in the place of employment of an officer or employee while employed by that carrier.

§ 10723. Charitable purposes

49 USC 10723.

(a) (1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter

Ante, pp. 1359, 1361, 1365.

I, II, or III of chapter 105 of this title may provide transportation without charge for—

(A) an indigent or homeless individual (including an individual transported by a hospital, charitable organization, or municipal government and the necessary agents employed in that transportation);

(B) an individual who is confined to or about to enter or return home after discharge from a—

(i) Veterans' Administration facility;

(ii) State home for disabled volunteer soldiers; or

(iii) soldiers' and sailors' home, under an arrangement with the board of managers of that facility;

(C) a minister of religion; and

(D) an individual who is confined to a hospital or charitable facility.

(2) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may provide transportation for property without charge or at a reduced rate for—

(A) a charitable purpose, including transportation referred to in paragraph (1) of this subsection; or

(B) use in a public exhibition.

(b)(1) A common carrier subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter may provide transportation without charge to an individual who is—

(A) engaged only in charitable work;

(B) injured in an accident (together with the physicians and nurses attending that individual); or

(C) a traveling secretary of a railroad Young Men's Christian Association.

(2) That carrier may also establish a rate and related rule equal to the rate charged for the transportation of one individual when that rate is for the transportation of—

(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual; or

(B) a disabled individual and accompanying attendant when required because of the disability.

49 USC 10724.

§ 10724. Emergency rates

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may transport passengers without charge to provide relief during general emergencies.

(b)(1) The Commission may authorize a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title to give reduced rates for service and transportation of property to or from an area in the United States to provide relief during emergencies. When the Commission takes action under this subsection, it must—

Ante, p. 1358.

(A) define the area of the United States in which the reduced rates will apply;

(B) specify the period during which the reduced rates are to be in effect; and

(C) define the class of persons entitled to the reduced rates.

(2) The Commission may specify those persons entitled to reduced rates by reference to those persons designated as being in need of relief by the United States Government or by a State government authorized

to assist in providing relief during the emergency. The Commission may act under this subsection without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

Ante, p. 1345.
5 USC 551.

§ 10725. Special freight forwarder rates

49 USC 10725.

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may establish—

Ante, pp. 1359, 1361, 1365.

(1) assembling rates and related classifications and rules for transportation of less-than-carload or less-than-truckload shipments to a place for further movement as part of a carload or truckload shipment; and

(2) distribution rates and related classifications and rules for transportation of less-than-carload or less-than-truckload shipments moving from a place to which those shipments have moved as a part of a carload or truckload shipment.

(b) A rate and related classification and rule established under subsection (a) of this section applies to freight forwarders and other persons using common carrier transportation under like conditions and may differ from other rates and related classifications and rules that contemporaneously apply to the same common carrier transportation when the difference is justified by a difference in the respective conditions under which that transportation is used. A rate referred to in subsection (a) (1) or (2) of this section may not be established to cover the line-haul transportation between the principal concentration place and the principal break-bulk place.

(c) When establishing a rate, classification, rule, or practice, a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may consider the type of property tendered to it by a freight forwarder for transportation when the property is in parcels that do not exceed 70 pounds in weight or 100 inches in length and girth combined. The carrier may establish the lowest rate for the transportation that allows it to receive adequate compensation for transporting the property.

§ 10726. Long and short haul transportation

49 USC 10726.

(a)(1) A carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title (except an express carrier) may not charge or receive more compensation for the transportation of property of the same kind or of passengers—

(A) for a shorter distance than for a longer distance over the same line or route in the same direction (the shorter distance being included in the longer distance); or

(B) under a through rate than under the total of the intermediate rates it may charge or receive under this chapter.

This paragraph does not authorize a carrier to charge or receive equal compensation for transportation over a shorter distance than a longer distance.

(2) Notwithstanding paragraph (1) of this subsection, a carrier operating over a circuitous line or route to or from a place in competition with another carrier of the same type that operates over a more direct line or route may establish a rate (otherwise complying with this chapter) for that transportation to meet the rate of the carrier operating over the more direct line or route. A rate established for transportation over a circuitous route under this subsection is not evidence of the compensatory character of rates in other proceedings.

Relief.

(b) In special cases, the Commission may authorize a carrier to charge less for transportation over a longer distance than it charges for transportation over a shorter distance. The Commission may prescribe the extent to which a carrier authorized to charge less under this subsection may be granted relief from subsection (a) of this section. However, the Commission may not authorize a rate—

(1) to or from the more distant place unless it is reasonably compensatory; or

(2) because of potential water competition not actually in existence.

(c) A rail carrier that reduces a rate for the transportation of property in competition with a water route to or from competitive places may increase the rate only if, after a proceeding, the Commission finds that the increase is proposed because of a change in conditions other than the elimination of water competition.

Proceeding.

(d) The Commission shall begin a proceeding under subsection (b) of this section on application of a carrier. A carrier may file a proposed rate with its application, and if the application is approved, the Commission shall allow the rate to become effective one day after the approval becomes effective.

49 USC 10727.

§ 10727. Demand-sensitive rates

Standards and procedures.

(a) The Interstate Commerce Commission shall maintain standards and procedures to permit seasonal, regional, or peak-period demand rates for transportation by rail carrier subject to its jurisdiction under subchapter I of chapter 105 of this title, that—

(1) provide sufficient incentives to shippers, through rescheduling and advance planning, to reduce peak-period shipments;

(2) generate additional revenue for rail carriers;

(3) make better use of the national supply of freight cars;

(4) improve—

(A) the transportation of property by rail carriers;

(B) the level of employment by rail carriers; and

(C) the financial stability of markets served by rail carriers.

Annual report to Congress, legislative recommendations.

(b) The Commission shall submit to Congress an annual report on the implementation of rates under this section and shall include recommendations for additional legislation needed to make it easier to establish those rates.

49 USC 10728.

§ 10728. Separate rates for distinct rail services

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may, on its own initiative or at the request of a shipper or receiver of property, establish separate rates for distinct rail services to—

(1) encourage competition;

(2) promote increased reinvestment by rail carriers; and

(3) encourage and make easier increased non-railroad investment in the production of rail services.

Expeditious procedures.

(b) The Commission shall maintain expeditious procedures to permit separate rates for distinct rail services to—

(1) encourage those services to be priced in accordance with the cash-outlay incurred by the carrier and the demand for them; and

(2) enable shippers and receivers to evaluate transportation and related rates and alternatives.

§ 10729. Rail carriers; incentive for capital investment 49 USC 10729.

(a) A proposed rate, classification, rule, or practice for transportation by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title requiring a total capital investment of at least $1,000,000 to implement shall be established and become effective under this section. This section applies whether the investment is made individually or collectively by the carrier or by a shipper, receiver, or agent for any of them, or by a third party. *Ante*, p. 1359.

(b) A rail carrier may file a notice of intent to establish a rate, classification, rule, or practice under subsection (a) of this section with the Commission. The notice must include a sworn affidavit detailing the anticipated capital investment. Unless the Commission after holding a proceeding under subsection (c) of this section, decides by the 180th day after the notice is filed that the proposed rate, classification, rule, or practice would violate this subtitle, the carrier may establish that rate, classification, rule, or practice at any time during the next 180 days, and it may become effective 30 days after it is established. Once a rate, classification, rule, or practice becomes effective under this section, the Commission may not, for 5 years, suspend or set it aside as violating section 10701, 10726, 10741–10744, or 11103 of this title. However, the Commission may order the rate, classification, rule, or practice to be revised to a level equal to the variable costs of providing the transportation when the Commission finds the level then in effect reduces the going concern value of the carrier. Notice of intent, filing.

(c) On request of an interested person, the Commission shall hold a proceeding to investigate and determine whether the rate, classification, rule, or practice proposed to be established under this section complies with this subtitle. The Commission must give reasonable notice to interested parties before beginning a proceeding under this subsection but may act without allowing an interested party to file an answer or other formal pleading. Proceeding. Notice.

§ 10730. Rates and liability based on value 49 USC 10730.

The Interstate Commerce Commission may require or authorize a carrier providing transportation or service subject to its jurisdiction under subchapter I, II, or IV of chapter 105 of this title, to establish rates for transportation of property under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper, or by a written agreement, when that value would be reasonable under the circumstances surrounding the transportation. A rate may be made applicable under this section to livestock only if the livestock is valuable chiefly for breeding, racing, show purposes, or other special uses. A tariff filed with the Commission under subchapter IV of this chapter shall refer specifically to the action of the Commission under this section. *Ante*, pp. 1359, 1361, 1369.

§ 10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials 49 USC 10731.

(a) In this section— Definitions.

(1) "recyclable material" means material collected or recovered from waste for a commercial or industrial use whether the collection or recovery follows end usage as a product.

(2) "virgin material" means raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource that, through the application

of technology, is or will become a source of raw material for commercial or industrial use.

(b) When appropriate, the Interstate Commerce Commission shall—

(1) investigate the rate structure for the transportation of recyclable or recycled materials and competing virgin material by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title and the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for those carriers;

Ante, p. 1359.

(2) determine whether those rate increases affect any part of the rate structure in violation of section 10701 or 10741 of this title and order the rate found to be in violation of either of those sections removed from the rate structure; and

Proceedings, report to President and Congress.

(3) report to the President and Congress, in each of the annual reports of the Commission for 1978 and 1979, and in other appropriate reports, all proceedings started or completed under this subsection.

Public hearing.

(c) A determination under subsection (b)(2) of this section may be made only after a public hearing. During the hearing, the rail carriers have the burden of proving that rate increases that affect the rate structure applicable to the transportation of those competing materials comply with sections 10701 and 10741 of this title.

Research program, cooperation with Transportation Secretary.

(d) In cooperation with the Commission, the Secretary of Transportation shall maintain a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods to facilitate the competitive and efficient transportation of recyclable or recycled materials by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

SUBCHAPTER III—LIMITATIONS

49 USC 10741.

§ 10741. Prohibitions against discrimination by common carriers

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not charge or receive from a person a different compensation (by using a special rate, rebate, drawback, or another means) for a service rendered, or to be rendered, in transportation the carrier may perform under this subtitle than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances. A common carrier that charges or receives such a different compensation for that service unreasonably discriminates.

Ante, p. 1358.

(b) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title may not subject a person, place, port, or type of traffic to unreasonable discrimination. However, subject to subsection (c) of this section, this subsection does not apply to discrimination against the traffic of another carrier providing transportation by any mode.

(c) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that

chapter may not subject a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier. *Ante*, pp. 1359, 1361, 1365. *Ante*, p. 1369.

(d) Differences between the rates, classifications, rules, and practices of water and rail common carriers in effect for their respective types of transportation do not constitute a violation of this section or an unfair or destructive competitive practice under this subtitle.

§ 10742. Facilities for interchange of traffic 49 USC 10742.

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I or III of chapter 105 of this title shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another common carrier under either of those subchapters.

§ 10743. Payment of rates 49 USC 10743.

(a) Except as provided in subsection (b) of this section, a common carrier (except a pipeline or sleeping car carrier) providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under this subtitle shall give up possession at destination of property transported by it only when payment for the transportation or service is made.

(b)(1) Under regulations of the Commission governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Commission may provide for weekly or monthly payment for transportation provided by motor common carriers and for periodic payment for transportation provided by water common carriers.

(2) Such a carrier (including a motor common carrier being used by a freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

§ 10744. Liability for payment of rates 49 USC 10744.

(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail, motor, or water common carrier under this subtitle. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

(A) of the agency and absence of beneficial title; and

(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial

owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail or express carrier under this subtitle. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul carrier that is to make ultimate delivery—

(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under clause (2) of this subsection on delivery. However, if the party gives written notice to the delivering carrier before delivery that the party is not the beneficial owner of the property and gives the carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

Post, p. 1452.

(2) A water common carrier may bring an action to enforce liability under subsection (a) of this section. That carrier must bring the action by the end of the 2d year after the claim accrues or by end of the 6th month after final judgment against it in an action against the consignee or beneficial owner named by the consignee by the end of that 2-year period.

(3) A rail or express carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11706(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

49 USC 10745.

§ 10745. Continuous carriage of freight

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The car-

Ante, p. 1359.

riage of freight by those carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this subtitle.

§ 10746. Transportation of commodities manufactured or produced by a rail carrier 49 USC 10746.

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not transport from a State or territory or possession of the United States to another State, territory, or possession or a foreign country, an article or commodity that— *Ante*, p. 1359.

(1) is manufactured, mined, or produced by the carrier or under its authority; or

(2) is owned by the carrier or in which it has an interest.

However, a rail carrier may transport such an article or commodity when it is necessary and intended for use in the business of that carrier. This section does not apply to timber and products manufactured from timber. Timber products, exemption.

§ 10747. Transportation services or facilities furnished by shipper 49 USC 10747.

A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may publish in a tariff filed with the Commission under subchapter IV of this chapter a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Commission may prescribe the maximum reasonable charge or allowance a carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Commission may begin a proceeding under this section on its own initiative or on application. *Ante*, p. 1358. *Ante*, p. 1369. Maximum charge or allowance. Proceeding.

§ 10748. Transportation of livestock by rail carrier 49 USC 10748.

(a) Transportation entirely by railroad of ordinary livestock in carload lots to public stockyards shall include necessary services of unloading and reloading in route, delivery of inbound shipments at those stockyards into suitable pens, and receiving and loading outbound shipments at those stockyards. A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may charge a shipper, consignee, or owner an extra amount for those services only if, under Commission regulations, the unloading or reloading in route is at the request of the shipper, consignee, or owner, to try an intermediate market, or to comply with quarantine regulations.

(b) Subsection (a) of this section does not affect the duties and liabilities of a rail carrier in existence on February 28, 1920, under a law related to the transportation of other than ordinary livestock or the duty of providing transportation for shipments other than shipments to or from public stockyards.

§ 10749. Exchange of services and limitation on use of common carriers by freight forwarders 49 USC 10749.

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title may contract with a telephone, telegraph, or cable company to exchange services.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may use a carrier, including a carrier referred to in this subsection, to transfer, collect, or deliver in a terminal area. However, to provide other services, a freight forwarder may only use—

Ante, p. 1369.

(1) a rail, express, motor, or water common carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title including—

(A) a motor common carrier providing exempt transportation under section 10525 or 10526(a)(8) of this title; or

Ante, pp. 1363, 1365.

(B) a water common carrier providing exempt transportation under section 10542(a) of this title or transportation between places in Alaska or Hawaii and between those places and other places in the United States;

Ante, p. 1366.

(2) an air carrier subject to the jurisdiction of the Civil Aeronautics Board under chapter 20 of this title; or

49 USC 1301 *et seq.*

(3) the Alaska Railroad.

49 USC 10750.

§ 10750. Demurrage charges

Rules.

A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

Ante, p. 1359.

(1) freight car use and distribution; and

(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

SUBCHAPTER IV—TARIFFS AND TRAFFIC

49 USC 10761.

§ 10761. Transportation prohibited without tariff

(a) Except as provided in this subtitle, a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide that transportation or service only if the rate for the transportation or service is contained in a tariff that is in effect under this subchapter. That carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

Relief.

(b) The Commission may grant relief from subsection (a) of this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

Ante, p. 1337.

Proceeding.

49 USC 10762.

§ 10762. General tariff requirements

Rates, publication and filing.

(a)(1) A carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (except a motor common carrier) shall publish and file with the Commission tariffs containing the rates and (A) if a common carrier, classifications, rules, and practices related to those rates, and (B) if a contract carrier, rules and practices related to those rates, established under this chapter for transportation or

service it may provide under this subtitle. A motor common carrier shall publish and file with the Commission tariffs containing the rates for transportation it may provide under this subtitle. The Commission may prescribe other information that motor common carriers shall include in their tariffs. A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.

Public inspection.

(2) Carriers that publish tariffs under paragraph (1) of this subsection shall keep them open for public inspection. A rate contained in a tariff filed by a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of chapter 105 shall be stated in money of the United States. A tariff filed by a motor or water contract carrier or by a freight forwarder providing transportation or service subject to the jurisdiction of the Commission under subchapter II, III, or IV of that chapter, respectively, may not become effective for 30 days after it is filed.

Ante, pp. 1361, 1365, 1369.

(b) (1) The Commission shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under this section. The Commission may prescribe specific charges to be identified in a tariff published by a common carrier providing transportation or service subject to its jurisdiction under subchapter I, III, or IV of that chapter, but those tariffs must identify plainly—

Charges, identification.

Ante, p. 1359.

(A) the places between which property and passengers will be transported;

(B) terminal, storage, and icing charges (stated separately) if a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter;

(C) terminal charges if a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter III or IV of that chapter;

(D) privileges given and facilities allowed; and

(E) any rules that change, affect, or determine any part of the published rate.

Joint tariffs, concurrence or acceptance.

(2) A joint tariff filed by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter shall identify the carriers that are parties to it. The carriers that are parties to a joint tariff, other than the carrier filing it, must file a concurrence or acceptance of the tariff with the Commission but are not required to file a copy of the tariff. The Commission may prescribe or approve what constitutes a concurrence or acceptance.

Proposed changes, notice.

(c) (1) When a common carrier providing transportation or service subject to the jurisdiction of the Commission (A) under subchapter I of chapter 105 of this title proposes to change a rate, or (B) under another subchapter of that chapter proposes to change a rate, classification, rule, or practice, the carrier shall publish, file, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

New or reduced rates, notice.

(2) When a contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title proposes to establish a new rate or to reduce a rate, directly or by changing a rule or practice related to the rate or the value of service under the rate, the carrier shall publish, file, and keep open for public inspection a notice of the new or reduced rate as required under subsections (a) and (b) of this section.

(3) A notice filed under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed change and a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section.

(d)(1) The Commission may reduce the 30-day period of subsections (a) and (c) of this section if cause exists. The Commission may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

Tariff simplification, regulations.

(2) The Commission may prescribe regulations for the simplification of tariffs by carriers providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title and permit them to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Commission finds that action to be consistent with the public interest. Those carriers may publish new tariffs that incorporate changes or plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection. However, the Commission shall require that all rates of rail carriers and rail rate-making associations be incorporated in their individual tariffs by the end of the 2d year after initial publication of the rate, or by the end of the 2d year after a change in a rate becomes effective, whichever is later. The Commission may extend those periods if cause exists, but if it does, it must send a notice of the extension and a statement of the reasons for the extension to Congress. A rate not incorporated in an individual tariff as required by the Commission is void.

Extensions, statement to Congress.

Rejections.

(e) The Commission may reject a tariff submitted to it by a common carrier under this section if that tariff violates this section or regulation of the Commission carrying out this section.

Relief.

(f) The Commission may grant relief from this section to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101 of this title. The Commission may begin a proceeding under this subsection on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract carriers.

Ante, p. 1337.
Proceeding.

49 USC 10763.

§ 10763. Designation of certain routes by shippers or Interstate Commerce Commission

(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, the person may direct the carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A carrier may be directed to transport property over a particular through route when—

Ante, p. 1359.

(A) there are at least 2 through routes over which the property could be transported;

(B) a through rate has been established for transportation over each of those through routes; and

(C) the carrier is a party to those routes and rates.

(2) A carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting carrier, that carrier must also receive and transport it according to

the routing instructions and deliver it to the next succeeding carrier or consignee according to the instructions.

(b) If no direction is made under subsection (a) of this section, the Commission may designate the route over which the property may be transported after arrival at the end of the route of one carrier or at a junction with the route of another carrier when the property is to be delivered to another carrier for further transportation. The Commission may act under this subsection when the public interest and a fair distribution of traffic require that action.

(c) The Commission may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section. Exceptions.

§ 10764. Arrangements between carriers: copy to be filed with Interstate Commerce Commission 49 USC 10764.

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a copy of each arrangement related to transportation affected by this subtitle that the carrier has with another common carrier. The Commission may require other carriers and brokers subject to its jurisdiction under chapter 105 to file a copy of each arrangement related to transportation or service affected by this subtitle that they have with other persons. *Ante*, p. 1359.

(2) When the Commission finds that filing a class of arrangements by a carrier subject to its jurisdiction under subchapter I of that chapter is not necessary in the public interest, the Commission may except the class from paragraph (1) of this subsection. Exception.

(b) The Commission may disclose the existence or contents of an arrangement between a contract carrier and a shipper filed under subsection (a) of this section only if the disclosure is—

(1) limited to those parts of the arrangement that are necessary to indicate the extent of its failure to conform to a tariff then in effect under section 10762 of this title; or

(2) consistent with the public interest and made as a part of the record in a formal proceeding.

§ 10765. Water transportation under arrangements with certain other carriers 49 USC 10765.

(a) The Interstate Commerce Commission may require a common carrier providing transportation or service subject to its jurisdiction under chapter 105 of this title that makes an arrangement with a water carrier (whether or not subject to its jurisdiction under this subtitle) providing transportation from a port in the United States to another country for the through transportation of property from a place in the interior of the United States to another country to make similar arrangements with steamship lines that provide transportation from that port to that country.

(b) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that transports property from a place in the United States through another country to a place in the United States shall publish and keep open for public inspection tariffs as required under section 10762 of this title. The tariffs shall identify the through rate established for that transportation to the United States from another country to which the carrier accepts property for shipment from the United States. Unless the through rates are available for public inspection under that section, Tariffs, publication and public inspection.

the property is subject to customs duties applicable to property produced in another country before the property may be admitted to the United States.

49 USC 10766.

§ 10766. Freight forwarder traffic agreements

(a) A freight forwarder providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title may agree with another freight forwarder to load traffic jointly between places served under this subtitle. However, the Commission may cancel, suspend, or require changes in the agreement when the Commission finds the agreement is inconsistent with the transportation policy of section 10101 of this title.

Ante, p. 1369.

Ante, p. 1337.

Contract, copy filing.

(b) A freight forwarder providing service subject to the jurisdiction of the Commission under that subchapter may contract with motor common carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, to provide transportation for the forwarder. A copy of that contract must be filed with the Commission. The contract may govern use by the freight forwarder of the services and instrumentalities of the motor common carrier and the compensation to be paid for the transportation. However, the parties to a contract must establish reasonable conditions and compensation that are consistent with the transportation policy of section 10101 of this title and do not unreasonably discriminate against a party or another freight forwarder. When a contract under this subsection governs line-haul transportation of property for a total distance of at least 450 highway miles in truckload lots between concentration and break-bulk places, the compensation paid to a motor common carrier under the contract may not be less than the rate for that transportation established under this chapter. When the Commission finds that a contract, or its conditions or compensation, under this subsection is or will be inconsistent with this subsection, the Commission shall prescribe consistent conditions and compensation.

Ante, p. 1361.

Conditions and compensation.

(c) The Commission may begin a proceeding under this section on its own initiative or on complaint.

SUBCHAPTER V—VALUATION OF PROPERTY

49 USC 10781.

§ 10781. Investigation and report by Interstate Commerce Commission

(a) The Interstate Commerce Commission shall investigate, establish, and report the value of all property owned or used by each carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title, except a street, suburban, or interurban electric rail carrier not operated as a part of a general railroad system of transportation. However, the Commission may investigate, establish, and report the value of property owned or used by such an electric rail carrier when the Commission decides that action is desirable in the public interest. When the Commission makes an investigation required to be made under this section, it must—

Ante, p. 1359.

(1) inventory and list the property of that carrier in detail;

(2) indicate the value established under section 10782 of this title for that property; and

Classifications.

(3) classify the physical property under classifications that conform, as nearly as practicable, to the classification of expenditures prescribed by the Commission for railroads and equipment.

(b) Except as provided in subsection (a) of this section, the Commission may prescribe—

(1) the procedure to be followed when conducting an investigation under this subchapter;

(2) the form in which to submit the results of the valuation; and

(3) the classification of the elements that make up the established value.

The report for each investigation conducted under this subchapter shall indicate the value of the property of each common carrier as a whole and separately identify the value of its property in each State and territory and possession of the United States in which the property is located.

§ 10782. Requirements for establishing value 49 USC 10782.

(a) In carrying out an investigation of a common carrier required under section 10781 of this title, the Interstate Commerce Commission shall—

(1) establish, for each piece of property except land owned or used by the carrier as a common carrier, the original cost to date, cost of reproduction new and cost of reproduction less depreciation, and analyze the methods used to establish those costs and the reasons for differences among them;

(2) establish other values, and elements of value, of that property and analyze the methods used to establish them and the reasons for differences between them and the cost values established under clause (1) of this subsection;

(3) establish separately from improvements, the original cost on the date of dedication to public use, of all lands, rights of way, and terminals owned or used by the carrier as a common carrier and establish their current value;

(4) identify property not held by the carrier as a common carrier, its original cost, and current value and analyze the methods of valuation used;

(5) establish the amount and value of assistance or grant of right of way made to the carrier, or to a previous corporation that operated its property, by the United States Government or by a State, county, or municipal government, or by an individual, association, or corporation and the amount and value of any concession and allowance made by the United States Government or another of those governments in consideration of that assistance; and

(6) identify the grants of land to that carrier, or to a previous corporation that operated its property, by the United States Government, or by a State, county, or municipal government, the amount of money derived from the sale of part of those grants, the value of the unsold parts (established as of the date acquired and currently), and the amount and value of any concession and allowance made by the carrier to the United States Government, or another of those governments, in consideration of that assistance or grant of land.

(b) The Commission may prescribe elements to consider in establishing the cost to date of property owned or used by a carrier. However, in establishing that cost, the Commission shall investigate and include in those elements—

(1) the history and organization of the corporation that currently operates the property and of previous corporations that also operated that property;

(2) increases or decreases of securities during reorganization of that corporation or such a previous corporation;

(3) money received through the issuance of securities by that corporation or such a previous corporation;

(4) syndicating, banking, and other financial arrangements under which those securities were issued and the expenses thereof;

(5) the net and gross earnings of those corporations; and

(6) the expenditure of all money and the purposes of those expenditures in as much detail as the Commission determines to be necessary.

49 USC 10783.

§ 10783. Cooperation and assistance of carriers

(a) Each common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall cooperate with and assist the Commission in valuing property under this subchapter. The Commission may order those carriers to—

Ante, p. 1359.

(1) give to the Commission maps, profiles, contracts, engineering reports, and other records to assist it in investigating and establishing the value of that carrier's property; and

(2) assist the Commission in valuing property under this subchapter in other ways, including giving its agents free access to its right-of-way, property, and records on request.

(b) A rail carrier whose property is being valued under this subchapter shall—

(1) transport employees of the United States Government who are making surveys and other examinations of the physical property of that carrier in the course of that valuation when reasonably required by them in the actual discharge of their duties;

(2) transport and store the cars of the United States Government that are used to house and maintain those employees when reasonably required during the valuation; and

(3) transport supplies necessary to maintain those employees and the property of the United States Government actually used on the railroad during the valuation.

Special service, compensation and accounting.

(c) The transportation required to be provided under subsection (b) of this section is considered a special service for which the Commission may prescribe the compensation to be paid. A rail carrier shall give the Commission an accurate accounting of the transportation provided under this section when required by the Commission.

Records inspection.

(d) The Commission shall keep records compiled under this subchapter open for public inspection. However, the Commission may order those records closed to the public but must state its reasons for closing them.

49 USC 10784.

§ 10784. Revision of property valuations

(a) When the Interstate Commerce Commission completes an initial valuation of property under this subchapter, it shall thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping itself informed of new construction, changes in condition, quantity, use, and classification of

property on which an initial valuation was made and the cost of all improvements to, and changes in investment, in that property. The Commission may keep itself informed of current changes in costs and values of railroad property to carry out this section.

(b) The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to give it reports and information needed to carry out this section. Reports. *Ante*, p. 1359.

§ 10785. Finality of valuation: notice, protest, and review 49 USC 10785.

(a) The Interstate Commerce Commission shall notify the carrier, the Attorney General, and the chief executive officer of each State in which property being valued under this subchapter is located, of the completion of a tentative valuation of that property. The Commission may also notify other parties. The notice must be sent by certified mail and must indicate the valuation established for each of that carrier's classes of property. A valuation of property under this subchapter becomes final if a protest is not filed within 30 days after notice of the tentative valuation of that property is given. When the tentative valuation becomes final under this subsection, the effective date is the date of the tentative valuation.

(b) When a carrier files a protest of a tentative valuation, the Commission shall begin a proceeding to consider the protest. If the Commission decides that a tentative valuation should be changed, it may make the necessary changes. The tentative valuation, as changed, becomes final and is effective on the date of the final action of the Commission under this subsection. Proceeding.

(c) The Commission shall publish final valuations and classifications of property established under this subchapter. A final valuation or classification that has become effective under this subchapter is prima facie evidence of the value of the property in a proceeding under this subtitle and in a judicial proceeding to enforce, enjoin, set aside, annul, or suspend an action of the Commission. Publication.

(d) When evidence is introduced at the trial of an action involving a final valuation of property established by the Commission and found by the court to be different from the evidence offered to the Commission during a proceeding under subsection (b) of this section or in addition to that evidence and substantially affecting the valuation, the court shall send a copy of that evidence to the Commission and stay further proceedings in the action. The court may determine the duration of the stay of proceedings. The Commission shall consider the evidence and may change the final valuation established under this subchapter. The Commission shall complete its action and report to the court in the time determined by the court. If the Commission changes the valuation, the court must substitute the valuation as changed for the original valuation and give its judgment on the substituted valuation. If the Commission does not change the original valuation, the court must give judgment on the original valuation. New evidence.

§ 10786. Applicability 49 USC 10786.

In addition to common carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, this subchapter applies to receivers and operating trustees of those carriers.

CHAPTER 109—LICENSING

SUBCHAPTER I—RAILROADS AND FERRIES

Sec.
10901. Authorizing construction and operation of railroad lines.
10902. Authorizing action to provide adequate, efficient, and safe facilities.
10903. Authorizing abandonment and discontinuance of railroad lines and rail transportation.
10904. Filing and procedure for applications to abandon or discontinue.
10905. Offers of financial assistance to avoid abandonment and discontinuance.
10906. Offering abandoned rail properties for sale for public purposes.
10907. Exceptions.
10908. Discontinuing or changing interstate train or ferry transportation subject to State law.
10909. Discontinuing or changing train or ferry transportation in one State.

SUBCHAPTER II—OTHER CARRIERS AND MOTOR CARRIER BROKERS

10921. Requirement for certificate, permit, or license.
10922. Certificates of motor and water common carriers.
10923. Permits of motor and water contract carriers and freight forwarders.
10924. Licenses of motor carrier brokers.
10925. Effective periods of certificates, permits, and licenses.
10926. Transfers of certificates and permits.
10927. Security of motor carriers, brokers, and freight forwarders.
10928. Temporary authority for motor and water carriers.
10929. Temporary authority for previously exempt water transportation.
10930. Limitations on certificates and permits.
10931. Motor common carriers providing transportation entirely in one State.
10932. Motor carrier savings provisions.
10933. Authorizing abandonment of freight forwarder service.

SUBCHAPTER I—RAILROADS AND FERRIES

49 USC 10901.

§ 10901. Authorizing construction and operation of railroad lines

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

Ante, p. 1359

(1) construct an extension to any of its railroad lines;

(2) construct an additional railroad line;

(3) acquire or operate an extended or additional railroad line; or

(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Commission finds that the present or future public convenience and necessity require or will be enhanced by the construction or acquisition (or both) and operation of the railroad line.

Application, filing.

(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Commission shall—

(1) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of the railroad line;

Publication in newspaper.

(2) send an accurate and understandable summary of the application to a newspaper of general circulation in each area that would be affected by the construction or operation of the railroad line;

Publication in Federal Register.

(3) have a copy of the summary published in the Federal Register;

(4) take other reasonable and effective steps to publicize the application; and

(5) indicate in each transmission and publication that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(c)(1) If the Commission—

(A) finds public convenience and necessity, it may—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions the Commission finds necessary in the public interest; or

(B) fails to find public convenience and necessity, it may deny the application.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the construction or acquisition (or both) and operation approved by the Commission. Certificate issuance.

§ 10902. Authorizing action to provide adequate, efficient, and safe facilities 49 USC 10902.

The Interstate Commerce Commission may authorize a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to take action necessary to provide adequate, efficient, and safe facilities to enable the rail carrier to perform its obligations under this subtitle, including extension of any of the carrier's railroad lines after issuance of a certificate under section 10901 of this title. The Commission may authorize a rail carrier to act under this section only if it finds that the expense involved will not impair the ability of the carrier to perform its obligations to the public. The Commission may conduct a proceeding on its own initiative or on application of an interested party. *Ante*, p. 1359. Proceeding.

§ 10903. Authorizing abandonment and discontinuance of railroad lines and rail transportation 49 USC 10903.

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may—

(1) abandon any part of its railroad lines; or

(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Commission shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development. Adverse impact.

(b)(1) A proceeding to grant authority under subsection (a) of this section begins on application filed with the Commission. Subject to sections 10904–10906 of this title, if the Commission— Proceeding.

(A) finds public convenience and necessity, it shall—

(i) approve the application as filed; or

(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

(B) fails to find public convenience and necessity, it shall deny the application.

Certificate.

(2) On approval, the Commission shall issue to the rail carrier a certificate describing the abandonment or discontinuance approved by the Commission. Each certificate shall also contain provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under section 11347 of this title and section 565(b) of title 45.

Post, p. 1439

(c) Except as provided in sections 10905 and 10906 of this title—

(1) if a certificate is issued without an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 30th day after the issuance of the certificate; or

(2) if a certificate is issued after an investigation under section 10904(c) of this title, the abandonment or discontinuance may take effect under the certificate on the 120th day after the issuance of the certificate.

49 USC 10904.

§ 10904. Filing and procedure for applications to abandon or discontinue

(a)(1) An application for a certificate of abandonment or discontinuance under section 10903 of this title, and a notice of intent to abandon or discontinue, must be filed with the Interstate Commerce Commission at least 60 days before the day on which the abandonment or discontinuance is to become effective.

(2) When a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title files an application and notice of intent, the notice shall include—

(A) an accurate and understandable summary of the rail carrier's application and the reasons for the proposed abandonment or discontinuance; and

(B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, deny, or take other action concerning the application.

(3) The rail carrier shall—

(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Commission) of the railroad line during the 12 months preceding the filing of the application; and

(E) attach to the notice filed with the Commission an affidavit certifying the manner in which clauses (A)–(D) of this paragraph have been satisfied.

(b) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

(c)(1) During the period between the date the application is filed through the day immediately before the date proposed in the application that the abandonment or discontinuance become effective, the Commission shall, on petition, and may, on its own initiative, begin

an investigation to assist it in determining what disposition to make of the application. The order to conduct the investigation must be served on any affected rail carrier not later than the 5th day before the proposed effective date of the abandonment or discontinuance. An investigation may include public hearings at any location reasonably adjacent to the railroad line involved in the abandonment or discontinuance. The hearing may be held on the request of an interested party or on the initiative of the Commission.

(2) If an investigation is not conducted, the Commission shall act under section 10903(b) of this title by the last day of the period referred to in paragraph (1) of this subsection. If an investigation is to be conducted, the Commission shall postpone the proposed effective date of any part of the abandonment or discontinuance. The postponement shall be for a reasonable period of time necessary to complete the investigation.

(d)(1) In this subsection, "potentially subject to abandonment" has the meaning given the term in regulations of the Commission. The regulations may include standards that vary by region of the United States and by railroad or group of railroads. "Potentially subject to abandonment."

(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the carrier. The carrier shall submit to the Commission and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

(B) identify each railroad line for which the carrier plans to file an application for a certificate under subsection (a) of this section.

(3) If an application for a certificate is opposed by—

(A) a shipper or other person that has made significant use (as determined by the Commission) of the railroad line involved in the proposed abandonment or discontinuance during the 12-month period before the filing of the application for a certificate; or

(B) a State or political subdivision of a State in which any part of the railroad line is located;

the Commission may issue a certificate under section 10903 of this title only if the railroad line has been described and identified in the diagram or amendment to the diagram of the rail carrier that was submitted to the Commission at least 4 months before the date on which the application was filed.

§ 10905. Offers of financial assistance to avoid abandonment and discontinuance 49 USC 10905.

(a) In this section—

(1) "avoidable cost" means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include— "Avoidable cost."

(A) working capital and required capital expenditure;

(B) expenditures to eliminate deferred maintenance;

(C) the current cost of freight cars, locomotives, and other equipment; and

(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"Reasonable return."

(2) "reasonable return" means—

(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

Publication in Federal Register.

(b) When the Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, it shall publish the finding in the Federal Register. If, within 30 days after the publication, the Commission finds that—

(1) a financially responsible person (including a governmental authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

(2) it is likely that the assistance would be equal to—

(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance for a reasonable time, not to exceed 6 months, to enable the person or governmental authority to enter into an agreement with the rail carrier to provide the assistance or to buy that part of the railroad line and to continue to provide rail transportation over the line. Thereafter, the Commission shall determine the extent to which the avoidable cost of providing rail transportation plus a reasonable return on the rail properties involved exceed the revenues attributable to the railroad line or the rail transportation proposed to be abandoned or discontinued. On notice to the Commission that such an agreement has been executed, the Commission shall further postpone the issuance of the certificate as long as the agreement, or an extension or modification of the agreement, is in effect.

(c) The rail carrier shall provide promptly to a party considering offering financial assistance under subsection (b) of this section—

(1) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance; and

(2) traffic, revenue, and other data necessary to determine the amount of financial assistance that would be required to continue rail transportation over that part of the railroad line.

49 USC 10906.

§ 10906. Offering abandoned rail properties for sale for public purposes

When the Interstate Commerce Commission finds under section 10903 of this title that the present or future public convenience and necessity require or permit abandonment or discontinuance, the Commission shall find further whether the rail properties that are in-

volved in the proposed abandonment or discontinuance are suitable for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the rail properties proposed to be abandoned are suitable for public purposes, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Commission. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

§ 10907. Exceptions 49 USC 10907.

(a) Notwithstanding sections 10901 and 10902 and subchapter III of chapter 113 of this title, and without the approval of the Interstate Commerce Commission, a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. *Ante*, p. 1359.

(b) The Commission does not have authority under sections 10901–10906 of this title over—

(1) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks if the tracks are located, or intended to be located, entirely in one State; or

(2) a street, suburban, or interurban electric railway that is not operated as part of a general system of rail transportation.

§ 10908. Discontinuing or changing interstate train or ferry transportation subject to State law 49 USC 10908.

(a) When a discontinuance or change in any part of the transportation of a train or ferry operating between a place in a State and a place in another State—

(1) is proposed by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title; and

(2) is subject to the law of a State, or to a regulation or order of, or proceeding pending before, a court or other authority of a State;

the carrier, notwithstanding that law, regulation, order, or proceeding, may discontinue or change the transportation—

(A) if it files a notice of the proposed discontinuance or change with the Commission at least 30 days before the discontinuance or change is intended to be effective and carries out the discontinuance or change under that notice;

(B) if it mails a copy of the notice to the chief executive officer of each State in which the train or ferry is operated and posts a copy of the notice at each station, depot, or other facility served by the train or ferry; and

(C) except as otherwise provided by the Commission under this section.

(b) On petition or on its own initiative, the Commission may conduct a proceeding on the proposed discontinuance or change if it begins the proceeding between the date the carrier files the notice under subsection (a) of this section and the date on which the discontinuance or

change is intended to be effective. After the proceeding begins, the Commission may order the carrier proposing the discontinuance or change to continue any part of the transportation pending completion of the proceeding and the decision of the Commission if the Commission serves a copy of its order on the carrier at least 10 days before the date on which the carrier intended the discontinuance or change to be effective. However, the Commission may not order the transportation continued for more than 4 months after the date on which the carrier intended the discontinuance or change to be effective.

(c) If, after a proceeding completed either before or after the proposed discontinuance or change has become effective, the Commission finds that any part of the transportation is required or permitted by present or future public convenience and necessity and will not unreasonably burden interstate or foreign commerce, the Commission may order the carrier to continue or restore that transportation for not to exceed one year from the date of the Commission order. On expiration of the Commission order, the jurisdiction of each State involved in the discontinuance or change is no longer superseded except to the extent this section is again invoked.

49 USC 10909.

§ 10909. Discontinuing or changing train or ferry transportation in one State

(a) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title has proposed a discontinuance or change of any part of the transportation of a train or ferry operated by it entirely in one State and—

Ante, p. 1359.

(1) the law of the State prohibits the discontinuance or change;

(2) the carrier has requested the State authority having jurisdiction over the discontinuance or change for permission to discontinue or change the transportation and the request has been denied; or

(3) the State authority has not acted finally by the 120th day after the carrier made the request;

the carrier may petition the Commission for permission to discontinue or change the transportation.

Notification.

(b) When a petition is filed under subsection (a) of this section, the Commission shall notify the chief executive officer of the State in which the train or ferry is operated concerning the petition. Before acting on the petition, the Commission shall give interested parties a full hearing. If such a hearing is requested, the Commission shall give all interested parties at least 30 days notice of the hearing and shall hold the hearing in the State in which the train or ferry is operated. The Commission may cooperate with, and use the services, records, and facilities of, the State in carrying out this section.

Hearing opportunity.

(c) The Commission may grant permission to the carrier to discontinue or change any part of the transportation if the Commission finds that—

(1) the present or future public convenience and necessity require or permit the discontinuance or change to be authorized by the Commission; and

(2) continuing the transportation, without the proposed discontinuance or change, will constitute an unreasonable burden on the interstate operations of the carrier or on interstate commerce.

SUBCHAPTER II—OTHER CARRIERS AND MOTOR CARRIER BROKERS

§ 10921. Requirement for certificate, permit, or license 49 USC 10921.

Except as provided in this subchapter or another law, a person may provide transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter II, III, or IV of chapter 105 of this title or be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of that chapter, only if the person holds the appropriate certificate, permit, or license issued under this subchapter authorizing the transportation or service.

Ante, pp. 1361, 1365, 1369.

§ 10922. Certificates of motor and water common carriers 49 USC 10922.

(a) Except as provided in this section and section 10930(a) of this title, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor common carrier or water common carrier, respectively, if the Commission finds that—

(1) the person is fit, willing, and able—

(A) to provide the transportation to be authorized by the certificate; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation to be provided under the certificate is or will be required by the present or future public convenience and necessity.

(b) A person must file an application with the Commission for a certificate to provide transportation as a motor common carrier or water common carrier. The Commission may approve any part of the application or deny the application. The application must— Applications.

(1) be under oath;

(2) contain information required by Commission regulations; and

(3) be served on persons designated by the Commission.

(c)(1) Subject to section 10927(a) of this title, each certificate issued to a person to provide transportation as a motor common carrier shall specify—

(A) the transportation to be provided by the carrier;

(B) any of the regular routes over which, any of the places between which, and off-route places at which, the carrier may provide transportation; and

(C) if transportation is not over regular routes or between specified places, the area in which the carrier may provide transportation.

(2) Under regulations of the Commission, a motor common carrier may occasionally deviate from the regular routes, or the places specified in the certificate, or both.

(3) If a motor common carrier transports passengers, the Commission may authorize transportation of the passengers only over a regular route and between specified places, except to the extent the carrier is authorized to provide special or charter transportation.

39-194 O—80—pt. 2——9 QL3

(4) A certificate of a motor common carrier to transport passengers may include authority to transport—

(A) newspapers, baggage of passengers, express, or mail in the same motor vehicle with the passengers; and

(B) baggage of passengers in a separate motor vehicle.

(d) Each certificate issued to a person to provide transportation as a water common carrier shall specify each route over which, and each port between which, the carrier may provide transportation.

(e)(1) A motor common carrier may provide transportation under a certificate only if the carrier complies with conditions the Commission finds are required by public convenience and necessity, including conditions—

(A) on extending routes of the carrier; and

(B) to carry out requirements established by the Commission under this subtitle.

(2) The Commission may prescribe necessary conditions under which a water common carrier provides transportation, including conditions on extending routes of the carrier.

(3) The Commission may prescribe conditions when the certificate is issued and at any time thereafter. The Commission may not prescribe a condition preventing—

(A) a motor common carrier or water common carrier from adding to its equipment and facilities or its transportation within the scope of the certificate to satisfy business development and public demand; or

(B) a water common carrier, if the carrier has authority to provide transportation over completed parts of a waterway project authorized under law, from extending its transportation over the uncompleted parts of the project when opened for navigation to satisfy business development and public demand.

(f) A certificate issued under this section does not confer a proprietary or exclusive right to use the public highways or public waterways.

49 USC 10923.

§ 10923. Permits of motor and water contract carriers and freight forwarders

(a) Except as provided in this section and section 10930 of this title, the Interstate Commerce Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II or III of chapter 105 of this title as a motor contract carrier or water contract carrier, respectively, or to provide service subject to that jurisdiction under subchapter IV of chapter 105 as a freight forwarder, if the Commission finds that—

Ante, pp. 1361, 1365.

Ante, p. 1369.

(1) the person is fit, willing, and able—

(A) to provide the transportation or service to be authorized by the permit; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation or service to be provided under the permit is or will be consistent with the public interest and the transportation policy of section 10101 of this title.

Ante, p. 1337.

Applications.

(b)(1) A person must file an application with the Commission for a permit to provide transportation as a contract carrier or to provide service as a freight forwarder. The Commission may approve any part of the application or deny the application. The application must—

(A) be under oath;

(B) contain information required by Commission regulations; and

(C) be served on persons designated by the Commission.

(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier, the Commission shall consider—

(A) the number of shippers to be served by the carrier;

(B) the nature of the transportation proposed to be provided;

(C) the effect that granting the permit would have on the transportation of carriers protesting the granting of the permit; and

(D) the effect that denying the permit would have on the person applying for the permit, its shippers, or both, and the changing character of the requirements of those shippers.

(3) The Commission may not deny any part of an application for a freight forwarder permit filed by a corporation controlled by, or under common control with—

(A) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title, because of the relationship between the corporation and that carrier; and

Ante, pp. 1359, 1361, 1365.

(B) a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 only because the service to be provided by the corporation will compete with service provided by another freight forwarder subject to subchapter IV of that chapter.

Ante, p. 1369.

(c) Each permit issued to a person—

(1) to provide transportation as a motor contract carrier is subject to section 10927(a) of this title and shall specify the transportation to be provided by the carrier;

(2) to provide transportation as a water contract carrier shall specify the transportation to be provided by the carrier; and

(3) to provide service as a freight forwarder shall specify the nature or general description about which the service is to be provided, the area in which, and the areas between which, the service may be provided by the freight forwarder.

(d)(1) The Commission may prescribe necessary conditions under which a contract carrier or freight forwarder provides transportation or service. The Commission may prescribe the conditions when the permit is issued and at any time thereafter.

(2) The permit for a motor contract carrier shall specify necessary conditions, including each person or number or class of persons for which the carrier may provide transportation—

(A) to ensure that the carrier provides transportation as a motor contract carrier and within the scope of the permit; and

(B) to carry out requirements established by the Commission under this subtitle.

(3) Subject to the permit and its conditions, a motor contract carrier may substitute or add to its equipment and facilities as requests for its transportation develop. The Commission may not prescribe a condition preventing—

(A) a water contract carrier from substituting or adding contracts within the scope of the permit to satisfy the requirements of business development and public demand; and

(B) a water contract carrier or freight forwarder from adding to its equipment and facilities, and transportation or service, as

the case may be, within the scope of the permit to satisfy the requirements of business development and public demand.

49 USC 10924.

§ 10924. Licenses of motor carrier brokers

(a) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the person to be a broker for transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that—

Ante, p. 1361.

(1) the person is fit, willing, and able—

(A) to be a broker for transportation to be authorized by the license; and

(B) to comply with this subtitle and regulations of the Commission; and

(2) the transportation for which the person is to be a broker will be consistent with the public interest and the transportation policy of section 10101 of this title.

Ante, p. 1337.

(b)(1) The broker may provide the transportation itself only if the broker also has been issued a certificate or permit to provide the transportation under this subchapter. A broker may use only the transportation of a motor carrier holding a certificate or permit issued under this subchapter.

(2) This subsection does not apply to a motor carrier having a certificate or permit issued under this subchapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other motor carriers holding certificates or permits, or with rail, express, or water common carriers.

(c) A person must file an application with the Commission for a license to be a broker for motor carrier transportation. The Commission may approve the application or any part of it, or deny the application.

(d) Commission regulations shall provide for the protection of travelers and shippers by motor vehicle, to be observed by brokers.

49 USC 10925.

§ 10925. Effective periods of certificates, permits, and licenses

(a) Each certificate, permit, and license issued under section 10922, 10923, or 10924 of this title is effective from the date specified in it and remains in effect except as otherwise provided in this section.

(b) On application of the holder of a certificate, permit, or license, the Interstate Commerce Commission may amend or revoke any part of the certificate, permit, or license. On complaint or on its own initiative and after notice and an opportunity for a proceeding, the Commission may suspend, amend, or revoke any part of a certificate, permit, or license—

(1) if a motor carrier, broker, or freight forwarder, for willful failure to comply with this subtitle, a regulation or order of the Commission, or a condition of its certificate, permit, or license; and

(2) if a water carrier, for willful failure to comply with section 10701(a) or 11101(a) of this title, a regulation or order of the Commission, or a condition of its certificate or permit.

Ante, p. 1371.

(c)(1) Except on application of the holder, the Commission may revoke a certificate or permit of a motor carrier or freight forwarder, or a license of a broker, only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with this subtitle, a regulation of the Commission, or a condition of the

Post, p. 1449.

certificate, permit, or license of the holder, and the holder willfully does not comply with the order.

(2) Except on application of the holder, the Commission may suspend, amend, or revoke a certificate or permit of a water carrier only after the Commission has issued an order to the holder under section 11701 of this title requiring compliance with section 10701(a) or 11101(a) of this title, and the holder willfully does not comply with the order. *Post*, p. 1449. *Ante*, p. 1371.

(3) The Commission may act under paragraph (1) or (2) of this subsection only after giving the holder of the certificate, permit, or license at least 30 days to comply with the order.

(d)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission may suspend a certificate of a motor carrier, a permit of a freight forwarder, or a license of a broker— *Ante*, p. 1345. 5 USC 551.

(A) if a motor carrier or broker, for failure to comply with section 10701, 10702, 10761, 10762, 10924(d), or 10927 (b) or (d) of this title, or an order or regulation of the Commission prescribed under those sections; and *Ante*, pp. 1371, 1372, 1394.

(B) if a freight forwarder, for failure to comply with section 10762 or 10927 (c) or (d) of this title, or an order or regulation of the Commission prescribed under those sections.

(2) The Commission may suspend the certificate, permit, or license only after it gives notice of the suspension to the holder at least 15 days before the date the suspension is to begin. The suspension remains in effect until the holder complies with those applicable sections.

§ 10926. Transfers of certificates and permits

49 USC 10926.

Except as provided in this subtitle, a certificate or permit issued under section 10922 or 10923 of this title—

(1) if a certificate or permit of a motor carrier, may be transferred under regulations of the Interstate Commerce Commission;

(2) if a certificate or permit of a water carrier, may be transferred under regulations prescribed by the Commission to protect the public interest and to ensure compliance with this subtitle; and

(3) if a permit of a freight forwarder, may be transferred under regulations prescribed by the Commission to ensure compliance with this subtitle, if the Commission finds that the person to whom the permit is to be transferred satisfies section 10923 (a) and (b) of this title. However, if the proposed transfer would affect the interests of employees of a freight forwarder, the Commission shall require a fair and equitable arrangement to protect the interests of those employees before the transfer is effective.

§ 10927. Security of motor carriers, brokers, and freight forwarders

49 USC 10927.

(a)(1) The Interstate Commerce Commission may issue a certificate or permit to a motor carrier under section 10922 or 10923 of this title only if the carrier files with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles under the certificate or permit, or for loss or damage to property (except property referred to in

paragraph (3) of this subsection), or both. A certificate or permit remains in effect only as long as the carrier satisfies the requirements of this paragraph.

(2) A motor carrier operating in the United States when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country shall comply with the requirements of sections 10329 and 10330 that apply to a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. To protect the public, the Commission may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

Ante, pp. 1351, 1352.

(3) The Commission may require a motor common carrier providing transportation under a certificate to file with the Commission a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor common carrier as the result of transportation provided under this subtitle. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor common carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

(b) The Commission may issue a broker's license to a person under section 10924 of this title only if the person files with the Commission a bond, insurance policy, or other type of security approved by the Commission to ensure that the transportation for which a broker arranges is provided. The license remains in effect only as long as the broker complies with this subsection.

(c)(1) The Commission may require a freight forwarder providing service under a permit issued under section 10923 of this title to file with the Commission a bond, insurance policy, or other type of security approved by the Commission. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this subtitle.

(2) The Commission may require a freight forwarder providing service under a permit to file with the Commission a bond, insurance policy, or other type of security approved by the Commission sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service under this subtitle.

(d) The Commission may determine the type and amount of security filed with it under this section.

49 USC 10928.

§ 10928. Temporary authority for motor and water carriers

5 USC 551.

Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Interstate Commerce Commission may grant a motor carrier or water carrier temporary authority to provide transportation to a place or in an area having, respectively, no motor carrier or water carrier capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 180 days. A grant of temporary authority does not establish a pre-

sumption that permanent authority to provide transportation will be granted under this subchapter.

§ 10929. Temporary authority for previously exempt water transportation 49 USC 10929.

When transportation exempt from the jurisdiction of the Interstate Commerce Commission under section 10544(a)–(c) of this title becomes subject to the jurisdiction of the Commission, the water carrier may continue to provide the transportation without a certificate or permit issued under this subchapter for a period of 120 days beginning on the day the transportation becomes subject to the jurisdiction of the Commission. If the carrier applies to the Commission within that period for a certificate or permit to provide the transportation previously exempt, the Commission shall issue to the carrier the appropriate certificate or permit authorizing the transportation. The Commission shall issue each such certificate and permit without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. *Ante*, p. 1368. *Ante*, p. 1345. 5 USC 551.

§ 10930. Limitations on certificates and permits 49 USC 10930.

(a) Except when the Interstate Commerce Commission finds good cause consistent with the public interest and the transportation policy of section 10101 of this title— *Ante*, p. 1337.

(1) a person may not hold both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or both a certificate of a water common carrier and a permit of a water contract carrier issued under this subchapter, to transport property over the same route or in the same area; and

(2) if a person controls, is controlled by, or is under common control with, another person—

(A) one of them may not hold a certificate of a motor common carrier, while the other holds a permit of a motor contract carrier, to transport property over the same route or in the same area; and

(B) one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.

(b)(1) A person may not hold a permit of a freight forwarder issued under this subchapter if the person is a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title. *Ante*, pp. 1359, 1361, 1365.

(2) Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a permit may not authorize a freight forwarder to conduct direct rail, water, or motor carrier transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter. *Ante*, p. 1369. *Ante*, p. 1362.

(3) Except when the Commission finds that service to be provided as a freight forwarder is consistent with the public interest and the transportation policy of section 10101 of this title, a person may not hold a permit of a freight forwarder when—

(A) the principal business of the person is manufacturing and selling, or buying and selling, or both manufacturing and selling and buying and selling articles or commodities, and the service

of a freight forwarder (or similar assembling, consolidating, and shipping service is provided by the person for its own business) is commonly used to transport the articles or commodities; or

(B) the person controls, is controlled by, or is under common control with, a person referred to in clause (A) of this paragraph.

49 USC 10931.

§ 10931. Motor common carriers providing transportation entirely in one State

(a) A motor common carrier may provide transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title without a certificate issued by the Commission under section 10922 of this title, when—

Ante, p. 1361.

(1) the carrier provides transportation entirely in one State;

(2) the carrier is not controlled by, controlling, or under common control with a carrier providing transportation outside the State;

(3) the carrier has applied for, and has been issued, a certificate of public convenience and necessity by the State authority having jurisdiction to issue such a certificate, permitting the carrier to provide intrastate transportation by motor vehicle; and

(4) the intrastate certificate was issued after, and the certificate states that—

Publication in Federal Register.

(A) notice was given to interested parties through publication in the Federal Register of the filing of the application by the carrier and the desire of the carrier to provide transportation otherwise under the jurisdiction of the Commission within the limits of the certificate issued by the State authority;

(B) reasonable opportunity to be heard was given; and

(C) the State authority considered and found that the public convenience and necessity require that the carrier be permitted to provide transportation under the jurisdiction of the Commission within limits that do not exceed the scope of the certificate issued by the State authority.

Petitions.

(b) An interested party that opposed issuing the certificate to a motor common carrier in a proceeding before a State authority may petition the Commission for reconsideration of a decision of the State authority. On reconsideration, the Commission, based on the record before the State authority, may affirm, reverse, or change that decision, but only with respect to the transportation subject to Commission jurisdiction.

(c) The Commission may require, before a motor common carrier provides transportation authorized under this section, that—

(1) a certified copy of the carrier's intrastate certificate and other appropriate information be filed with the Commission; and

(2) the carrier comply with applicable requirements established by the Commission.

Certificates of registration.

(d)(1) The Commission shall issue a certificate of registration to a motor common carrier authorizing the carrier to provide transportation under this section. The authority granted under the certificate is subject to all other applicable provisions of this subtitle. Except as otherwise provided in this subsection and subchapter III of chapter 113 of this title, the certificate of registration may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(2) The certificate of registration issued by the Commission is valid as long as the motor common carrier provides transportation entirely in the State from which it received its intrastate certificate and is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(e)(1) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under this section to provide transportation is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day.

(2) Transportation authorized under this section may be suspended or revoked by the Commission under section 10925 of this title.

§ 10932. Motor carrier savings provisions 49 USC 10932.

(a) Except as specifically provided in a certificate or permit, the holder of a motor carrier certificate or permit issued as the result of an application filed before September 2, 1950, authorizing the carrier to provide transportation in the United States or between the United States and a foreign country (to the extent the transportation is in the United States), may provide the transportation between a place in the United States and a place in a territory or possession of the United States—

(1) without being authorized to do so by the Interstate Commerce Commission; and

(2) to the same extent and subject to the same conditions of the certificate or permit of the carrier.

(b)(1) A motor common carrier providing transportation under an intrastate certificate issued by a State and under a certificate of registration issued by the Commission under section 206(a)(7) of the Interstate Commerce Act (76 Stat. 912) that has been in effect since October 15, 1962, may continue to provide transportation otherwise subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title— *Post*, p. 1466. *Ante*, p. 1361.

(A) if the certificate of the State authorizing intrastate transportation is limited to a specified period of time, only for that period;

(B) subject to all other applicable provisions of this subtitle;

(C) as long as the carrier provides transportation only in the State issuing the intrastate certificate; and

(D) as long as the carrier is not controlled by, controlling, or under common control with, a carrier providing transportation outside the State.

(2) Except as provided in subchapter III of chapter 113 of this title, the certificate of registration issued by the Commission may be transferred if it is transferred with the intrastate certificate. Transfer of the intrastate certificate without the certificate of registration revokes the certificate of registration.

(3) On the 180th day after the termination, restriction in scope, or suspension of the intrastate certificate, the authority granted under the certificate of registration is revoked or likewise restricted unless the intrastate certificate is renewed or reissued or the restriction is removed by that 180th day. The certificate of registration may be suspended or revoked by the Commission under section 10925 of this title.

(c) Under regulations of the Commission, a motor common carrier transporting passengers under a certificate issued by the Commission

as the result of an application filed before January 2, 1967, or under a reissuance of the operating authority provided in the certificate, may provide transportation to any place subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for special and chartered parties.

(d) The Commission may not prescribe a condition for a motor contract carrier permit issued before August 23, 1957, that restricts the authority of the carrier—

(1) to substitute similar contracts within the scope of the permit; or

(2) to add contracts within the scope of the permit, unless the Commission, on its own initiative or on petition of an interested carrier, finds that the scope of the transportation to be provided by the motor contract carrier under any such additional contract is not confined to transportation provided by a motor contract carrier as defined after August 21, 1957.

49 USC 10933.

§ 10933. Authorizing abandonment of freight forwarder service

When a freight forwarder is controlled by, or under common control with, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, the freight forwarder may abandon any part of the service it provides subject to the jurisdiction of the Commission under subchapter IV of chapter 105, only if the Commission finds the abandonment is consistent with the public interest and the transportation policy of section 10101 of this title. On making the finding, the Commission shall issue to the freight forwarder a certificate describing the abandonment authorized by the Commission.

Ante, pp. 1359, 1361, 1365.

Ante, p. 1369.

Ante, p. 1337.

CHAPTER 111—OPERATIONS OF CARRIERS

SUBCHAPTER I—GENERAL REQUIREMENTS

Sec.
11101. Providing transportation and service.
11102. Classification of carriers.
11103. Use of terminal facilities.
11104. Switch connections and tracks.
11105. Protective services.
11106. Identification of motor vehicles.
11107. Leased motor vehicles.
11108. Water carriers subject to unreasonable discrimination in foreign transportation.

SUBCHAPTER II—CAR SERVICE

11121. Criteria.
11122. Compensation and practice.
11123. Situations requiring immediate action.
11124. Rerouting traffic on failure of rail carrier to serve the public.
11125. Directed rail transportation.
11126. Distribution of coal cars.
11127. Service of freight forwarders.
11128. Water emergencies; embargoes imposed by carriers.

SUBCHAPTER III—REPORTS AND RECORDS

11141. Definitions.
11142. Uniform accounting systems.

Sec.
11143. Depreciation charges.
11144. Records: form; inspection; preservation.
11145. Reports by carriers, lessors, and associations.

SUBCHAPTER I—GENERAL REQUIREMENTS

§ 11101. Providing transportation and service

49 USC 11101.

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title shall provide the transportation or service on reasonable request. In addition, a motor common carrier shall provide safe and adequate service, equipment, and facilities.

Ante, p. 1358.

(b) The Commission may prescribe requirements for continuous and adequate transportation and service provided by motor common carriers and freight forwarders subject to the jurisdiction of the Commission under subchapters II and IV of chapter 105 of this title and for transportation of baggage and express by such motor common carriers of passengers.

Ante, pp. 1361, 1369.

(c) The Commission may not regulate the duration of, or the amount of compensation payable under, an arrangement between a motor carrier and another party to use, with a driver, a motor vehicle not owned by that carrier to transport property when—

(1) the motor vehicle—

(A) to be used is that of a farmer or a cooperative association or a federation of cooperative associations under section 10526(a) (4) or (5) of this title or a motor private carrier;

Ante, p. 1364.

(B) is used regularly in the transportation of (i) property referred to in section 10526(a) (6) of this title, or (ii) perishable products manufactured from perishable property referred to in that section; and

(C) is to be used by the carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area where the motor vehicle is based; or

(2) the motor vehicle to be used has completed a movement exempt under section 10526(a) (6) of this title and is next to be used by that carrier in a loaded movement in any direction or in a movement referred to in clause (1) (C) of this subsection, or both.

§ 11102. Classification of carriers

49 USC 11102.

The Interstate Commerce Commission may classify and maintain requirements for groups of carriers included in the terms "motor common carrier", "water common carrier", "motor contract carrier", or "water contract carrier" and for brokers, when required because of the special nature of the transportation provided by them.

§ 11103. Use of terminal facilities

49 USC 11103.

(a) The Interstate Commerce Commission may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, to be used by another rail carrier if the Commission finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the carriers cannot agree, the

Ante, p. 1359.

Commission may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a carrier may begin to use the facilities of another carrier under this section.

(b) A rail carrier whose terminal facilities are required to be used by another carrier under this section is entitled to recover damages from the other carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both, as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

49 USC 11104.

§ 11104. Switch connections and tracks

(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

Ante, p. 1359.

(1) is reasonably practicable;

(2) can be made safely; and

(3) will furnish sufficient business to justify its construction and maintenance.

Filing of complaints.

(b) If a common carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Commission under section 11701 of this title. The Commission shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Commission may direct the common carrier to comply with subsection (a) of this section only after a full hearing.

Post, p. 1449

Hearing.

49 USC 11105.

§ 11105. Protective services

A rail or express carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may arrange for a person to furnish to or for the carrier a protective service against heat or cold for property transported by it subject to that jurisdiction only when the Commission finds the arrangement to be reasonable and in the public interest.

49 USC 11106.

§ 11106. Identification of motor vehicles

(a) The Interstate Commerce Commission may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation subject to its jurisdiction under subchapter II of chapter 105 of this title; and

Ante, p. 1361.

(2) require the carrier to pay the reasonable cost of the plate.

(b) A carrier may use an identification plate only as authorized by the Commission.

49 USC 11107.

§ 11107. Leased motor vehicles

Except as provided in section 11101(c) of this title, the Interstate Commerce Commission may require a motor carrier providing transportation subject to the jurisdiction of the Commission under sub-

chapter II of chapter 105 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to— *Ante*, p. 1361.

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary of Transportation on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

§ 11108. Water carriers subject to unreasonable discrimination in foreign transportation 49 USC 11108.

(a) The Interstate Commerce Commission may relieve a water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, from the requirements of this subtitle when a rate, rule, or practice established by a person providing water transportation to or from a port in a foreign country in competition with that carrier unreasonably discriminates against that carrier. The Commission may relieve that carrier to the extent and for the period of time necessary to end or ease the discrimination if the relief is in the public interest and consistent with the transportation policy of section 10101 of this title. *Ante*, p. 1365. *Ante*, p. 1337.

(b) The Commission may begin a proceeding under this section on its own initiative or on application. Proceedings.

SUBCHAPTER II—CAR SERVICE

§ 11121. Criteria 49 USC 11121.

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may— *Ante*, p. 1359.

(1) require a rail carrier to file its car service rules with the Commission; and

(2) require that carrier to incorporate those rules in its tariffs.

(b) The Commission may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 11123-11125, 11127, and 11128(a)(1) of this title.

§ 11122. Compensation and practice 49 USC 11122.

(a) The regulations of the Interstate Commerce Commission on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include— Regulations.

(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

(3) sanctions for nonobservance.

(b) (1) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Commission shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

(2) The Commission may increase a rate of compensation determined under paragraph (1) of this subsection by an incentive element only when the Commission finds that the supply of a type of freight car is inadequate and an incentive element will compensate freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and national defense. The Commission may exempt that incentive element from the compensation to be paid by a carrier or group of carriers when the Commission finds that exemption is in the national interest.

49 USC 11123.

§ 11123. Situations requiring immediate action

(a) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States, the Commission may—

(1) suspend any car service rule or practice;

(2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to subsection (b) (2) of this section;

(3) require joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals, on terms of compensation the carriers establish between themselves, subject to subsection (b) (2) of this section, when that action will best meet the emergency and serve the public interest; and

(4) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

Ante, p. 1345.
5 USC 551.

(2) When the carriers do not agree on terms of compensation under subsection (a) (2) of this section or on terms for joint or common use of terminals under subsection (a) (3) of this section, the Commission may establish for them in a later proceeding terms of compensation the Commission finds to be reasonable.

49 USC 11124.

§ 11124. Rerouting traffic on failure of rail carrier to serve the public

(a) When the Interstate Commerce Commission considers that a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it in a manner that properly serves the public, the Commission may direct the handling, routing, and movement of the traffic of that carrier and its distribution over other rail-

Ante, p. 1359.

road lines to promote commerce and service to the public. Subject to subsection (b) (2) of this section, the carriers may establish the terms of compensation between themselves.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. *Ante*, p. 1345. 5 USC 551 *et seq.*

(2) When the carriers do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

§ 11125. Directed rail transportation 49 USC 11125.

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title cannot transport the traffic offered to it because— *Ante*, p. 1359.

(1) its cash position makes its continuing operation impossible;

(2) transportation has been discontinued under court order; or

(3) it has discontinued transportation without obtaining a required certificate under section 10903 of this title;

the Commission may direct the handling, routing, and movement of the traffic available to that carrier and its distribution over the railroad lines of that carrier by another carrier to promote service in the interest of the public and of commerce. Subject to subsection (b) of this section, the Commission may act without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5.

(b) (1) Action of the Commission under subsection (a) of this section may not remain in effect for more than 60 days. However, the Commission may extend that period for an additional designated period of not more than 180 days if cause exists.

(2) The Commission may not take action that would—

(A) cause a directed carrier to operate in violation of section 421 of title 45; or 45 USC 421.

(B) impair substantially the ability of a directed carrier to serve its own patrons adequately, or to meet its outstanding common carrier obligations.

(3) A directed carrier is not responsible, because of the direction of the Commission, for the debts of the other carrier. Debts.

(4) A directed carrier shall hire the employees of the other carrier, to the extent that they previously provided that transportation for the other carrier, and assume the existing employment obligations and practices of the other carrier for those employees including agreements governing rate of pay, rules and working conditions, and employee protective conditions for the period during which the action of the Commission is effective.

(5) A directed carrier may apply to the Commission for payment of an amount equal to the amount by which (A) the total expenses of that carrier incurred in or attributable to the handling, routing, and moving the traffic over the lines of the other carrier for the period during which the action of the Commission is effective, including renting or leasing necessary equipment and an allocation of common expenses, overhead, and a reasonable profit, exceed (B) the direct revenues from handling, routing, and moving that traffic over the lines of the other carrier during that period. The carrier must submit a current record of those total expenses to the Commission. The Commission shall certify promptly, to the Secretary of the Treasury, the amount to be paid. The Secretary shall pay that amount by the 90th

day after the end of the period during which the direction of the Commission is effective, and funds are authorized to be appropriated for that payment. The Commission may audit any such record.

Audit.

49 USC 11126.

§ 11126. Distribution of coal cars

(a) Subject to subsection (b) of this section, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall make a reasonable distribution of cars for transportation of coal among the coal mines served by it whether the mines are located on its line or are customarily dependent on it for car supply. If the supply of available cars does not equal the requirements of the mines, the carrier shall maintain and apply reasonable ratings of the mines and count each car furnished to or used by a mine for transportation of coal against that mine. However, coal cars supplied by shippers or receivers are deemed not to be a part of the carrier's fleet and are not counted in determining a question about distribution or car count under subsection (b) of this section or section 10102, 10501, 10701–10703, 10707, 10721(b), 10722(c)–(d), 10723(a)–(b)(1), 10724(a), 10741–10744, 10746, 10749, 10750, 10901, 10902, 10907, 11101, 11103–11105, 11121–11125, 11127, 11128(a)(1), 11501(c), 11505(a), 11702(a)(1), 11703, 11901(d)–(e)(2), 11902, 11903, 11905, 11907, 11915, or 11916 of this title.

Ante, p. 1359.

Ante, pp. 1338, 1359, 1371, 1372, 1380, 1383–1386, 1390, 1391, 1393, 1394, 1402, 1403, *Post*, pp. 1444, 1448, 1450, 1455, 1457, 1459, 1464. "Unit train Service."

(b)(1) In this subsection, "unit-train service" means the movement of a single shipment of coal of at least 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day, and destined to one consignee, at one plant, at one destination, over one route.

(2) Unit-train service and non-unit-train service are deemed to be separate and distinct classes of service. A distinction shall be made between them and between the cars used in each class of service. A question about the reasonableness of, or discrimination in, the distribution of cars shall be determined within each class and not between them, notwithstanding a section referred to in subsection (a) of this section.

49 USC 11127.

§ 11127. Service of freight forwarders

(a)(1) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requires immediate action at a place in the United States, the Commission may—

(A) suspend any service, equipment, or facilities requirement applicable to a freight forwarder under the jurisdiction of the Commission under subchapter IV of chapter 105 of this title;

(B) take action to promote transportation in the interest of the public and of commerce; and

(C) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

(2) When the Commission considers that any such freight forwarder cannot properly serve the public by providing service for the traffic offered it, the Commission may require the handling, routing, and movement of that traffic in another manner to promote commerce and service to the public. When the equipment or facilities of another freight forwarder are required to be used, the freight forwarders may establish terms of compensation between themselves subject to subsection (b)(2) of this section.

(b)(1) Except as provided in paragraph (2) of this subsection, the Commission may act under this section on its own initiative or on

application without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. *Ante*, p. 1345. *Ante*, p. 1361.

(2) When the freight forwarders do not agree on the terms of compensation under this section, the Commission may establish the terms for them in a later proceeding.

§ 11128. War emergencies; embargoes imposed by carriers 49 USC 11128.

(a)(1) When the President, during time of war or threatened war, certifies to the Interstate Commerce Commission that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Commission shall direct that preference or priority be given to that traffic under sections 11123(a)(4) and 11127(a)(1)(C) of this title.

(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall adopt every means within their control to facilitate and expedite the military traffic. *Ante*, p. 1359.

(b) An embargo imposed by any such carrier does not apply to shipments consigned to agents of the United States Government for its use. The carrier shall deliver those shipments as promptly as possible.

SUBCHAPTER III—REPORTS AND RECORDS

§ 11141. Definitions 49 USC 11141.

In this subchapter—

(1) "carrier", "broker", and "lessor" include a receiver or trustee of a carrier (except a freight forwarder), broker, and lessor, respectively.

(2) "lessor" means a person owning a railroad, water line, or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and a person leasing a right to operate as a motor carrier or water carrier to another.

(3) "association" means an organization maintained—

(A) by or in the interest of a group of carriers (except water carriers) or brokers providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title that performs a service, or engages in activities, related to transportation under this subtitle; or *Ante*, p. 1358.

(B) only by water carriers providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title that engages in activities related to the fixing of rates, publication of classifications, or filing of tariffs by water carriers. *Ante*, p. 1365.

§ 11142. Uniform accounting systems 49 USC 11142.

(a) The Interstate Commerce Commission shall prescribe, for rail carriers providing transportation subject to this subtitle, a uniform cost and revenue accounting and reporting system (1) under generally accepted accounting principles uniformly applied to those carriers and (2) after consideration of appropriate economic principles. To the extent possible, the system shall be cost effective, without duplication, and compatible with the present and desired managerial and responsi-

bility accounting requirements of those carriers. The Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.

Ante, pp. 1361, 1365, 1369.

(b) (1) To obtain the most accurate cost and revenue information about light density railroad lines, main line operations, factors used to establish rates, and other regulatory areas of responsibility, the Commission shall identify and define, for each facet of rail transportation—

(A) operating and nonoperating revenue accounts;

(B) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of those costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

(C) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of those costs to various functions, services, or activities.

(2) Reports required under the rail accounting system must include information considered appropriate for disclosure under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. To the extent possible, the Interstate Commerce Commission should require that information be reported or disclosed only for essential regulatory purposes including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

Review.

(3) The Commission shall review the rail accounting system periodically, but at least once every 5th year after 1977, and revise the system as necessary to conform it to generally accepted accounting principles compatible with the managerial and responsibility accounting requirements of those carriers and to keep it in compliance with this section.

49 USC 11143.

§ 11143. Depreciation charges

The Interstate Commerce Commission shall, for a class of carriers providing transportation subject to its jurisdiction under subchapter I or III of chapter 105 of this title, and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Commission may classify those carriers for purposes of this section. A carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

Ante, p. 1359.

(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Commission;

(2) charge another rate of depreciation; or

(3) include other depreciation charges in operating expenses.

49 USC 11144.

§ 11144. Records: form; inspection; preservation

(a) The Interstate Commerce Commission may prescribe the form

of records required to be prepared or compiled under this subchapter—

(1) by carriers, brokers, and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars or protective service against heat or cold to or for a rail or express carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to the extent related to those cars or that service. *Ante*, p. 1359.

(b) The Commission, or an employee designated by the Commission, may on demand and display of proper credentials—

(1) inspect and examine the lands, buildings, and equipment of a carrier, broker, or lessor; and

(2) inspect and copy any record of—

(A) a carrier, broker, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier if the Commission considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail or express carrier if the Commission prescribed the form of that record.

(c) The Commission, or an employee designated by the Commission, may, during normal business hours, inspect and copy any record related to motor vehicle transportation of a cooperative association or federation of cooperative associations required to notify the Commission under section 10526(a)(5) of this title. However, the Commission may not prescribe the form of records to be maintained by a cooperative association or federation of cooperative associations. *Ante*, p. 1364.

(d) The Commission may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers, brokers, lessors, and persons furnishing cars or protective services.

§ 11145. Reports by carriers, lessors, and associations 49 USC 11145.

(a) The Interstate Commerce Commission may require—

(1) carriers, brokers, lessors, and associations, or classes of them as the Commission may prescribe, to file annual, periodic, and special reports with the Commission containing answers to questions asked by it; and

(2) a person furnishing cars or protective services against heat or cold to a rail or express carrier providing transportation subject to this subtitle, to file reports with the Commission containing answers to questions about those cars or services.

(b)(1) An annual report shall contain an account, in as much detail as the Commission may require, of the affairs of the carrier, broker, lessor, or association for the 12-month period ending on the 31st day of December of each year. However, when an annual report is made by a motor carrier, a broker, or a lessor or an association maintained by or interested in one of them, the person making the report may elect to make it for the 13-month period accounting year ending at the close of one of the last 7 days of each calendar year if the books of the person making the report are kept by that person on the basis of that accounting year. Annual report.

(2) An annual report shall be filed with the Commission by the end of the 3d month after the end of the year for which the report is made unless the Commission extends the filing date or changes the period covered by the report. The annual report and, if the Commission requires, any other report made under this section, shall be made under oath.

CHAPTER 113—FINANCE

SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

Sec.
11301. Authority of certain carriers to issue securities and assume obligations and liabilities.
11302. Issuance of securities and assumption of obligations and liabilities by motor carriers.
11303. Equipment trusts: recordation; evidence of indebtedness.
11304. Security interests in certain motor vehicles.

SUBCHAPTER II—OWNERSHIP

11321. Limitation on ownership of certain water carriers.
11322. Restrictions on officers and directors.
11323. Limitation on ownership of other carriers by freight forwarders.

SUBCHAPTER III—COMBINATIONS

11341. Scope of authority.
11342. Limitation on pooling and division of transportation or earnings.
11343. Consolidation, merger, and acquisition of control.
11344. Consolidation, merger, and acquisition of control: general procedure and conditions of approval.
11345. Consolidation, merger, and acquisition of control: rail carrier procedure.
11346. Consolidation, merger, and acquisition of control: expedited rail carrier procedure.
11347. Employee protective arrangements in transactions involving rail carriers.
11348. Interstate Commerce Commission authority over noncarrier that acquires control of carrier.
11349. Temporary operating approval for transactions involving motor and water carriers.
11350. Responsibility of the Secretary of Transportation in certain transactions.

SUBCHAPTER IV—FINANCIAL STRUCTURE

11361. Scope of authority: changes in financial structure.
11362. Criteria for approval and authority.
11363. Assent of holders of securities and certain other instruments.
11364. Procedure.
11365. Effect of change on other persons.
11366. Reports.
11367. Application of other laws.

SUBCHAPTER I—CARRIER SECURITIES, EQUIPMENT TRUSTS, AND SECURITY INTERESTS

49 USC 11301.

§ 11301. Authority of certain carriers to issue securities and assume obligations and liabilities

(a) In this section—

"Carrier."

(1) "carrier" means a rail or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title

Ante, p. 1359.

(except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that subchapter.

"Security."

(2) "security" means a share of capital stock, a bond, or other evidence of interest in, or indebtedness of, a carrier.

Issuance of securities.
15 USC 77a, 78a, 80a-1.

(b)(1) Subject to subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15, the Commission has exclusive jurisdiction to approve the issuance of securities by a carrier and the assumption of an obligation or liability related to the securities of another person by a carrier. A carrier may not issue securities or assume those obligations or liabilities without the approval of the Commission. No other approval is required. A security issued or obligation or liability assumed by a carrier in violation of this subsection or in violation of a condition prescribed by the Commission under subsection (d) of this section is void. However, a security or obligation issued or assumed under authority of this section is not void for failure to comply with a procedural requirement of this section or other matter preceding entry of the order of the Commission.

(2) Paragraph (1) of this subsection does not apply to notes issued by a carrier if the notes mature not more than 2 years after their date of issue and total (with all then outstanding notes having a maturity of not more than 2 years) not more than 5 percent of the par value of the then outstanding securities of that carrier. If the securities do not have a par value, the par value of those securities is the fair market value on the date of issue. Paragraph (1) of this subsection applies to a subsequent funding of notes referred to in this paragraph.

(c)(1) A carrier issuing notes referred to in subsection (b)(2) of this section shall file a certificate of notification with the Commission by the end of the 10th day after they are issued. That notification must include substantially the same matter required by the Commission for an application for authority to issue other securities.

(2) A carrier that pledges, repledges, or otherwise disposes of a security referred to in an application for authority or a certificate of notification under this section as pledged or held unencumbered in the treasury of that carrier shall file a certificate of notification with the Commission by the end of the 10th day after it disposes of the security.

Proceedings.

(d)(1) The Commission may begin a proceeding under this section on application of a carrier. Before taking final action, the Commission must investigate the purpose and use of the securities issue or assumption and the proceeds from it. The Commission may approve any part of the application and may require the carrier to comply with appropriate conditions. After an application is approved under this section, the Commission may change a condition previously imposed or use that may be made of the securities or proceeds for good cause shown subject to the requirements of this section. The Commission may approve an application under this section only when it finds that the securities issue or assumption—

(A) is for a lawful object within the corporate purpose of the carrier and reasonably appropriate for that purpose;

(B) is compatible with the public interest;

(C) is appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier; and

(D) will not impair the financial ability of the carrier to provide the service.

(2) An application or certificate must be made under oath and signed and filed for the carrier by a designated executive officer who knows the matters stated in the application or certificate. On receipt of an application of a carrier under this section, the Commission shall have a copy of the application served on the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

Reports to Interstate Commerce Commission.

(e) The Commission shall require a carrier that issues securities, including notes, under this section to submit reports to it. The reports must identify the disposition of those securities and the application of the proceeds from their disposition.

(f) This section does not imply a guaranty or obligation of those securities by the United States Government. This section does not apply to securities issued or obligations or liabilities assumed by the United States Government, a State, or an instrumentality or political subdivision of one of them.

49 USC 11302.

§ 11302. Issuance of securities and assumption of obligations and liabilities by motor carriers

(a) Except as provided in this section, section 11301 of this title applies to—

(1) motor carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title;

Ante, p. 1361.

(2) corporations organized to provide transportation as carriers subject to the jurisdiction of the Commission under that subchapter; and

(3) corporations authorized by the Commission to acquire control of at least one motor carrier subject to its jurisdiction under that subchapter.

(b) Section 11301 of this title does not apply when the total value of capital stock (or principal amount of other securities to be issued) and the value of capital stock and principal amount of other securities then outstanding is not more than $1,000,000, or to notes of a maturity of not more than 2 years that aggregate not more than $200,000. Notes that, with other outstanding notes of a maturity of not more than 2 years, aggregate that amount may be issued without regard to the percentage limitations applicable under section 11301 (b) (2) of this title. The value of capital stock having no par value is the fair market value on the date of issue of that stock, and the value of capital stock that has a par value is the fair market value on the date of issue or the par value, whichever is greater.

(c) This section does not apply to the United States Government, a State, or an instrumentality or political subdivision of one of them.

49 USC 11303.

§ 11303. Equipment trusts: recordation; evidence of indebtedness

(a) A mortgage (other than a mortgage under the Ship Mortgage Act, 1920), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of railroad cars, locomotives, or other rolling stock or vessels, intended for a use related to interstate commerce may be filed with the Interstate Commerce Commission. An assignment of a right or interest under one of those instruments and an amendment to that

instrument or assignment including a release, discharge, or satisfaction of any part of it may also be filed with the Commission. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Commission regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change the Ship Mortgage Act, 1920. 46 USC 984.

(b) The Commission shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Commission shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions. Record system.

§ 11304. Security interests in certain motor vehicles 49 USC 11304.

(a) In this section— Definitions.

(1) "motor vehicle" means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

(2) "lien creditor" means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in bankruptcy from the date of filing of the petition in bankruptcy, and a receiver in equity from the date of appointment of the receiver.

(3) "security interest" means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

(4) "perfection", as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier having a certificate or permit issued under section 10922 or 10923 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when— *Ante*, pp. 1409, 1410.

(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a

certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

(c) This section does not affect a security interest perfected before January 1, 1959.

SUBCHAPTER II—OWNERSHIP

§ 11321. Limitation on ownership of certain water carriers

(a)(1) Notwithstanding sections 11343 and 11344 of this title, a carrier, or a person controlling, controlled by, or under common control with a rail, express, sleeping car, or pipeline carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may not own, operate, control, or have an interest in a water common carrier or vessel carrying property or passengers on a water route with which it does or may compete for traffic.

Ante, p. 1359.

Hearing.

(2) The Commission may decide, after a full hearing, questions of fact related to competition or the possibility of competition under this subsection on application of a carrier. A carrier may file an application to determine whether an existing service violates this subsection and may request permission to continue operation of a vessel or that action be taken under subsection (b) of this section. The Commission may begin a proceeding under this subsection on its own initiative or on application of a shipper to investigate the operation of a vessel used by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter if the carrier has not applied to the Commission and had the question of competition or the possibility of competition determined under this subsection.

(b) Notwithstanding subsection (a) of this section, the Commission may authorize a carrier providing transportation subject to the jurisdiction of the Commission under that subchapter to own, operate, control, or have an interest in a water common carrier or vessel that is not operated through the Panama Canal and with which the carrier does or may compete for traffic when the Commission finds that ownership, operation, control, or interest will still allow that water common carrier or vessel to be operated in the public interest advantageously to interstate commerce and that it will still allow competition, without reduction, on the water route in question. However, section 11343 of this title also applies to a transaction or interest under this subsection if the transaction or interest is within the scope of that section. The Commission may begin a proceeding under this subsection on application of a carrier. An authorization under this subsection is not necessary for a carrier that obtained an order of extension before

September 18, 1940, under section 5(21) of the Interstate Commerce Act (37 Stat. 567), as amended, if the order is still in effect. 49 USC 5.

(c) The Commission may take action under this section only after a full hearing. An order entered as a result of the action may be conditioned on giving security for the payment of an amount of money or the discharge of an obligation that is required to be paid or discharged under that order.

§ 11322. Restrictions on officers and directors 49 USC 11322.

(a) A person may hold the position of officer or director of more than one carrier as defined in section 11301(a)(1) of this title only when authorized by the Interstate Commerce Commission. The Commission may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

(b) An officer or director of a carrier referred to in subsection (a) of this section may not—

(1) receive, for the benefit of that officer or director, a thing of value in relation to the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier;

(2) share in the proceeds from the negotiation, hypothecation, or sale of a security issued or to be issued by that carrier; or

(3) participate in making or paying dividends of an operating carrier from funds included in a capital account.

§ 11323. Limitation on ownership of other carriers by freight forwarders 49 USC 11323.

(a) A freight forwarder, or a person controlling, controlled by, or under common control with a freight forwarder, providing service subject to the jurisdiction of the Interstate Commerce Commission under subchapter IV of chapter 105 of this title, may not acquire control of a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter. However, this subsection does not prohibit a carrier providing transportation under subchapter I, II, or III of chapter 105 from acquiring control of another such carrier under subchapter III of this chapter but subject to section 11321.

Ante, p. 1369.

Ante, pp. 1359, 1361, 1365.

(b) A director, officer, employee, or agent of a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers, may not, for that person's pecuniary benefit, own, lease, control, or hold stock in a freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of that chapter. However, this subsection does not prohibit the holding of a director's qualifying shares of stock from which no personal pecuniary benefit is derived by the holder.

(c) This subtitle does not prohibit a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of chapter 105 of this title or a person controlling, controlled by, or under common control with one of those carriers from controlling a freight forwarder. When that control exists, a rate, classification, rule, or practice of one of those carriers may not be found to be unlawful because of the relationship.

SUBCHAPTER III—COMBINATIONS

49 USC 11341.

§ 11341. Scope of authority

(a) The authority of the Interstate Commerce Commission under this subchapter is exclusive. A carrier or corporation participating in or resulting from a transaction approved by the Commission under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

49 USC 11342.

§ 11342. Limitation on pooling and division of transportation or earnings

(a) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title may not agree or combine with another of those carriers to pool or divide traffic or services or any part of their earnings without the approval of the Commission under this section or sections 11124 and 11125 of this title. The Commission may approve and authorize the agreement or combination if the carriers involved assent to the pooling or division and the Commission finds that a pooling or division of traffic, services, or earnings—

Ante, pp. 1359, 1361, 1365.

(1) will be in the interest of better service to the public or of economy of operation; and

(2) will not unreasonably restrain competition.

(b) The Commission may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

(c) This section affects an agreement or combination filed with the Commission before March 19, 1941, to which a water common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title is a party only when the Commission determines that the agreement or combination does not meet the requirements for approval and authorization under subsection (a) of this section.

Proceedings.

(d) The Commission may begin a proceeding under this section on its own initiative or on application.

49 USC 11343.

§ 11343. Consolidation, merger, and acquisition of control

(a) The following transactions involving carriers providing transportation subject to the jurisdiction of the Interstate Commerce Com-

mission under subchapter I (except a pipeline carrier), II, or III of chapter 105 of this title may be carried out only with the approval and authorization of the Commission:

Ante, pp. 1359, 1361, 1365.

(1) consolidation or merger of the properties or franchises of at least 2 carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

(2) a purchase, lease, or contract to operate property of another carrier by any number of carriers.

(3) acquisition of control of a carrier by any number of carriers.

(4) acquisition of control of at least 2 carriers by a person that is not a carrier.

(5) acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

(6) acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those carriers, regardless of how that result is reached, only with the approval and authorization of the Commission under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

(1) A transaction by a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(2) A transaction by a person affiliated with a carrier has the effect of putting that carrier and persons affiliated with it, taken together, in control of another carrier.

(3) A transaction by at least 2 persons acting together (one of whom is a carrier or is affiliated with a carrier) has the effect of putting those persons and carriers and persons affiliated with any of them, or with any of those affiliated carriers, taken together, in control of another carrier.

(c) A person is affiliated with a carrier under this subchapter if, because of the relationship between that person and a carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

(d) (1) Approval and authorization by the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are motor carriers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and the aggregate gross operating revenues of those carriers were not more than $300,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties covering the transaction. However, the approval and authorization of the Commission is required when a motor carrier that is controlled by or affiliated with a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is a party to the transaction.

(2) The approval and authorization of the Commission are not required if the only parties to a transaction referred to in subsection (a) of this section are street, suburban, or interurban electric railways

that are not controlled by or under common control with a carrier that is operated as part of a general railroad system of transportation.

49 USC 11344.

§ 11344. Consolidation, merger, and acquisition of control: general procedure and conditions of approval

(a) The Interstate Commerce Commission may begin a proceeding to approve and authorize a transaction referred to in section 11343 of this title on application of the person seeking that authority. When an application is filed with the Commission, the Commission shall notify the chief executive officer of each State in which property of the carriers involved in the proposed transaction is located and shall notify those carriers. If a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title is involved in the transaction, the Commission must notify the persons specified in section 10328(b) of this title. The Commission shall hold a public hearing when a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter is involved in the transaction unless the Commission determines that a public hearing is not necessary in the public interest.

Notification.

Ante, p. 1361.

Hearing.

Ante, p. 1359.

(b) In a proceeding under this section, the Commission shall consider at least the following:

(1) the effect of the proposed transaction on the adequacy of transportation to the public.

(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

(3) the total fixed charges that result from the proposed transaction.

(4) the interest of carrier employees affected by the proposed transaction.

(c) The Commission shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Commission may impose conditions governing the transaction. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Commission may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. When a rail carrier, or a person controlled by or affiliated with a rail carrier, is an applicant and the transaction involves a motor carrier, the Commission may approve and authorize the transaction only if it finds that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition. When a rail carrier is involved in the transaction, the Commission may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Commission finds their inclusion to be consistent with the public interest.

49 USC 11345.

§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of

Notice, publication in Federal Register.

the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title.

Ante, p. 1348.

(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

Filing comments.

(c) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

(d) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. However, if the application involves the merger or control of at least 2 class I railroads, as defined by the Commission, it must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reason why it was not issued.

Evidentiary proceedings.

(e) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

Waiver.

(f) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.

§ 11346. Consolidation, merger, and acquisition of control: expedited rail carrier procedure

49 USC 11346.

(a) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title or the Secretary of Transportation may apply, before January 1, 1982, for authority for and approval of a merger, consolidation, unification or coordination project (as described in section 1654(c) of this title), joint use of tracks or other facilities, or acquisition or sale of assets involving one of those rail carriers, under this section instead of sections 11344 and 11345 of this title. The Secretary may apply under this section only when the parties to the application that are rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of that chapter consent to an application by the Secretary. A rail carrier may apply under

Ante, p. 1359.

this section only if it sent the proposed transaction to the Secretary for a report under section 11350 of this title at least 6 months before applying under this section.

Notice.

(b) When the Commission notifies persons required to receive notice that an application has been filed under this section, the Commission must include in the notice a copy of the application, a summary of the proposed transaction, and the applicant's reasons and public interest justification for the transaction. When the Commission notifies the Secretary of Transportation that an application has been filed under this section, the Commission shall also request the report of the Secretary prepared under section 11350 of this title. By the 10th day after receiving an application under this section, the Commission shall send notice of the proposed transaction to—

(1) the chief executive officer of each State that may be affected by the execution or implementation of the proposed transaction;

(2) the Attorney General;

(3) the Secretary of Labor; and

(4) the Secretary of Transportation (unless the Secretary is the applicant under subsection (a) of this section).

Panel; recommended decisions.

(c) The Commission shall designate a panel of the Commission to make a recommended decision on each application under this section. The panel must begin a proceeding by the 90th day after the date the Commission receives the application, complete the proceeding by the 180th day after the application is referred to it, and give its recommended decision and certify the record to the entire Commission by the 90th day after the proceeding is completed. The panel may use employees appointed under section 3105 of title 5 and the Rail Services Planning Office in conducting the proceeding, evaluating the application and comments received about it, and determining whether it is in the public interest to approve and authorize the transaction under the last sentence of subsection (d) of this section. To carry out this subsection, the panel may make rules and rulings to avoid unnecessary costs and delay. In making its recommended decision, the panel shall—

(1) request the views of the Secretary of Transportation about the effect of the transaction on the national transportation policy, as stated by the Secretary, and consider the report submitted under section 11350 of this title;

(2) request the views of the Attorney General about the effect of the transaction on competition; and

(3) request the views of the Secretary of Labor about the effect of the transaction on rail carrier employees, particularly whether the proposal contains adequate employee protection provisions.

Written views to the panel. Availability to public.

The Secretaries and the Attorney General shall send their written views to the panel. Those statements are available to the public under section 552(a) of title 5.

(d) When the recommended decision and record of a proceeding under this section are certified to the entire Commission, it must hear oral argument on the matter certified to it and make a final decision by the 120th day after receiving the recommended decision and record. The Commission may extend a time period under subsection (c) of this section or under this subsection but must make its final decision by the end of the 2d year after receipt of the application by the Commission. The Commission shall consider the report of the Secretary of Transportation under section 11350 of this title in making

its final decision. The final decision must be accompanied by a written opinion stating the reasons for the Commission action. The Commission may—

(1) approve the transaction if the Commission determines the transaction is in the public interest;

(2) approve the transaction with conditions and modifications that it determines are in the public interest; or

(3) disapprove the transaction if it determines the transaction is not in the public interest.

§ 11347. Employee protective arrangements in transactions involving rail carriers 49 USC 11347.

When a rail carrier is involved in a transaction for which approval is sought under sections 11344 and 11345 or section 11346 of this title, the Interstate Commerce Commission shall require the carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under this section before February 5, 1976, and the terms established under section 565 of title 45. Notwithstanding this subtitle, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Commission (or if an employee was employed for a lesser period of time by the carrier before the action became effective, for that lesser period).

§ 11348. Interstate Commerce Commission authority over noncarrier that acquires control of carrier 49 USC 11348.

(a) When the Interstate Commerce Commission approves and authorizes a transaction under sections 11344 and 11345 of this title in which a person not a carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title acquires control of at least one carrier subject to the jurisdiction of the Commission, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Commission: section 10764, subchapter III of chapter 111, and sections 11301, 11302, 11709, 11711, 11901(f), (h)(1), 11909(a)(1), (b), and 11911(a). *Ante*, p. 1397.

(b) When a person subject to sections 11301, 11302, 11322, 11709, and 11911 of this title because of acquiring control of a carrier, applies to the Commission for authority to issue securities or assume obligations or liabilities under those sections, the Commission may authorize the issue or assumption only when it finds the issue or assumption—

(1) is consistent with the proper performance of public transportation by the carrier that is controlled by that person;

(2) will not impair the ability of the carrier to provide public transportation; and

(3) is consistent with the public interest in other respects.

§ 11349. Temporary operating approval for transactions involving motor and water carriers 49 USC 11349.

(a) Pending determination of an application filed with the Interstate Commerce Commission under this subchapter for approval of a consolidation or merger of the properties of at least 2 motor carriers

or at least 2 water carriers, or of a purchase, lease, or contract to operate the properties of at least one motor carrier or at least one water carrier, the Commission may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties. The Commission may approve operation of motor carrier properties when it appears that failure to grant the approval may result in destruction of or injury to those motor carrier properties the person is seeking to acquire, or substantially interfere with their future usefulness in providing adequate and continuous service to the public. The Commission may approve the operation of water carrier properties only for good cause shown.

(b) The Commission may take action under subsection (a) of this section without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5. Transportation provided by a motor carrier under a grant of approval under this section is subject to this subtitle.

Ante, p. 1345.
5 USC 551.

49 USC 11350.

§ 11350. Responsibility of the Secretary of Transportation in certain transactions

Publication in Federal Register.
Ante, p. 1359.

(a) When a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title sends a proposed transaction to the Secretary of Transportation under section 11346(a) of this title or the Secretary develops a proposed transaction for submission to the Commission under that section, the Secretary shall publish a summary and a detailed account of the transaction in the Federal Register and give notice of the transaction to the Attorney General and to the chief executive officer of each State in which property of a rail carrier involved in the transaction is located. The Secretary shall initiate an informal proceeding on the proposed transaction under section 553 of title 5.

Study.

(b) By the 10th day after an application is submitted to the Commission under section 11346 of this title, the Secretary shall complete and send to the Commission a study of the proposed transaction about—

(1) the needs of rail transportation in the geographical area affected by the transaction;

(2) the effect of the transaction on competition in rail transportation and other modes of transportation in the geographical area affected by the transaction;

(3) the environmental impact of the transaction and of alternative choices of action;

(4) the effect of the transaction on employment;

(5) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

(6) the rationalization of the rail system;

(7) the impact of the transaction on shippers, consumers, and rail carrier employees;

(8) the effect of the transaction on communities in the geographical area affected by the transaction and on geographical areas contiguous to the affected areas; and

(9) whether the proposed transaction will improve rail service.

SUBCHAPTER IV—FINANCIAL STRUCTURE

§ 11361. Scope of authority: changes in financial structure

49 USC 11361.

(a) The authority of the Interstate Commerce Commission to act under this subchapter is exclusive. The Commission may approve and authorize a carrier, as defined in section 11301(a)(1) of this title, to change (1) a part of a class of its securities, as defined in section 11301(a)(2) of this title, or (2) a part of an instrument under which a class of its securities is issued or a class of its obligations is secured. When a change is approved and authorized by the Commission under this subchapter, the carrier may carry out the change notwithstanding an express provision in the affected instrument or a State law and without getting other approval from the Commission or from a State authority. A person participating in carrying out a change that is approved and authorized under this subchapter is exempt from all other law, including State and municipal law, as necessary to let that person carry out the change.

(b) The Commission may not approve an application filed under this section by a carrier that is in equity receivership or reorganization under section 205 of title 11.

(c) A power granted to a carrier under this subchapter changes its powers under its corporate charter and under State law.

(d) This subchapter does not affect the negotiability of a security of a carrier or of the obligation of a carrier that assumed liability related to a security. This subchapter does not apply to an equipment-trust certificate under which a carrier is obligated, to an evidence of indebtedness of a carrier the payment of which is secured solely by equipment, or to another instrument under which that equipment-trust certificate or evidence of indebtedness was issued or by which either of them is secured.

§ 11362. Criteria for approval and authority

49 USC 11362.

(a) A carrier may apply to the Interstate Commerce Commission for approval and authority to make a change under this subchapter. To approve a proposed change, the Commission must find that the proposed change—

(1) is within the scope of section 11361 of this title;

(2) will be in the public interest;

(3) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of the carrier's obligations that are affected by the change; and

(4) will not be against the interests of a creditor of the carrier who is not affected by the change.

If the change involves an issuance of securities, the Commission must also make the findings required under section 11301(d)(1) of this title.

(b)(1) The Commission shall begin a proceeding under this section on receipt of an application but may require an applicant to get assurances of assent to the change from the holders of the outstanding shares of the securities that will be affected by the change before continuing with the proceeding. The Commission may determine the percentage of the principal amount or number of those shares needed to establish assurance of assent to the change. A class of securities is considered to be affected by a proposed change only if the change is proposed to a part of that class or to a part of an instrument under which that class was issued or by which it is secured. However, if a

proposed change is to an instrument under which at least 2 classes of securities were issued and are outstanding or secured by that instrument, only those classes to which the change is related are considered to be affected. The Commission shall divide the securities to be affected by a proposed change under this subchapter into reasonable classes for purposes of this subchapter.

(2) On receipt of an application of a carrier under this section the Commission shall notify, and file a copy of the application with, the chief executive officer of each State in which that carrier operates. The appropriate authorities of those States are entitled to be admitted as parties to a proceeding under this section to represent the rights and interests of their people and States.

Notice.

(c) The carrier must give notice of the proceeding to the holders of the class of securities affected. The Commission may direct the carrier to give notice to other persons the Commission determines to have an interest in the proceeding. The carrier may give notice under this subsection only after it gets assurances of assent when they are required under this section.

(d) The Commission may impose conditions governing the proposed change. The Commission may determine the effective date for a change it approves and authorizes under this subchapter and may allow it to become effective on publication of a declaration to that effect by the carrier. After an application is approved, the Commission may change a condition imposed and impose supplemental requirements for good cause shown subject to the requirements of this subchapter.

49 USC 11363.

§ 11363. Assent of holders of securities and certain other instruments

(a)(1) After making the findings required under section 11362(a) of this title, the Commission may approve and authorize the change if it is assented to by the holders of at least 75 percent of the aggregate principal amount or number of outstanding shares of each class of securities affected by the change. The Commission may increase the percentage required for assent under this subsection for a class of shares when an increase is in the public interest and—

(A) 75 percent of the shares in that class are held by less than 25 security holders; or

(B) that class is entitled to vote for the election of directors of the carrier and the Commission determines that the assent of at least 25 percent of the security holders of that class are controlled by the carrier or a person controlling the carrier.

(2) The carrier may withdraw its application after the Commission makes the findings required under section 11362(a) of this title. If the application is not withdrawn, the Commission must require the carrier to submit the proposed change, with conditions imposed by the Commission, to the holders of each class of its securities affected by the change for their assent or rejection.

(b)(1) In determining the percentage of outstanding securities when making a finding under section 11362(a) of this title, a security that secures an evidence of indebtedness of the carrier or of a company controlling or controlled by the carrier is considered to be outstanding unless the Commission determines that the proposed change does not materially affect the interest of the holder of that evidence of indebtedness. When that security is considered to be outstanding, assent to a proposed change may be given, notwithstanding another instrument, only—

(A) if the security is pledged as security under an instrument under which an evidence of indebtedness was issued and is outstanding, by the holder of a majority of the principal amount of the evidence of indebtedness; or

(B) if the security secures an evidence of indebtedness not issued under an instrument under which an evidence of indebtedness was issued, by the holder of the evidence of indebtedness.

(2) In addition to a submission required under subsection (a) of this section, the Commission shall require the carrier to submit a proposed change to a security referred to in this subsection, with requirements imposed by the Commission, to the holder of the evidence of indebtedness referred to in paragraph (1) (A) and (B) of this subsection as appropriate, for assent or rejection. A carrier is not required to submit the change to the trustee of the instrument referred to in that paragraph.

(c) If the Commission determines that the assent of the holder of a security not entitled to vote for the election of directors of the carrier or an evidence of indebtedness is in the control of the carrier or of a person controlling the carrier, that security or evidence of indebtedness is not considered to be outstanding.

§ 11364. Procedure 49 USC 11364.

(a) The Commission may prescribe the manner in which assents, assurances of assent, or rejections of the security holders may be solicited whether the solicitation is made before or after the Commission approves and authorizes the proposed change.

(b) The Commission may approve a bank or trust company, incorporated under the law of the United States or a State, that is a member of the Federal Reserve System and has a capital and surplus of at least $2,000,000, to receive assents and revocations of assents from security holders. The Commission may require the security holders to send those assents and revocations to that bank or trust company. That bank or trust company shall certify the result of the submission to the Commission. The Commission may rely on that certification as conclusive evidence in determining the result of that submission.

§ 11365. Effect of change on other persons 49 USC 11365.

(a) When a change becomes effective under this subchapter, the change is binding on, and changes the rights of—

(1) each holder of a security of the carrier of each class affected by the change; and

(2) a trustee or other party to an instrument under which a class of securities has been issued or by which it is secured.

(b) An authorization and approval of a change under this subchapter is authority for, and approval of, a corresponding change of the obligation of another carrier that assumed liability related to that class of securities if that carrier consents to the change in writing. When consent is given, the corresponding change becomes effective when the change of the class of securities or instrument becomes binding. A person who is liable or obligated on a class of securities issued by a carrier is a carrier with respect to that class for the purposes of this subchapter.

§ 11366. Reports 49 USC 11366.

A carrier receiving approval and authorization to make a change under this subchapter shall report the action taken by it in making that change to the Interstate Commerce Commission. The Commission may require periodic or special reports.

49 USC 11367.

§ 11367. Application of other laws

(a) Section 78n(a) of title 15 does not apply to a solicitation related to a proposed change under this subchapter.

(b) If the Interstate Commerce Commission finds an issuance of a security, that is an interest in a railroad equipment trust as defined in section 77c(a)(6) of title 15, under this subchapter complies with section 11301 of this title, it is considered to be an issuance subject to section 11301 within the meaning of section 77c(a)(6) of title 15. Section 77e of that title does not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, a carrier that are issued by committees in proceedings under this subchapter. Those certificates and transactions under this subchapter are exempt from subchapter I of chapter 2A of title 15.

15 USC 77a.

CHAPTER 115—FEDERAL-STATE RELATIONS

Sec.

11501. Interstate Commerce Commission authority over intrastate transportation.
11502. Conferences and joint hearings with State authorities.
11503. Tax discrimination against rail transportation property.
11504. Withholding State and local income tax by certain carriers.
11505. State action to enjoin rail carriers from certain actions.
11506. Registration of motor carriers by a State.
11507. Prison-made property governed by State law.

49 USC 11501.

§ 11501. Interstate Commerce Commission authority over intrastate transportation

(a)(1) The Interstate Commerce Commission shall prescribe the rate, classification, rule, or practice for transportation or service provided by a carrier subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title when the Commission finds that a rate, classification, rule, or practice of a State causes—

Ante, pp. 1359, 1369.

(A) between persons or localities in intrastate commerce and in interstate and foreign commerce, unreasonable discrimination against those persons or localities in interstate or foreign commerce; or

(B) unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

(2) The Commission may make a finding under this subsection involving a carrier providing transportation subject to its jurisdiction under subchapter I of chapter 105 of this title without separating interstate and intrastate property, revenues, and expenses, and without considering the total operations, or their results, of a carrier or group of carriers operating entirely in one State.

(b)(1) The Commission has exclusive authority to prescribe an intrastate rate for transportation provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title when—

(A) a rail carrier files with an appropriate State authority a change in an intrastate rate, or a change in a classifiction, rule, or practice that has the effect of changing an intrastate rate, that adjusts the rate to the rate charged on similar traffic moving in interstate or foreign commerce; and

(B) the State authority does not act finally on the change by the 120th day after it was filed.

(2) When a rail carrier files an application with the Commission under this subsection, the Commission shall prescribe the intrastate rate under the standards of subsection (a) of this section. Notice of the application shall be served on the State authority.

(c) The Commission may take action under this section only after a full hearing. Action of the Commission under this section supersedes State law or action taken under State law in conflict with the action of the Commission. Hearing.

§ 11502. Conferences and joint hearings with State authorities 49 USC 11502.

(a)(1) In carrying out this subtitle as it applies to a class of persons providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, III, or IV of chapter 105 of this title, the Commission may— *Ante*, pp. 1359, 1365, 1369.

(A) confer and hold joint hearings with the State authorities having regulatory jurisdiction of that class when the conference or hearing is related to an investigation of the relationship between rate structures and practices of carriers providing transportation or service subject to the jurisdiction of the State authorities and of the Commission, and the Commission may take action as a result of the investigation that may affect the rate-making authority of a State; and

(B) cooperate with and use the services, records, and facilities of the State authorities.

(2) In carrying out this subtitle as it applies to motor carriers and brokers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, the Commission may— *Ante*, p. 1361.

(A) confer and hold joint hearings with State authorities;

(B) cooperate with and use the services, records, and facilities of State authorities; and

(C) make cooperative agreements with a State to enforce the economic laws and regulations of a State and the United States concerning highway transportation.

(b) When an investigation under this subtitle involving a common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I or IV of chapter 105 of this title, is about a rate, classification, rule, or practice of a State, the Commission shall notify the interested State of the proceeding before disposing of the issue.

(c) When a representative of a State authority sits with the Commission in an investigation about a carrier subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the representative may be given an allowance for travel and subsistence expenses. The Commission may determine the amount of the allowance. Travel and subsistence allowances.

§ 11503. Tax discrimination against rail transportation property 49 USC 11503.

(a) In this section— Definitions.

(1) "assessment" means valuation for a property tax levied by a taxing district.

(2) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(3) "rail transportation property" means property, as defined by the Interstate Commerce Commission, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(4) "commercial and industrial property" means property, other than transportation property and land used primarily for

agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) levy or collect a tax on an assessment that may not be made under clause (1) of this subsection.

(3) levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

49 USC 11504.

§ 11504. Withholding State and local income tax by certain carriers

(a)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State if the employee—

(A) performs regularly assigned duties on a locomotive, car, or other track-borne vehicle in at least 2 States and the mileage

traveled in one State or subdivision of that State is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year; or

(B) is engaged principally in maintaining roadways, signals, communications, and structures or in operating motortrucks from railroad terminals in at least 2 States and the percent of the time worked by the employee in one State or subdivision of that State is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A rail, express, or sleeping car carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall withhold from the pay of an employee referred to in paragraph (1) of this subsection only income tax required to be withheld by the laws of a State, or subdivision of that State— *Ante*, p. 1359.

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(b) (1) In this subsection—

(A) "State" includes a State, territory, or possession of the United States, and the Commonwealth of Puerto Rico. "State."

(B) an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of a State in which the mileage traveled by the employee in that State or subdivision is more than 50 percent of the total mileage traveled by the employee while employed during the calendar year.

(2) A motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and a motor private carrier shall withhold from the pay of an employee having regularly assigned duties on a motor vehicle in at least 2 States, only income tax required to be withheld by the laws of a State, or subdivision of that State— *Ante*, p. 1361.

(A) in which the employee earns more than 50 percent of the pay received by the employee from the carrier; or

(B) that is the residence of the employee (as shown on the employment records of the carrier), if the employee did not earn in one State or subdivision more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(c) (1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

(2) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title or a water carrier or class of water carriers providing transportation on inland or coastal waters under an exemption under this subtitle shall file income tax information returns and other reports only with— *Ante*, p. 1365.

(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

(3) This subsection applies to pay of a master, officer, or seaman who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

(d) A rail, express, sleeping car, motor, and motor private carrier withholding pay from an employee under subsection (a) or (b) of this section shall file income tax information returns and other reports only with—

(1) the State and subdivision of residence of the employee; and

(2) the State and subdivision in which withholding of pay is required under subsection (a) or (b) of this section.

49 USC 11505.

§ 11505. State action to enjoin rail carriers from certain actions

(a) The attorney general of a State or transportation regulatory authority of a State or area affected by a violation of sections 10901–10907 of this title, may bring a civil action to enjoin a rail carrier from violating those sections.

Ante, pp. 1402–1407.

(b) A transportation regulatory authority of a State affected by an abandonment of service by a freight forwarder in violation of section 10933 of this title may bring a civil action to enjoin the abandonment.

Ante, p. 1418.

49 USC 11506.

§ 11506. Registration of motor carriers by a State

"Standards," and "amendments to standards."

(a) In this section, "standards" and "amendments to standards" mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title by—

Ante, p. 1361.

(1) filing and maintaining certificates and permits issued to the motor carrier by the Commission;

(2) registering motor vehicles operating under the certificates and permits;

(3) filing and maintaining proof of required insurance coverage or qualification as a self-insurer; and

(4) filing the name of a local agent for service of process.

(b) The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

Ante, p. 1361.

Ante, pp. 1409, 1410.

Ante, p. 1361.

(c) (1) The Commission shall maintain standards and amendments to standards (A) prepared and certified to it by the national organization of the State Commissions, and (B) prescribed by the Commission. If the national organization determines to withdraw entirely standards prescribed by the Commission, the Commission shall prescribe new standards by the end of the first year after the national organization determines to withdraw the standards.

(2) An amendment to the standards prepared and certified by the national organization and prescribed by the Commission is effective

when the amendment is prescribed or at another time as determined by the national organization.

(d) The national organization shall consult with the Commission and representatives of motor carriers subject to the State registration requirement when preparing amendments to the standards. Different amendments may be prescribed for each class of motor carriers as warranted by the differences in the operations of each class.

(e) This section does not—

(1) authorize standards in conflict with regulations of the Commission; or

(2) affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.

Ante, pp. 1409, 1410.

§ 11507. Prison-made property governed by State law

49 USC 11507.

Goods, wares, and merchandise produced or mined in a penal institution or by a prisoner not on parole or probation and transported into and used, sold, or stored in a State or territory or possession of the United States, is subject to the laws of that State, territory, or possession. This section does not apply to commodities produced in a penal institution of the United States Government for its use.

CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec.

11701. General authority.
11702. Enforcement by the Interstate Commerce Commission.
11703. Enforcement by the Attorney General.
11704. Action by a private person to enjoin abandonment of service.
11705. Rights and remedies of persons injured by certain carriers.
11706. Limitation on actions by and against common carriers.
11707. Liability of common carriers under receipts and bills of lading.
11708. Private enforcement: motor carrier and freight forwarder licensing.
11709. Liability for issuance of securities by certain carriers.
11710. Liability when property is delivered in violation of routing instructions.

§ 11701. General authority

49 USC 11701.

(a) The Interstate Commerce Commission may begin an investigation under this subtitle on its own initiative or on complaint. If the Commission finds that a carrier or broker is violating this subtitle, the Commission shall take appropriate action to compel compliance with this subtitle. The Commission may take that action only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

Investigations.

Notice.

(b) A person, including a governmental authority, may file with the Commission a complaint about a violation of this subtitle by a carrier providing, or broker for, transportation or service subject to the jurisdiction of the Commission under this subtitle. The complaint must state the facts that are the subject of the violation and, if it is against a water carrier, must be made under oath. The Commission may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Commission may not dismiss a complaint made against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title because of the absence of direct damage to the complainant.

Complaints.

Ante, p. 1359.

(c) A formal investigative proceeding begun by the Commission under subsection (a) of this section related to a rail carrier is dismissed automatically unless it is concluded by the Commission with

administrative finality by the end of the 3d year after the date on which it was begun.

49 USC 11702.

§ 11702. Enforcement by the Interstate Commerce Commission

(a) The Interstate Commerce Commission may bring a civil action—

(1) to enjoin a rail carrier from violating section 10901–10907 or 10933 of this title, or a regulation prescribed or certificate issued under any of those sections;

Ante, pp. 1402–1407, 1418.

(2) to enforce section 10930 or 11323 of this title, or subchapter III of chapter 113 of this title and to compel compliance with the order of the Commission under any of those sections and that subchapter;

Ante, p. 1415, 1433, 1434.

(3) to enforce an order of the Commission, except a civil action to enforce an order for the payment of money, when it is violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title;

(4) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discriminatory character of rates), or a regulation or order of the Commission or a certificate or permit issued under this subtitle when violated by a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title;

Ante, p. 1361.

(5) to enforce this subtitle (except a civil action under a provision of this subtitle governing the reasonableness and discrimitory character of rates), or a regulation or order of the Commission or a certificate or permit issued under this subtitle, except a civil action to enforce an order for the payment of money, when violated by a carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title; and

Ante, p. 1365.

(6) to enforce this subtitle, or a regulation or order of the Commission or permit issued under this subtitle when violated by a carrier providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title.

Ante, p. 1369.

(b) In a civil action under subsection (a) (4) of this section—

(1) trial is in the judicial district in which the motor carrier or broker operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

49 USC 11703.

§ 11703. Enforcement by the Attorney General

(a) The Attorney General may, and on request of the Interstate Commerce Commission shall, bring court proceedings to enforce this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle and to prosecute a person violating this subtitle or a regulation or order of the Commission or certificate or permit issued under this subtitle.

(b) The United States Government may bring a civil action on behalf of a person to compel a common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title to provide that transportation or service to that person in compliance with this subtitle at the same rate charged,

Ante, p. 1358.

or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

§ 11704. Action by a private person to enjoin abandonment of service 49 USC 11704.

An interested person may bring a civil action to enjoin an abandonment of service in violation of section 10933 of this title or a certificate issued under that section. *Ante*, p. 1418.

§ 11705. Rights and remedies of persons injured by certain carriers 49 USC 11705.

(a) A person injured because a carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title does not obey an order of the Commission, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. *Ante*, p. 1359.

(b)(1) A common carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under subchapter IV of chapter 107 of this title. *Ante*, p. 1394.

(2) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this subtitle. *Ante*, pp. 1359, 1365.

(3) A common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II or IV of chapter 105 of this title is liable for damages resulting from the imposition of rates for transportation or service the Commission finds to be in violation of this subtitle. *Ante*, pp. 1361, 1369.

(c)(1) A person may file a complaint with the Commission under section 11701(b) of this title or bring a civil action under subsection (b)(1) or (2) of this section to enforce liability against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title. A person may begin a proceeding under section 10704 or 10705 of this title to enforce liability under subsection (b)(3) of this section by filing a complaint with the Commission under section 11701(b) of this title.

(2) When the Commission makes an award under subsection (b) of this section, the Commission shall order the carrier to pay the amount awarded by a specific date. The Commission may order a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Commission requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Commission requiring the payment of damages by a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title, the text of the order of the Commission must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this

paragraph. The findings and order of the Commission are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district (A) in which the plaintiff resides, (B) in which the principal operating office of the carrier is located, (C) if a rail carrier, through which the railroad line of that carrier runs, or (D) if a water carrier, in which a port of call on a route operated by that carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

49 USC 11706.

§ 11706. Limitation on actions by and against common carriers

(a) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

Ante, p. 1359.

(b) A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues. If that claim is against a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I or III of chapter 105 of this title and an election to file a complaint with the Commission is made under section 11705(c)(1), the complaint must be filed within 3 years after the claim accrues.

Ante, p. 1359, 1365.

(c)(1) A person must file a complaint with the Commission to recover damages under section 11705(b)(2) of this title within 2 years after the claim accrues.

(2) A person must begin a civil action to recover damages under section 11705(b)(3) of this title within 2 years after the claim accrues.

(d) The 3-year period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within that 3-year period. The 3-year period under subsection (b) of this section and the 2-year period under subsection (c)(1) of this section are each extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

(e) A person must begin a civil action to enforce an order of the Commission against a carrier for the payment of money within one year after the date the order required the money to be paid.

(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for overpayment of that rate, or (3) deduction made under section 244 of title 31, whichever is later.

(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

§ 11707. Liability of common carriers under receipts and bills of lading 49 USC 11707.

(a) (1) A common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or IV of chapter 105 of this title shall issue a receipt or bill of lading for property it receives for transportation under this subtitle. That carrier and any other common carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Commission under subchapter I, II, or IV are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and applies to property reconsigned or diverted under a tariff filed under subchapter IV of chapter 107 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

Ante, pp. 1359, 1361, 1369.

Ante, p. 1394.

(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service subject to this subtitle and uses a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to receive property from a consignor, the motor common carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor common carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

(c) (1) A common carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, rule, or tariff filed with the Commission in violation of this section is void.

(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

(3) A common carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on passenger trains, boats, or motor vehicles, or on trains, or boats, or motor vehicles carrying passengers.

(4) A common carrier may limit its liability for loss or injury of property transported under section 10730 of this title.

Ante, p. 1389.

(d) A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a railroad or route.

(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date that person receives written notice from the carrier that it has disallowed any part of the claim specified in the notice.

49 USC 11708.

§ 11708. Private enforcement: motor carrier and freight forwarder licensing

(a) If a person provides transportation by motor vehicle or service of a freight forwarder in clear violation of section 10921–10924, 10927, 10930–10932, or 11323 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

Ante, pp. 1409–1412, 1413, 1415–1417, 1333.

(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Interstate Commerce Commission and a certificate of service must appear in the complaint filed with the court. The Commission may intervene in a civil action under subsection (a) of this section. The Commission may notify the district court in which the action is pending that it intends to consider the matter that is the subject of the complaint in a proceeding before the Commission. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Commission.

Notification.

(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

28 USC app.

49 USC 11709.

§ 11709. Liability for issuance of securities by certain carriers

A carrier issuing a security or assuming an obligation or liability that is void under section 11301 of this title and its directors, officers, attorneys, and other agents who participate in authorizing, issuing, hypothecating, or selling that security, or in authorizing the assumption of that obligation or liability, are jointly and severally liable for the damages sustained by a person who acquires for value, in good faith, and without notice that the issue or assumption is void (1) that security, or (2) a security under which an assumption or liability is void. If a security void under that section is acquired directly from the carrier issuing it, the holder may rescind the transaction and recover

Ante, p. 1428.

the consideration given for the security when it is surrendered to that carrier.

§ 11710. Liability when property is delivered in violation of routing instructions

49 USC 11710.

(a) (1) When a carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title diverts or delivers property to another carrier in violation of routing instructions in the bill of lading, both of those carriers are jointly and severally liable to the carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

Ante, p. 1359.

(2) A carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Commission.

(3) A carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that carrier.

(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

Sec.

11901. General civil penalties.
11902. Civil penalty for accepting rebates from common carrier.
11903. Rate, discrimination, and tariff violations.
11904. Additional rate and discrimination violations.
11905. Transportation of passengers without charge.
11906. Evasion of regulation of motor carriers and brokers.
11907. Interference with railroad car supply.
11908. Abandonment of service by freight forwarder.
11909. Record keeping and reporting violations.
11910. Unlawful disclosure of information.
11911. Issuance of securities; disposition of funds; restriction on ownership.
11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier.
11913. Disobedience to subpenas.
11914. General criminal penalty when specific penalty not provided.
11915. Punishment of corporation for violations committed by certain individuals.
11916. Conclusiveness of rates in certain prosecutions.

§ 11901. General civil penalties

49 USC 11901.

(a) Except as otherwise provided in this section, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, an officer or agent of that carrier or a receiver, trustee, lessee, or agent of one of them, knowingly violating an order of the Commission under this subtitle is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or a receiver or trustee of that carrier, violating a regulation or order of the Commission under section 10761, 10762, 10764, 10765, or

Ante, pp. 1394, 1397.

11128(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

(c) A carrier, receiver, or trustee violating subchapter V of chapter 107 of this title, or a regulation under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(d) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901–10907 of this title or of a condition of a certificate or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5.000.

(e)(1) A carrier, receiver, or operating trustee violating an order or direction of the Commission under section 11123, 11124, 11125, 11127, or 11128 (a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

(2) A rail carrier, receiver, or operating trustee violating section 11126 of this title is liable to the United States Government for a civil penalty of $100 for each violation. A separate violation occurs for each car not counted when a car count is required under that section.

(f)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Commission a record concerning transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, and a lessor, receiver, or trustee of that carrier, violating section 11144 (b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

(3) A carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective services against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Commission or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(g) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (4) does not comply with section 10921 of this title, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(h)(1) Trial in a civil action under subsections (a)–(f) of this section is in the judicial district in which the carrier has its principal

Ante, p. 1425.
Ante, p. 1398.
Ante, pp. 1402–1407.
Ante, pp. 1422–1425.
Ante, p. 1424.
Ante, p. 1425.
Ante, p. 1359.
Ante, p. 1426.
Ante, p. 1361.
Ante, p. 1409.

operating office or in a district through which the railroad of the carrier runs.

(2) Trial in a civil action under subsection (g) of this section is in the judicial district in which (A) the motor carrier or broker has its principal office, (B) the motor carrier or broker was authorized to provide transportation under this subtitle when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

§ 11902. Civil penalty for accepting rebates from common carrier 49 USC 11902.

A person (1) delivering property to a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title for transportation under this subtitle or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country, and (2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title, is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

Ante, p. 1394.

§ 11903. Rate, discrimination, and tariff violations 49 USC 11903.

(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a common carrier subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title (1) at less than the rate in effect under chapter 107 of this title, or (2) by practicing discrimination, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

Ante, p. 1359.
Ante, p. 1371.

(b) A carrier providing transportation or service subject to the jurisdiction of the Commission under chapter 105 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to the jurisdiction of the Commission under that chapter, that willfully does not file and publish its rates or tariffs as required under chapter 107 of this title or observe those tariffs until changed under law, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

§ 11904. Additional rate and discrimination violations 49 USC 11904.

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under sub-

chapter I of chapter 105 of this title, and when that carrier is a corporation, an officer, employee, or agent of the corporation, that by any means knowingly and willfully assists a person in getting, or willingly permits a person to get, transportation provided under this subtitle for property at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

Ante, p. 1359.

Ante, p. 1371.

(2) A person, or officer or agent of the person, that (A) delivers property for transportation under this subtitle to a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or for whom that carrier transports property as consignor or consignee, and (B) knowingly and willfully by any means gets or attempts to get that property transported at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(3) A person, or an officer or agent of a corporation or company that by payment of anything of value, solicitation, or in any other way, induces or attempts to induce a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, or any of its officers or agents, to discriminate unreasonably against another consignor or consignee in the transportation of property shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person, or an officer, employee, or agent of that person, that (1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate, concession, or discrimination in violation of a provision of this subtitle related to motor carrier transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or (2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to the jurisdiction of the Commission under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined at least $200 but no more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

Ante, p. 1361.

(c) (1) A water carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that carrier, that knowingly and willfully by any means offers, grants, or gives, or intentionally permits a person to get, transportation provided under that subchapter at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

Ante, p. 1365.

(2) A person that knowingly and willfully by any means solicits, accepts, or receives transportation provided under subchapter III of chapter 105 of this title at less than the rate in effect for that transportation under chapter 107 of this title, shall be fined not more than $5,000.

(3) Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

(d) (1) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less

Ante, p. 1369.

than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation. *Ante*, p. 1371.

(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter IV of chapter 105 of this title at less than the rate in effect for that service under chapter 107 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation. *Ante*, p. 1369.

§ 11905. Transportation of passengers without charge 49 USC 11905.

A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title that provides transportation of passengers without charge except as provided in section 10721(b), 10722 (c) and (d) (if the transportation is for its employees on sleeping and express cars or linemen of telegraph and telephone companies), 10723(a)(1) (other than paragraph (1)(A) of that subsection when transportation is arranged by a municipal government), or 10724(a) of this title, shall be fined at least $100 but not more than $2,000. An individual who uses a free ticket for, or accepts transportation subject to the jurisdiction of the Commission under those subchapters, except as provided in those sections, shall be fined at least $100 but not more than $2,000. *Ante*, pp. 1359, 1361, 1365. *Ante*, p. 1383. *Ante*, p. 1384. *Ante*, p. 1385. *Ante*, p. 1386.

§ 11906. Evasion of regulation of motor carriers and brokers 49 USC 11906.

A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this subtitle for motor carriers or brokers shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

§ 11907. Interference with railroad car supply 49 USC 11907.

(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that solicits, accepts, or receives anything of value (1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or (2) because of the action of that person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

§ 11908. Abandonment of service by freight forwarder 49 USC 11908.

A freight forwarder controlled by or under common control with a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I, II, or III of chapter 105 of this title, or a director, officer, receiver, operating trustee, lessee, agent, or employee of that freight forwarder or common carrier, that knowingly authorizes or permits a violation of section 10933 of this title, shall be fined not more than $5,000. *Ante*, p. 1418.

49 USC 11909.

§ 11909. Record keeping and reporting violations

(a) A person required to make a report to the Interstate Commerce Commission, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, multilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Commission, or (5) files a false report or record with the Commission, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

Ante, p. 1425.

Ante, p. 1359.

(b) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

Ante, p. 1361.

(c) A person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) willfully falsifies, destroys, mutilates, or changes that report, or record, (5) willfully makes a false or incomplete entry in the record about a fact or transaction required under this subtitle, (6) willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, or (7) knowingly and willfully files a false report or record with the Commission, shall be fined not more than $5,000. Trial in a criminal action under this subsection is in the judicial district in which any part of the violation is committed.

Ante, p. 1365.

(d) A freight forwarder, or an officer, agent, or employee of that freight forwarder, required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle about transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Commission, (4) knowingly and willfully

Ante, p. 1369.

falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a fact or transaction related to the business of that freight forwarder, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.

§ 11910. Unlawful disclosure of information 49 USC 11910.

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that *Ante*, p. 1359.
carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that *Ante*, p. 1361.
carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this *Ante*, p. 1365.
title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this *Ante*, p. 1369.
title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature,

kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than $100 for the first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title from giving information—

Ante, p. 1359.

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Commission, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

Ante, p. 1426.

49 USC 11911.

§ 11911. Issuance of securities; disposition of funds; restriction on ownership

(a) A director, officer, attorney, or agent of a carrier defined in section 11301(a)(1) of this title or of a person to which that section is made applicable by section 11302(a) of this title that knowingly agrees to or concurs in (1) an issue of securities or assumption of obligations or liability in violation of section 11301 of this title, (2) a disposition of securities in violation of an order of the Interstate Commerce Commission, or (3) an application not authorized by the Commission of the funds derived by the carrier through a disposition of securities shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

Ante, p. 1428.

Ante, p. 1430.

(b) A person that violates section 11322 of this title shall be fined at least $1,000 but not more than $10,000, imprisoned for at least one year but not more than 3 years, or both.

Ante, p. 1433.

49 USC 11912.

§ 11912. Consolidation, merger, and acquisition of control: violation by a person not a carrier

A person, other than a common carrier, that violates section 11343, 11344, 11345, 11346, or 11347 of this title shall be fined not more than $5,000.

Ante, pp. 1434–1439.

§ 11913. Disobedience to subpenas 49 USC 11913.

A person not obeying a subpena or requirement of the Interstate Commerce Commission to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

§ 11914. General criminal penalty when specific penalty not provided 49 USC 11914.

(a) When another criminal penalty is not provided under this chapter, a common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, and when that carrier is a corporation, *Ante*, p. 1359.
a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this subtitle or an order prescribed under this subtitle, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this subsection. A separate violation occurs each day a violation of section 11321(a) or 11342 of this title continues. *Ante*, pp. 1432, 1434.

(b) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, shall be fined *Ante*, p. 1361.
at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

(c) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle, or a condition of a certificate or permit issued under this subtitle related to transportation that is subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, shall be fined *Ante*, p. 1365.
not more than $500. A separate violation occurs each day the violation continues. Venue in a criminal action under this subsection is in the judicial district in which any part of the violation was committed.

(d) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle or a regulation or order prescribed under this subtitle or a condition of a permit issued under this subtitle related to service that is subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, shall be fined not more than $100 for the *Ante*, p. 1370.
first violation and not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

49 USC 11915.

§ 11915. Punishment of corporation for violations committed by certain individuals

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a common carrier providing transportation or service subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of this title that is a corporation is also a violation of this subtitle by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

Ante, p. 1359.

49 USC 11916.

§ 11916. Conclusiveness of rates in certain prosecutions

When a carrier files with the Interstate Commerce Commission or publishes a particular rate under chapter 107 of this title or participates in one of those rates, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 11902 or 11903 of this title. A departure, or offer to depart, from that rate is a violation of those sections.

Ante, p. 1371.

CONFORMING AND TECHNICAL PROVISIONS

SEC. 2. (a) (1) Title 18, United States Code, is amended—

(A) by striking out of the first definition of section 831 "common, contract, or private carrier, or freight forwarder as those terms are used in the Interstate Commerce Act, as amended" and substituting "common, contract, or motor private carrier, as those terms are defined in section 10102 of title 49"; and

(B) by striking out of section 835(c) "by the Interstate Commerce Act" and substituting "under subtitle IV of title 49".

(2) The Internal Revenue Code of 1954 (26 U.S.C. 1) is amended—

26 USC 48.

(A) by striking out of section 48(a)(2)(B)(ii) "subject to part I of the Interstate Commerce Act" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

26 USC 185.

(B) by striking out of section 185(e)(3)(B) "section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a)" and "such section 19a" and substituting "subchapter V of chapter 107 of title 49" and "such subchapter V", respectively;

26 USC 250.

(C) by striking out of section 250(a)(1) "common carrier by railroad (as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)))" and substituting "rail carrier (as defined in section 10102(17) of title 49)";

26 USC 281.

(D) by striking out of section 281(d)(1)(A) "subject to part I of the Interstate Commerce Act (49 U.S.C. 1 and following)" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

(E) by striking out of section 281(d)(1)(B) "subject to part I of the Interstate Commerce Act" and substituting "providing transportation subject to subchapter I of chapter 105 of title 49";

(F) by striking out of section 354(c) "section 20b of the Interstate Commerce Act" and substituting "subchapter IV of chapter 113 of title 49"; 26 USC 354.

(G) by striking out of section 3231(g) "express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act (49 U.S.C., chapter 1)" and substituting "express carrier, sleeping car carrier, or rail carrier providing transportation subject to subchapter I of chapter 105 of title 49"; and 26 USC 3231.

(H) by striking out of section 6362(f)(9) "26, 226A, or 324 of the Interstate Commerce Act" and substituting "section 11504 of title 49". 26 USC 6362.

(3) Title 28, United States Code, is amended—

(A) by striking out of section 1445(b) "section 20 of Title 49" and substituting "section 11707 of title 49";

(B) by striking out of section 2321(c) "the cases and proceedings under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)" and substituting "enforcement actions and actions to collect civil penalties under subtitle IV of title 49"; and

(C) by striking out of section 2323 "actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)" and substituting "enforcement actions and actions to collect civil penalties under subtitle IV of title 49".

(4) Title 39, United States Code, is amended—

(A) by striking out of section 5201(2) "motor carrier, or an express company" and substituting "motor common carrier, or express carrier";

"Motor common carrier."

(B) by striking out section 5201(5) and substituting the following:

"(5) 'motor common carrier' means a motor common carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 10102(11) of title 49, that holds a certificate of public convenience and necessity issued by the Commission;";

(C) by striking out of section 5201(6) "company" and "section 1(3) of title 49" and substituting "carrier" and "section 10102(7)", respectively;

(D) by striking out of section 5203 "motor carrier" each time it appears and substituting "motor common carrier" in each place; and

(E) by striking out of section 5215(a) "motor carrier" and substituting "motor common carrier".

(5) Section 308(c)(1) of title 44, United States Code, is amended by striking out "section 66 of title 49" and substituting "section 244 of title 31".

49 USC 11503 note.

(b) Section 11503 of title 49, as stated in the first section of this Act, is effective after February 4, 1979.

LEGISLATIVE PURPOSE AND CONSTRUCTION

49 USC prec. 10101 note. *Ante*, pp. 1337, 1464.

SEC. 3. (a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after May 15, 1978, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

49 USC prec. 10101 note.

SEC. 4. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed except as provided in subsection (c) of this section and except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Public Law 95-474
95th Congress

An Act

To amend the Ports and Waterways Safety Act of 1972, and for other purposes.

Oct. 17, 1978
[S. 682]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Port and Tanker Safety Act of 1978".

Port and Tanker Safety Act of 1978.
33 USC 1221 note.

SEC. 2. PORTS AND WATERWAYS SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

The Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424) is amended to read as follows:

33 USC 1221 note.

"SECTION 1. SHORT TITLE.

Ports and Waterways Safety Act.

"This Act may be cited as the 'Ports and Waterways Safety Act'.

"SEC. 2. STATEMENT OF POLICY.

33 USC 1221 note.

"The Congress finds and declares—

33 USC 1221.

"(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

"(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

"(c) that increased supervision of vessel and port operations is necessary in order to—

"(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

"(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

"(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

"(4) insure that the handling of dangerous articles and substances on the structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

"(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

"SEC. 3. DEFINITIONS.—As used in this Act, unless the context otherwise requires— 33 USC 1222.

"(1) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

"(2) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(3) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(4) 'United States', when used in geographical context, means all the States thereof.

33 USC 1223.

"SEC. 4. VESSEL OPERATING REQUIREMENTS.

"(a) IN GENERAL.—Subject to the requirements of section 5, the Secretary may—

"(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 11, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

"(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

"(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this Act;

"(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

"(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment.

"(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 9; or

"(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) PORT ACCESS ROUTES.—(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses. Designation.

"(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

"(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 5, the Secretary shall—

"(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register; Traffic density and safety needs study, publication in Federal Register.

"(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and Consultation.

"(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

"(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rulemaking for the designation contemplated or shall have published in the Notice. Publication in Federal Register.

Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

"(5) In connection with a designation made pursuant to this subsection, the Secretary—

Rules and regulations.

"(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

28 UST 3459.

"(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

Adjustment.

"(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

Notice and cooperation.

"(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

"(d) EXCEPTION.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

"(1) innocent passage through the territorial sea of the United States, or

"(2) transit through the navigable waters of the United States which form a part of an international strait.

33 USC 1224.

"SEC. 5. CONSIDERATIONS BY SECRETARY.

"In carrying out his duties and responsibilities under section 4, the Secretary shall—

"(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

"(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(6) environmental factors;

"(7) economic impact and effects;

"(8) existing vessel traffic services; and

"(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

"SEC. 6. WATERFRONT SAFETY. 33 USC 1225.

"(a) IN GENERAL.—The Secretary may take such action as is necessary to—

"(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

"(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended; *Post*, p. 1480.

"(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

"(b) STATE LAW.—Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

"SEC. 7. PILOTAGE. 33 USC 1226.

"The Secretary may require federally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by

State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

33 USC 1227. "SEC. 8. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

Subpenas. "(b) POWERS.—In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

33 USC 1228. "SEC. 9. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"(a) IN GENERAL.—No vessel, subject to the provisions of section *Post*, p. 1480. 4417a of the Revised Statutes, as amended, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

"(2) fails to comply with any applicable regulation issued under this Act, under section 4417a of the Revised Statutes, as amended, or under any other applicable law or treaty; or

"(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

"(4) does not comply with any applicable vessel traffic service requirements; or

"(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 4417a(11) of the Revised Statutes, as amended, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

"(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

"(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

"(b) EXCEPTIONS.—The Secretary may allow provisional entry of a vessel not in compliance with subsection (a), if the owner or operator

of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate. Clauses (5) and (6) of subsection (a) shall become applicable eighteen months after the effective date of this section.

"SEC. 10. APPLICABILITY.

Authority delegations. 33 USC 1229.

"This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 4, 5, 6, and 7 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

"SEC. 11. INTERNATIONAL AGREEMENTS.

33 USC 1230.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.

"(b) AGREEMENTS.—The President is authorized and encouraged to—

"(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

"(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—

"(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

"SEC. 12. REGULATIONS.

33 USC 1231.

"(a) IN GENERAL.—In accordance with the provisions of section 553 of title 5, United States Code, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

Consultation and comments.

"(b) PROCEDURES.—The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

"(1) interested Federal departments and agencies,

"(2) officials of State and local governments,

"(3) representatives of the maritime community,

"(4) representatives of port and harbor authorities or associations,

"(5) representatives of environmental groups,

"(6) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

"(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

33 USC 1232.

"SEC. 13. ENFORCEMENT.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(2) Any person who, in the willfull and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(d) INJUNCTION.—The United States district courts shall have

jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

"(e) DENIAL OF ENTRY.—Except as provided in section 9, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

"(f) WITHHOLDING OF CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.". Surety, filing.

SEC. 3. STUDY OF MONITORING SYSTEMS. 33 USC 1224 note.

(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government, shall study the desirability and feasibility of possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique. Consultation. 16 USC 1802.

(b) REPORT.—Within two years after the date of the enactment of this Act, the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone. Transmittal to Congress. Recommendations.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1979, and not to exceed $500,000 for the fiscal year ending September 30, 1980.

SEC. 4. IMPROVED PILOTAGE STANDARDS.

Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows: Federal steam vessel pilot's license, eligibility.

"SEC. 4442. (a) The Secretary of the department in which the Coast Guard is operating shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a Federal license to pilot any steam vessel.

"(b) No person may be issued a Federal license to pilot any steam vessel unless he—

"(1) is at least twenty-one years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding such license;

"(4) demonstrates, to the satisfaction of the Secretary, that he possesses the requisite general knowledge and skill to hold such license;

"(5) demonstrates proficiency in the use of electronic aids to navigation;

"(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in such waters;

"(7) has sufficient experience, as determined by the Secretary, to evidence his ability to handle any vessel of the type and size which he may be authorized to pilot; and

"(8) meets any other requirement which the Secretary considers reasonable and necessary.

"(c) No Federal license to pilot a steam vessel shall be valid for a term longer than five years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.".

SEC. 5. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended to read as follows:

SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"(A) that the carriage by vessels of certain cargoes in bulk or in residue creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and to the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems, and recreational and scenic values;

"(B) that existing standards for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of all such vessels which use any port or place subject to the jurisdiction of the United States or which operate in the navigable waters of the United States must be more stringent and comprehensive for the mitigation of the hazards to life, property, and the marine environment;

"(C) that existing international standards for inspection and enforcement are incomplete, that those international standards that are in existence are often left unenforced by some flag states, and that there is a need to prevent substandard vessels from using any port or place subject to the jurisdiction of the United States or from operating in the navigable waters of the United States, for the mitigation of the hazards to life, property, or the marine environment;

"(D) that standards developed through regulations shall incorporate the best available technology and shall be required unless clearly shown to create an undue economic impact which is not outweighed by the benefits to navigation and vessel safety or protection of the marine environment;

"(E) that standards developed through regulations shall not impede or interfere with the right of innocent passage or any legitimate use of the high seas in accordance with recognized principles of international law; and

"(F) that the United States should continue to actively support and encourage efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"(2) DEFINITIONS.—As used in this section, unless the context otherwise requires—

"(A) 'Discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

"(B) 'Foreign vessel' means any vessel of foreign registry or operated under the authority of any nation other than the United States.

"(C) 'Hazardous material' means any liquid material or substance which is—

"(i) flammable or combustible; or

"(ii) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

"(iii) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(D) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

"(E) 'Oil' includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(F) 'Person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(G) 'Public vessel' means a vessel which—

"(i) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(ii) is not engaged in commercial service.

"(H) 'Commercial service' means all types of trade or business involving the transportation of goods or persons, excluding the service performed by combatant vessels.

"(I) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(J) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgins Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(K) 'United States', when used in a geographical context, means all the States thereof.

"(L) 'Vessel of the United States' means any vessel documented or numbered under the laws of the United States.

"(M) 'Tanker' means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

"(N) 'Crude oil tanker' means a tanker engaged in the trade of carrying crude oil.

"(O) 'Product carrier' means a tanker engaged in the trade of carrying oil, other than crude oil.

"(P) 'Major conversion' means a conversion of an existing vessel which substantially alters the dimensions or carrying capacity of the vessel; or changes the type of vessel; or substantially prolongs its life; or which otherwise so alters the vessel that it is essentially a new vessel, as determined by the Secretary.

"(Q) 'New' means, with respect to various types of vessels subject to subsection (7), a vessel—

"(i) for which the building contract is placed after June 1, 1979; or

"(ii) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

"(iii) the delivery of which is after June 1, 1982; or

"(iv) which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

"(R) 'Existing' means, with respect to various types of vessels subject to subsection (7), a vessel which is not a new vessel.

"(S) 'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportaion, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

"(3) APPLICABILITY.—Except as provided in subsections (4) and (5), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is a vessel of the United States, or which operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and

"(E) which carries oil or any hazardous materials in bulk as cargo or in residue.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(4) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel; or

"(B) any vessel of not more than 500 gross tons, documented in the service of oil exploitation, which is not a tanker and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessels to offshore drilling or production facilities, if the crew member in charge of such transfer is certified as a tankerman: *Provided*, That if the crew member in charge of the transfer of fuel holds a valid license as a master, mate, pilot, engineer or operator, it shall not be necessary for the crew member also to be certificated as a tankerman or have a tankerman endorsement on his license; or

"(C) cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons, used in the salmon or crab fisheries

of the State of Oregon, Washington, and Alaska, when engaged exclusively in the fishing industry; or

"(D) any foreign vessel, not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial sea of the United States or in transit through the navigable waters of the United States which form a part of an international strait.

"(5) FISH PROCESSING VESSELS.—This section shall not apply to vessels of not more than 5,000 gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, and such vessels shall be allowed to have on board flammable or combustible liquid cargo in bulk to the extent authorized, and upon such conditions as may be required, by regulations issued by the Secretary.

"(6) REGULATORY AUTHORITY.—

"(A) In accordance with the provisions of section 553 of title 5, United States Code, the Secretary shall issue, and may from time to time amend or repeal, regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, or manning of vessels to which this section applies, as may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the marine environment. The Secretary may issue differing regulations applicable to vessels engaged in the domestic trade, and may also issue regulations that exceed standards agreed upon internationally. The regulations issued by the Secretary under this subsection shall be in addition to any other regulations, issued under other provisions of law, that may apply to such vessels. The regulations issued by the Secretary under this subsection shall include, but need not be limited to, requirements relating to— Regulations.

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) the manning of such vessels and the duties, qualifications, and training of the officers and crew thereof, in accordance with subsections (9), (10), and (11);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident; and

"(vii) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

"(B) In issuing regulations under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board such vessel.

Consultation and comments.

"(C) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(i) interested Federal departments and agencies,

"(ii) officials of State and local governments,

"(iii) representatives of the maritime community,

"(iv) representatives of port and harbor authorities or associations,

"(v) representatives of environmental groups, and

"(vi) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

Self-propelled vessels.

"(7) MINIMUM STANDARDS.—In issuing regulations pursuant to subsection (6), the Secretary shall require that any self-propelled vessel shall, as a minimum—

"(A) if a new crude oil tanker of 20,000 deadweight tons or above, be equipped with—

"(i) segregated ballast tanks which are protectively located;

"(ii) a crude oil washing system; and

"(iii) a cargo tank protection system, consisting of a fixed deck froth system and a fixed inert gas system;

"(B) if a new product carrier of 30,000 deadweight tons or above, be equipped with segregated ballast tanks which are protectively located;

"(C) if a new product carrier of 20,000 deadweight tons or above, be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if such a product carrier carries dedicated products which are incompatible with such a cargo tank protection system, an alternate protection system as authorized by the Secretary;

"(D) if an existing crude oil tanker of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with—

"(i) segregated ballast tanks; or

"(ii) a crude oil washing system:

Provided, That compliance may be delayed for vessels operating with dedicated clean ballast tanks if of 70,000 deadweight tons or above until June 1, 1983, or until June 1, 1985, for all other such vessels;

"(E) if an existing crude oil tanker of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or a crude oil washing system;

"(F) if an existing crude oil tanker of 20,000 deadweight tons or above, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption, if the vessel's owner can clearly show that compliance would be unreasonable and impracticable due to the vessel's design characteristics: *Provided further*, That an existing crude oil tanker of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981;

"(G) if an existing product carrier of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with segregated ballast tanks or, in lieu thereof, may operate with dedicated clean ballast tasks;

"(H) if an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks;

"(I) if an existing product carrier of 40,000 deadweight tons or above, or an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, which is fitted with high-capacity tank washing machines, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That an existing product carrier of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981,

"(J) if of 10,000 gross tons or above, not later than June 1, 1979, be equipped with—

"(i) a dual radar system, with short-range and with long-range capabilities and each with true-north features;

"(ii) an electronic relative motion analyzer, which is at least functionally equivalent to such equipment complying with specifications established by the United States Maritime Administration;

"(iii) an electronic position fixing device;

"(iv) adequate communications equipment;

"(v) a sonic depth finder;

"(vi) a gyrocompass; and

"(vii) up-to-date charts:

Provided, That the effective date of compliance with the requirement of clause (ii) shall be July 1, 1982 or such earlier date as agreed to internationally and accepted by the United States;

"(K) if a new tanker of 10,000 gross tons or above, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment;

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(iv) two or more identical and adequate power units for the main steering gear;

"(v) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

"(vi) means of automatic starting and stopping of power units with attendant alarms at all steering stations;

"(L) if an existing tanker of 10,000 gross tons or above, not later than June 1, 1981, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment; and

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment; and

"(M) if a crude oil tanker, which is engaged in the transfer of oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States, not later than June 1, 1980, be equipped with segregated ballast tanks, or may operate with dedicated clean ballast tanks or special ballast arrangements: *Provided*, That vessels subject to this paragraph shall comply fully with the other minimum standards of this section, where applicable; and

"(N) in accordance with relevant international agreements to which the United States is a party, exempt vessels from the minimum requirements established in this subsection for segregated ballast, dedicated clean ballast, or crude oil washing if he determines that shore-based reception facilities are a preferred method of handling dirty ballast, and that adequate facilities are readily available.

After the effective date of this Act, the installation of segregated ballast tanks, a crude oil washing system, or an inert gas system, required by regulations issued hereunder, on a vessel which is entitled to engage in coastwise trade in accordance with section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) shall be effected within the United States, its territories (not including trust territories), or its possessions, and vessels which fail to comply with this requirement shall thereafter not have the right to engage in the coastwise trade.

"(8) EVIDENCE OF COMPLIANCE.—

Inspection certificate.

"(A) No vessel of the United States to which this section applies shall have on board oil or hazardous materials in bulk as cargo or in residue until it has a Certificate of Inspection, issued under the provisions of title 52 of the Revised Statutes of the United States, and such certificate has been endorsed to indicate that the vessel is in compliance with the regulations issued under this section. If any such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance.

Noncompliance, notification.

Compliance certificate.

"(B) No foreign vessel to which this section applies shall operate on or enter the navigable waters of the United States, or transfer oil or hazardous materials in any port or place under the jurisdiction of the United States, unless such vessel has been issued a Certificate of Compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the regulations issued hereunder. If such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting examinations.

Examination.

Noncompliance, notification.

"(C) The Secretary may accept, in whole or in part, a certificate, endorsement, or document issued by any foreign nation

pursuant to any treaty, convention, or other international agreement to which the United States is a party, as a basis for issuance of a Certificate of Compliance.

"(D) No vessel may carry any kind or grade of oil or hazardous materials in bulk as cargo or in residue unless its certificate is endorsed to allow such carriage. No such certificate may allow any vessel to carry any material prohibited by section 4472(3) of the Revised Statutes, as amended (46 U.S.C. 170).

"(E) A certificate issued under this section shall be valid for a period not to exceed twenty-four months and may be renewed as specified by the Secretary. The Secretary may issue a temporary certificate under this section in appropriate circumstances; except that the temporary certificate shall be valid for not more than thirty days. Any certificate shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which the certificate was issued.

"(9) PERSONNEL AND MANNING STANDARDS FOR VESSELS OF THE UNITED STATES.—The Secretary shall prescribe standards for the manning of any vessel of the United States subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accidental or potential accident conditions;

"(C) license qualifications by specific type and size of vessels;

"(D) qualification for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

"(E) minimum health and physical fitness criteria for various grades of licenses and certificates: *Provided*, That the Secretary shall waive the applicability of such criteria to any individual holding a license or certificate in effect on the effective date of this subsection, including subsequent renewals thereof: *Provided further*, That, when such a waiver is granted, the Secretary may prescribe conditions or limitations to the license or certificate, or the renewal thereof, as he may find reasonable and necessary for the safety of any vessel on which the individual may be employed; Waiver, conditions or limitations.

"(F) periodic retraining, and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

"(G) determination of licenses and certificates, conditions of licensing or certification and period of licensing or certification by reference to experience, amount of training completed, and regular performance testing.

"(10) TANKERMAN REQUIREMENTS.— Certification.

"(A) Any vessel of the United States having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of the crew certificated as tankerman, as may be required by the Secretary, and such requirement shall be so noted on the Certificate of Inspection issued to the vessel.

"(B) Any foreign vessel having on board oil or hazardous materials in bulk as cargo or in residue shall have a special

number of personnel certificated as tankerman, or equivalent, as may be required by the Secretary, when the vessel transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and such requirement shall be noted in applicable terminal operating procedures. No transfer operations may take place unless the crew member in charge is capable of clearly understanding instructions in English.

English language comprehension requirement.

"(C) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the kinds of oil or hazardous materials that can be handled with safety to the vessel and the marine environment.

"(D) Certificates or endorsements as tankerman shall be subject to suspension and revocation on the same grounds and in the same manner as provided for under the provisions of section 4450 of the Revised Statutes of the United States, as amended (46 U.S.C. 239).

Verification, regulations and procedures.

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall issue regulations and procedures for the verification of manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States. Such regulations and procedures shall include, but need not be limited to, provisions relating to—

"(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers;

Public availability.

"(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, copies of materials received as provided for in paragraph (A);

"(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

"(D) determination, after the evaluation required by clause (C), of whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

Publication in Federal Register.

"(E) publication in the Federal Register of each determination made pursuant to clause (D), together with a brief explanation of the reasons therefor; and

"(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

"(12) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to the provisions of an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.

"(13) PROHIBITED ACTS.—

"(A) It is unlawful for any person—

"(i) to violate any provision of this section or any regulation issued under this section; or

"(ii) to refuse to permit any officer, authorized by the Secretary to enforce the provisions of this section, to board any vessel or to enter any shore area, place, or premises, under such person's control for purposes of inspection under this section; or

"(iii) to refuse to obey any lawful directive issued under this section.

"(B) It is unlawful for any vessel subject to the provision of this section—

"(i) to operate in or on the navigable waters of the United States, or to use any port or place subject to the jurisdiction of the United States, while not in compliance with any provision of this section or any regulation issued hereunder; or

"(ii) to fail to comply with any lawful directive issued pursuant to this section.

"(14) ENFORCEMENT.—

"(A) CIVIL PENALTY.—

"(i) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this section or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(ii) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(iii) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(B) CRIMINAL PENALTY.—

"(i) Any person who willfully and knowingly violates this section or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(ii) Any person who, in the willful and knowing violation of this section or any regulation issued hereunder, uses

39-194 O—80—pt 2——14 QL3

a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in subparagraph (i), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(C) IN REM LIABILITY.—Any vessel subject to the provisions of this section, which is used in violation of this section or any regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to paragraph (A) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(D) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this section or of regulations issued hereunder, for cause shown.

"(E) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

Surety, filing.

"(15) INSPECTION.—

"(A) NATIONAL PROGRAM.—

Establishment.

"(i) The Secretary shall establish a national program for inspection of any vessel subject to this section. Each such vessel shall be inspected or examined at least once each year. Any such vessel over ten years of age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

Contract.

"(ii) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary, except that no such inspector may issue a Certificate of Inspection or Certificate of Compliance, but may issue a temporary certificate.

Fees, regulations.

"(iii) Notwithstanding the provisions of section 1 of the Act of June 19, 1886, as amended (46 U.S.C. 331), the Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section outside the geographical limits of the United States, or which, when involving a foreign vessel, is conducted pursuant to the contract authority provided for in subparagraph (ii) of this paragraph. The owner or operator of any vessel inspected or examined by the Secretary or his designee shall be liable for such fees. Amounts received as fees shall be credited to the General Treasury.

"(B) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secre-

tary deems necessary for inspection or enforcement under this section, including, but not limited to, documents indicating—

"(i) the kind, grade, and approximate quantities of any cargo on board;

"(ii) the shipper and consignee of the cargo;

"(iii) the points of origin and destination of the vessel; and

"(iv) the name of an agent in the United States authorized to accept legal process.

"(16) MARINE SAFETY INFORMATION SYSTEM.— Establishment.

"(A) IN GENERAL.—The Secretary shall establish a marine safety information system which shall contain information with regard to any vessel subject to this section which operates on or enters the navigable waters of the United States, or which transfers oil or any hazardous materials in any port or place under the jurisdiction of the United States. In acquiring such information, the Secretary shall make full use of publicly available information. The Secretary may, by regulation, require any such vessel to furnish such data or other information as he deems necessary, in order to carry out the purposes of this subsection, including, but not limited to— Vessel data or information furnishing, regulation.

"(i) the names of any person with an ownership interest in such vessel;

"(ii) details of compliance with the financial responsibility requirements of applicable statutes or regulations;

"(iii) registration information, including all changes in the name of the vessel;

"(iv) the history of accidents or serious repair problems of the vessel; and

"(v) a record of all inspections or examinations of a vessel conducted under subsection (15).

"(B) INTERAGENCY COOPERATION.—The head of each department or agency of the Federal Government shall, upon a written request from the Secretary, furnish any available information which the Secretary deems necessary to confirm the information received pursuant to paragraph (A).

"(17) LIGHTERING.—

"(A) IN GENERAL.—After the effective date of regulations issued by the Secretary pursuant to paragraph (B), no vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel in the navigable waters of the United States or in the marine environment unless—

"(i) the transfer was conducted in accordance with regulations issued by the Secretary, and

"(ii) both the delivering and receiving vessels had, on board at the time of transfer, a Certificate of Inspection or a Certificate of Compliance, as would have been required under subsection (8), had the transfer taken place in a port or place subject to the jurisdiction of the United States.

"(B) REGULATIONS.—The Secretary shall issue, and may from time to time, amend or repeal regulations for the transferring of Regulations.

oil or hazardous materials in the navigable waters of the United States or in the marine environment when such oil or hazardous material is destined for a port or place subject to the jurisdiction of the United States. Such regulations shall include, but need not be limited to—

"(i) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(ii) prevention of spills;

"(iii) equipment for responding to any spill;

"(iv) prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as such uses are defined by treaty, convention, or customary international law;

"(v) establishment of lightering zones; and

"(vi) requirements for communication and prearrival messages.

"(18) TANK WASHINGS.—

"(A) No vessel may transfer a cargo in a port or place subject to the jurisdiction of the United States, if the vessel has arrived after having discharged tank washings containing oil or hazardous materials in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party, in preparation for loading that cargo in any port or place subject to the jurisdiction of the United States.

Control and supervisory measures, establishment. Submittal to Congress.

"(B) The Secretary shall establish effective control and supervisory measures to implement the provisions of this subsection.

"(19) REPORT.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

"(A) a report on the administration of this section during the preceding calendar year;

"(B) a summary of inspection and enforcement activities during the preceding calendar year; and

"(C) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.".

SEC. 6. SAVINGS CLAUSE.

33 USC 1221 note. *Ante*, p. 1471.

(a) Regulations previously issued under statutory provisions which are amended by section 2 of this Act shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such public law had not been amended by this Act.

33 USC 1221.

46 USC 391a note.

(b) Regulations previously issued under statutory provisions which are amended by section 5 of this Act shall continue in effect as though issued under the authority of section 4417a of the Revised Statutes of the United States, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under the provisions of section 4417a of the Revised Statutes of the United

Ante, p. 1480.

States, as it existed prior to amendment by this Act, for a violation which occurred before the effective date of this Act, may be initiated or continued to conclusion as though such section had not been amended by this Act. *Ante*, p. 1480.

(c) If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby. 33 USC 1221 note.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1384, Pt. I accompanying H.R. 13311 (Comm. on Merchant Marine and Fisheries), No. 95-1384, Pt. II (Comm. on International Relations).

SENATE REPORT No. 95-176 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 123 (1977): May 25, 26, considered and passed Senate.

Vol. 124 (1978): Sept. 12, H.R. 13311 considered and passed House; proceedings vacated and S. 682, amended, passed in lieu.
Sept.30, Senate concurred in House amendment with an amendment.
Oct. 3, House concurred in Senate amendment.

Public Law 95-475
95th Congress

An Act

Oct. 18, 1978
[H.R. 6503]

To amend the Intercoastal Shipping Act, 1933, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843), is amended by inserting "(1)" immediately before "The term"; and by adding at the end thereof the following:

Intercoastal Shipping Act, 1933, amendment.

"(2) The term 'general increase in rates' means any change in rates, fares, or charges which will (A) result in an increase in not less than 50 per centum of the total rate, fare, or charge items in the tariffs per trade of any common carrier by water in intercoastal commerce; and (B) directly result in an increase in gross revenues of such carrier for the particular trade of not less than 3 per centum.

"General increase in rates."

"(3) The term 'general decrease in rates' means any change in rates, fares, or charges which will (A) result in a decrease in not less than 50 per centum of the total rate, fare, or charge items in the tariffs per trade of any common carrier by water in intercoastal commerce; and (B) directly result in a decrease in gross revenue of such carrier for the particular trade of not less than 3 per centum.".

"General decrease in rates."

SEC. 2. The second paragraph of section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), is amended—

(1) by striking out "*Provided*," and inserting in lieu thereof the following: "*Provided*, That no general increase in rates or general decrease in rates shall take effect before the close of the sixtieth day after the day on which such general increase in rates or general decrease in rates is posted and filed with the Commission: *Provided further*,"; and

(2) by inserting "or sixty days" immediately after "thirty days" in the second proviso thereto.

SEC. 3. Section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), is amended—

(1) by inserting "(a)" immediately before "Whenever" at the beginning of the first paragraph thereof;

(2) by amending subsection (a) (as so designated by paragraph (1)) by—

(A) striking out "complaint" each place it appears therein and inserting in lieu thereof "protest";

(B) striking out the colon after "practice" and inserting in lieu thereof a period; and

(C) striking out the proviso and inserting in lieu thereof the following:

Hearing. Publication in Federal Register.

"The Commission shall not order a hearing pursuant to this subsection, on its own motion or upon protest, unless the Commission publishes in the Federal Register the reasons, in detail, why it considers such a hearing to be necessary and the specific issues to be resolved by such hearing. For purposes of facilitating the administration of this Act, the Commission shall, within one year after the effective date of this sentence, by regulation prescribe guidelines for the determination of what constitutes a just and reasonable rate of return or profit for common carriers by water in intercoastal commerce. After the regula-

Guidelines.

tions referred to in the preceding sentence are initially prescribed, the Commission shall from time to time thereafter review such regulations and make such amendments thereto as may be appropriate.";

(3) by inserting "(b)" immediately before "Pending" at the beginning of the second paragraph thereof;

(4) by amending subsection (b) (as so designated by paragraph (3)) by—

(A) inserting ", except as provided in subsection (c)," immediately before "from time to time" in the first sentence thereof;

(B) striking out "four months" and inserting "one hundred and eighty days" in lieu thereof in the first sentence thereof;

(C) striking out "and decide the same as speedily as possible" at the end of the last sentence thereof; and

(D) inserting at the end thereof the following new sentences:

"Notwithstanding any other provision of law, the Commission shall complete such hearing under this section within sixty days; the initial decision resulting therefrom, if any, shall be submitted in writing to the Commission within one hundred and twenty days; and the Commission shall issue a final decision thereon within one hundred and eighty days. The sixty-day, one hundred and twenty-day, and one hundred and eighty-day periods referred to in the preceding sentence shall each begin on the day on which such rate, fare, charge, classification, regulation, or practice first takes effect or, in the case of suspended matter, shall begin on the day on which such matter would have otherwise gone into effect. However, the Commission may, in its discretion and for good cause, extend the time period or suspension period for a period of not more than sixty days, if three or more Commissioners agree to such an extension. If such extension is granted, the Commission shall report in writing to Congress within ten days from the granting of such extension together with—

"(A) a full explanation of the reasons for the extension,

"(B) the issues involved in the matter before the Commission,

"(C) the names of the personnel of the Commission working on such matter, and

"(D) a record of how each Commissioner voted on the extension. If a final decision is not issued by the Commission within the one hundred and eighty day period, or by the end of any extension period, such rate, fare, charge, classification, regulation, or practice shall, for purposes of this section, thereafter be deemed to be just and reasonable. However, if the Commission finds that it is unable to issue a final decision within such period or within such extension due to delays which are directly attributable to the proponent of such rate, charge, classification, regulation, or practice, the Commission may disapprove such rate, fare, charge, classification, regulation, or practice, upon the expiration of such period or extension. This provision shall not preclude any remedies available pursuant to section 22 of the Shipping Act of 1916. Notwithstanding any other provision of law, in providing a hearing for the purposes of this Act, it shall be adequate to provide an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties. Any such conference may be chaired by an individual Commissioner, an administrative law judge, or any designated employee of the Commission.";

46 USC 821.

(5) by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this section, the Commission may not suspend—

"(A) any tariff schedule or service which extends to any additional port, actual service at the rates of the carrier involved for similar service already in effect at the nearest port of call to such additional port; or

"(B) the operation of that portion of any changed rate, fare, or charge representing an increase or decrease of 5 per centum or less and filed as part of a general increase in rates or a general decrease in rates, except that the aggregate of such changes exempt from suspension shall not exceed 5 per centum during any period of twelve consecutive months; nothing in this subparagraph shall be construed as establishing a presumption that any increase or decrease in excess of 5 per centum is not just and reasonable, or that any increase or decrease less than 5 per centum is just and reasonable.

Refunds.

"(2) If the Commission finds, as a result of any proceeding under this section with respect to a general increase in rates, that any unsuspended portion of the increase is not just and reasonable, the Commission shall order the carrier involved to refund to any person who was charged on the basis of such general increase an amount equal to that portion thereof found to be not just and reasonable plus interest on such amount computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System, during the period to which the refund applies.".

SEC. 4. Section 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845a) is amended by changing the period at the end thereof to a colon, and inserting thereafter the following: "*Provided further*, That upon such finding of unjustness or unreasonableness in a proceeding instituted by a complainant pursuant to the provisions of section 22 of the Shipping Act, 1916, the Commission shall direct full reparation to the complainant of the difference between the charge collected and the just and reasonable rate, fare, or charge, plus interest on such amount computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System, during the period to which the reparation applies.".

46 USC 821.

Effective date.
46 USC 843 note.

SEC. 5. This Act shall take effect ninety days after enactment.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-474 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-1240 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 95-476
95th Congress

An Act

To amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes.

Oct. 18, 1978
[H.R. 12028]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Housing Benefits Act of 1978".

Veterans' Housing Benefits Act of 1978.
38 USC 101 note.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' HOUSING BENEFITS

ASSISTANCE FOR SPECIALLY ADAPTED HOUSING FOR CERTAIN DISABLED VETERANS

SEC. 101. Section 802 is amended by striking out "$25,000" and inserting in lieu thereof "$30,000". 38 USC 802.

BASIC ENTITLEMENT FOR HOME, CONDOMINIUM, AND MOBILE HOME LOANS

SEC. 102. (a) Subsection (a) of section 1802 is amended— 38 USC 1802.

(1) in the first sentence, by striking out "World War II or the Korean conflict" both places it appears and inserting in lieu thereof "World War II, the Korean conflict, or the Vietnam era"; and

(2) in the second sentence, by striking out "Entitlement" and all that follows through "World War II, has" and inserting in lieu thereof "In the case of any veteran who served on active duty during two or more of the periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has". 38 USC 1818.

(b) Subsection (b) of such section is amended— 38 USC 1802.

(1) in the first sentence, by inserting "(A)" after "(1)", redesignating clause (2) as subclause (B), and redesignating clause (3) as clause (2); and

(2) in the second sentence, by striking out "clauses (1) and (2) above" and inserting in lieu thereof "clause (1) of the preceding sentence".

BASIC LOAN GUARANTY PROGRAM

38 USC 1803.

SEC. 103. (a) Subsection (a)(1) of section 1803 is amended by striking out "World War II or Korean conflict veteran" and inserting in lieu thereof "veteran eligible for benefits under this chapter".

(b) Subsection (c) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1810(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes."; and

38 USC 1810.

(2) by striking out "section 1810(a)(4)" in paragraph (3)(B) and inserting in lieu thereof "clauses (4) and (7) of section 1810 (a) of this title".

PURPOSES FOR WHICH HOME LOANS MAY BE GUARANTEED

38 USC 1810.

SEC. 104. Section 1810 is amended—

(1) by striking out clause (6) in subsection (a) and inserting in lieu thereof the following new clause:

"(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations.";

(2) by inserting after such clause the following new clause:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure."; and

Definitions.

(3) by adding at the end of such section the following new subsection:

"(d) For the purposes of subsection (a)(7) of this section:

"(1) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(2) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

"(3) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Administrator to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

"(4) The term 'residential energy conservation measure' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, and floor insulation;

"(E) water heater insulation;

"(F) storm windows and doors;

"(G) heat pumps; and

"(H) such other energy conservation measures as the Administrator may identify for the purposes of this clause.".

AMOUNT OF VETERANS' ADMINISTRATION LOAN GUARANTIES AND DIRECT LOANS FOR PURCHASE OR CONSTRUCTION OF HOMES

SEC. 105. (a) Section 1810(c) is amended by striking out "$17,500" and inserting in lieu thereof "$25,000". 38 USC 1810.

(b)(1) Subparagraph (A) of section 1811(d)(2) is amended by striking out "$17,500" both places it appears and inserting in lieu thereof "$25,000". 38 USC 1811.

(2) Subparagraph (B) of such section is amended by striking out "specified by the Administrator" and all that follows in such subparagraph and inserting in lieu thereof "that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $17,500. The amount of the guaranty entitlement under section 1810(c) of this title of any veteran who is granted a loan under this section, or who before the date of the enactment of the Veterans' Housing Benefits Act of 1978 was granted a loan under this section, shall be charged with the amount that bears the same ratio to $17,500 as the amount of the loan bears to $33,000.".

ELIGIBILITY FOR HOME LOANS FOR VETERANS WHO SERVED AFTER JANUARY 31, 1955

SEC. 106. (a) Section 1818 is amended— 38 USC 1818.

(1) by inserting "and prior to August 5, 1964, or after May 7, 1975," in subsection (a) after "January 31, 1955,";

(2) by striking out "active duty after such date" in subsection (a)(3) and inserting in lieu thereof "such active duty";

(3) by inserting "the provisions of section 1802(a) of this title and" in subsection (a) after "subject to"; 38 USC 1802.

(4) by striking out subsection (b) and redesignating subsection (c) as subsection (b); and

(5) by striking out "**Veterans who serve after January 31, 1955**" in the catchline and inserting in lieu thereof "**Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975**".

38 USC 1818.

(b) The item relating to section 1818 in the table of sections at the beginning of chapter 37 is amended to read as follows:

"1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.".

MOBILE HOME AND MOBILE HOME LOT LOANS

38 USC 1819.

SEC. 107. (a) Subsections (a) and (b) of section 1819 are amended to read as follows:

"(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

"(A) To purchase a lot on which to place a mobile home already owned by the veteran.

"(B) To purchase a single-wide mobile home.

"(C) To purchase a single-wide mobile home and a lot on which to place such home.

"(D) To purchase a double-wide mobile home.

"(E) To purchase a double-wide mobile home and a lot on which to place such home.

"(2) A loan for any of the purposes described in paragraph (1) of this subsection may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the mobile home.

"(3) Any loan made for the purposes described in clause (C) or (E) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the mobile home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

"(b)(1) Use of entitlement under this section for the purchase of a mobile home unit shall preclude the use of remaining entitlement for the purchase of an additional mobile home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

"(2) The Administrator shall restore entitlement to all loan guaranty benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.".

38 USC 1802.

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.".

(2) Paragraph (3) of such subsection is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $17,500. Payment of a claim under

such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator.".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $17,500.". 38 USC 1810, 1811.

(c) Subsection (d) of such section is amended to read as follows: 38 USC 1802.

"(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

"(A) fifteen years and thirty-two days, in the case of a loan for the purchase of—

"(i) a lot;

"(ii) a single-wide mobile home; or

"(iii) a single-wide mobile home and a lot; or

"(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

"(i) a double-wide mobile home; or

"(ii) a double-wide mobile home and a lot.

"(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.".

(d) Clause (4) of subsection (e) of such section is amended to read as follows:

"(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

"(A) with respect to any portion of the loan to purchase a new mobile home, such cost factors as the Administrator considers proper to take into account;

"(B) with respect to any portion of the loan to purchase a used mobile home, the reasonable value of the property, as determined by the Administrator;

"(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

"(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;".

(e) Such section is further amended by striking out subsection (g) and by redesignating subsections (h), (i), (j), (k), (l), (m), and (n) as subsections (g), (h), (i), (j), (k), (l), and (m), respectively.

(f) Subsection (h) of such section (as redesignated by subsection (e) of this section) is amended (1) by inserting "(1)" before "No loan", (2) by striking out the third sentence of such subsection, and (3) by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of mobile homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for Inspection.

the additional purpose of monitoring safety factors involved in the installation of mobile homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of mobile homes purchased through the utilization of such assistance.

Delegation to HUD Secretary.

"(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of mobile homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.".

(g)(1) Subsections (i), (j), and (l) of such section (as redesignated by subsection (e) of this section) are amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(2) Subsection (l) of such section (as redesignated by subsection (e) of this section) is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (i)".

EFFECTIVE DATES

38 USC 1802 note.

SEC. 108. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on October 1, 1978.

(b) The amendment made by clause (1) of section 104 of this title shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

EDUCATION LOAN PROGRAM ELIGIBILITY AND REPORTS ON DEFAULT EXPERIENCE

38 USC 1798.

SEC. 201. Section 1798 is amended—

(1) by inserting "and the criteria established under subsection (g) of this section" before the period at the end of subsection (a);

(2) in subsection (c)—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(C) by inserting after clause (2) the following new clause:

"(3) satisfies any criteria established under subsection (g) of this section.";

(3) in subsection (d)(1)—

(A) by inserting "(A)" before "over"; and

(B) by inserting a comma and "or (B) over such shorter period as the Administrator may have prescribed under subsection (g) of this section" after "such date";

(4) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

Report to congressional committees.

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the

current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include in maximum feasible detail—

"(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans;

"(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and 38 USC 1682A.

"(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution.";

(5) by striking out "1701(1)" in subsection (f)(3) and inserting in lieu thereof "1701(a)(1)"; and

(6) by adding after subsection (f) the following new subsection:

"(g)(1) The Administrator shall conduct, on a continuing basis, a review of the default experience with respect to loans made under this section.

"(2)(A) To ensure that loans are made under this section on the basis of financial need directly related to the costs of education, the Administrator may, by regulation, establish (i) criteria for eligibility for such loans, in addition to the criteria and requirements prescribed by subsections (c) and (d) of this section, in order to limit eligibility for such loans to eligible veterans and eligible persons attending educational institutions with relatively high rates of tuition and fees, and (ii) criteria under which the Administrator may prescribe a repayment perod for certain types of loans made under this section that is shorter than the repayment period otherwise applicable under subsection (d)(1)(A) of this section. Criteria established by the Administrator under clause (i) of the preceding sentence may include a minimum amount of tuition and fees that an eligible veteran or eligible person may pay in order to be eligible for such a loan (except that any such criterion shall not apply with respect to a loan for which the veteran is eligible as a result of an extension of the period of eligibility of such veteran for loans under this section provided for by section 1662(a)(2) of this title). Regulations. 38 USC 1662.

"(B) In prescribing regulations under subparagraph (A) of this paragraph, the Administrator shall take into consideration information developed in the course of the review required by paragraph (1) of this subsection.

"(C) Regulations may be prescribed under subparagraph (A) of this paragraph only after opportunity has been afforded for public comment thereon.".

BURIAL BENEFITS

SEC. 202. (a) Subsection (b) of section 903 is amended to read as follows: 38 USC 903.

"(b) In addition to the benefits provided for under section 902 of this title and subsection (a) of this section, in the case of a veteran who is eligible for a burial allowance under such section 902, or under 38 USC 902.

such subsection, and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

"(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Administrator shall pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran; and

"(2) if such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Administrator shall pay a sum not exceeding $150 as a plot or interment allowance to such person as the Administrator prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.".

(b)(1) Chapter 24 is amended by adding at the end thereof the following new section:

38 USC 1008.

"§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

Grants.

"(a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.

Appropriation authorization.

"(2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years for the purpose of making grants under paragraph (1) of this subsection.

"(b) Grants under this section shall be subject to the following conditions:

"(1) No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.

"(2) The amount of any grant under this section may not exceed an amount equal to 50 per centum of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

"(3) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (2) of this subsection, but the value of such land may not be used for more than an amount equal to 50 per centum of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

"(4) If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cem-

etery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

"(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Administrator may by regulation prescribe. In prescribing regulations for the purposes of the preceding sentence, the Administrator shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries in the National Cemetery System, including those provided in subsections (b), (c), and (d) of section 1004 of this title. 38 USC 1004.

"(2) The Administrator may by regulation prescribe such additional terms and conditions for grants under this section as the Administrator considers appropriate.

"(d) Sums appropriated under subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.".

(2) The table of sections at the beginning of chapter 24 is amended by adding at the end thereof the following new item:

"1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.".

HEADSTONES AND MARKERS

SEC. 203. (a) Section 906 is amended by adding at the end thereof the following new subsections: 38 USC 906.

"(c) A headstone or marker furnished under subsection (a) or (b) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Administrator (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

"(d) In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Administrator, in the Administrator's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such headstone or marker for the actual costs incurred by or on behalf of such person in acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. Reimbursement under the preceding sentence may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Administrator, of headstones and markers furnished under subsections (a) and (b) of this section.".

38 USC 902.

(b) Section 902 is amended—

(1) by striking out "in his discretion" in subsection (a) and inserting in lieu thereof "in the Adminstrator's discretion";

(2) by striking out "as he prescribes" in subsection (a) and inserting in lieu thereof "as the Administrator prescribes"; and

(3) by striking out "his death" in subsection (b) and inserting in lieu thereof "the death of such veteran".

TECHNICAL AMENDMENTS TO LAW NAMING A CERTAIN VETERANS' ADMINISTRATION HOSPITAL

Ante, p. 518.

SEC. 204. Section 203 of Public Law 95-353 is amended—

(1) by striking out "designed" in the first sentence and inserting in lieu thereof "designated"; and

(2) by inserting "map, record," in the second sentence after "document,".

EFFECTIVE DATES

38 USC 903 note.

SEC. 205. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) The amendment made by section 202(a) of this title shall take effect on October 1, 1978.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1332 (Comm. on Veterans' Affairs).
SENATE REPORT No. 95-1055 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 17, considered and passed House.
Aug. 7, considered and passed Senate, amended.
Sept. 28, House agreed to Senate amendents with amendments.
Oct. 2, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:
Oct. 18, Presidential statement.

Public Law 95-477
95th Congress

An Act

To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes.

Oct. 18, 1978
[H.R. 11302]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Environmental Research, Development, and Demonstration Authorization Act of 1979.

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1979".

PROGRAM AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1979 for the following activities:

(1) $82,925,000 for water quality activities authorized under the Federal Water Pollution Control Act of which— 33 USC 1251 note.

(A) $24,001,000 is for the Health and Ecological Effects program;

(B) $11,875,000 is for the Industrial Processes program;

(C) $5,539,000 is for the Monitoring and Technical Support program;

(D) $12,000,000 for the Public Sector Activities program; and

(E) $29,510,000 is for the Energy program.

(2) $11,998,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act of which— 7 USC 136 note.

(A) $10,798,000 is for the Health and Ecological Effects program; and

(B) $1,200,000 is for the Industrial Processes program.

(3) $20,150,000 for water supply activities authorized under the Safe Drinking Water Act in the Public Sector Activities program, including groundwater research. 42 USC 300f note.

(4) $12,782,000 for toxic substance control activities authorized under the Toxic Substances Control Act of which— 15 USC 2601 note.

(A) $8,862,000 is for the Health and Ecological Effects program;

(B) $720,000 is for the Industrial Processes program; and

(C) $3,200,000 is for the Monitoring and Technical Support program.

(5) $2,500,000 for radiation activities authorized under the Public Health Act, in the Health and Ecological Effects program. 42 USC 201 note.

(6) $159,952,000 for air quality activities authorized under the Clean Air Act of which— 42 USC 1857 note.

(A) $37,414,000 is for the Health and Ecological Effects program;

(B) $6,000,000 is for the Industrial Processes program;

(C) $16,283,000 is for the Monitoring and Technical Support program; and

(D) $100,255,000 is for the Energy program.

(7) $11,912,000 for solid waste activities authorized under the Resource Conservation and Recovery Act in the Public Sector Activities program.

42 USC 6901 note.

(8) $4,000,000 for noise control activities authorized under the Noise Control Act of which—

42 USC 4901 note.

(A) $2,000,000 is for the Health and Ecological Effects program; and

(B) $2,000,000 is for the Industrial Processes program.

(9) $36,285,000 for intermedia activities of which—

(A) $7,500,000 is for the Health and Ecological Effects program;

(B) $25,000 is for the Public Sector Activities program;

(C) $14,900,000 is for the Monitoring and Technical Support program; and

(D) $13,860,000 is for the Anticipatory Research program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1979, for program management and support, $23,060,000.

Transfer of funds, restriction.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Pollution control technologies demonstrations. 42 USC 4363a.

(d) (1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

33 USC 1251 note.

(2) Energy-related environmental protection projects which were authorized to be administered by the Environmental Protection Agency in fiscal year 1978 shall not be transferred administratively or through budget amendment to the Department of Energy, nor shall funding for future years for the Environmental Protection Agency for such projects under this Act be reduced as a result of any present or proposed administrative or budget transfer. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

SPECIAL AUTHORIZATIONS

Grants.

SEC. 3. (a) (1) There is authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, for grants for long-term environmental research programs at universities or other such research institutions, $7,000,000.

(2) These grants are for the purpose of developing continuing centers for environmental research and training in the engineering, physical, natural, health, and social sciences.

(b) There is authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, to implement the study authorized in section 403(d) of the Clean Air Act Amendments of 1977 (Public Law 95-95), $3,000,000.

42 USC 7401 note.

Study and report.
42 USC 4366 note.

(c) (1) There is authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, $1,000,000, and for the fiscal year 1980, $1,000,000, for a study and report, to be conducted outside the Federal Government, on (A) coordination of the Federal Government's efforts in environmental research, development, and demonstration, and (B) the application of the results of such efforts to environmental problems.

Contract.

(2) The study shall be conducted under a contract let by the Administrator. Such contract shall (A) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget and of all agencies conducting or using the results of environmental research, and (B) provide for an oversight and review role by the National Academy of Sciences.

Submittal to President, Administrator, and Congress.

(3) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

(4) The report shall not be subject to any prior clearance or review (except as specifically provided in this subsection), nor shall any such prior clearance be a part of the contract let under paragraph (2).

Grants.
42 USC 4368.

(d) (1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, $3,000,000.

(2) Grants under this subsection may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.

"Qualified citizens group."

(3) The term "qualified citizens group" shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.

Eligible group certification.

(4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bona-fide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.

Annual recertification and reapplication.

(5) After an initial application for assistance under this section has been approved, the Administrator may make grants on an annual basis, on condition that the governor recertify the group and that the applicant submits to the Administrator annually—

(A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;

(B) a description of any changes in the objectives of the activities; and

(C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than $50,000 in any one year.

(7) No financial assistance provided under this subsection shall be used to support lobbying or litigation by any recipient group.

OTHER AUTHORIZATIONS

SEC. 4. There is authorized to be appropriated to the Secretary of Commerce for the fiscal year 1979, for use by the National Bureau of Standards—

(1) $3,000,000 for research in the area of environmental measurement sciences; and

(2) $2,000,000 to carry out activities authorized in section 5002 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580).

42 USC 6952.

MISCELLANEOUS REPORTS

Availability to congressional committees.
42 USC 4369.

SEC. 5. (a) All reports to or by the Administrator relevant to the Agency's program of research, development, and demonstration shall promptly be made available to the Committee on Science and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate, unless otherwise prohibited by law.

(b) The Administrator shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate fully and currently informed with respect to matters falling within or related to the jurisdiction of the committees.

42 USC 5910.

(c) The reports provided for in section 11 of Public Law 93-577 shall be made available to the public for comment, and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.

(d) For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities related to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.

STAFF MANAGEMENT

EPA employees, appointments for educational programs.
42 USC 4361c.

SEC. 6. (a)(1) The Administrator is authorized to select and appoint up to 75 full-time permanent staff members in the Office of Research and Development to pursue full-time educational programs for the purpose of (A) securing an advanced degree or (B) securing

academic training, for the purpose of making a career change in order to better carry out the Agency's research mission.

(2) The Administrator shall select and appoint staff members for these assignments according to rules and criteria promulgated by him. The Agency may continue to pay the salary and benefits of the appointees as well as reasonable and appropriate relocation expenses and tuition. Salaries and expenses.

(3) The term of each appointment shall be for up to one year, with a single renewal of up to one year in appropriate cases at the discretion of the Administrator. Term.

(4) Staff members appointed to this program shall not count against any Agency personnel ceiling during the term of their appointment.

(b)(1) The Administrator is authorized to appoint up to 25 Postdoctoral Research Fellows in accordance with the provisions of section 213.3102(aa) of title 5 of the Code of Federal Regulations.

(2) Persons holding these appointments shall not count against any personnel ceiling of the Agency.

(c)(1) The Administrator is authorized and encouraged to utilize research associates from outside the Federal Government in conducting the research, development, and demonstration programs of the Agency.

(2) These persons shall be selected and shall serve according to rules and criteria promulgated by the Administrator.

(d) For all programs in this section, the Administrator shall place special emphasis on providing opportunities for education and training of women and minority groups.

REUSE OF WASTEWATERS

SEC. 7. (a)(1) Section 5(a)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended by inserting "agricultural use or" immediately after "reuse of wastewaters for drinking and". 42 USC 300j-3a.

(2) This subsection shall become effective October 1, 1978. 42 USC 300j-3a note.

(b)(1) Not later than nine months after the date of enactment of this Act, the Administrator shall promulgate guidelines establishing supplemental standards or treatment technique requirements for microbiological, viral, radiological, organic, and inorganic contaminants, which guidelines shall be conditions, as provided in paragraph (2), of any grant for a demonstration project for water reclamation, recycling, and reuse funded under section 5 of Public Law 95-155 or under section 1444(a)(2) of the Public Health Service Act, where such project involves direct human consumption of treated wastewater. Such guidelines shall provide for sufficient control of each such contaminant, such that in the Administrator's judgment, no adverse effects on the health of persons may reasonably be anticipated to occur, allowing an adequate margin of safety. Contaminant standards or treatment techniques, guidelines. 42 USC 300j-3b.

(2) A grant referred to in paragraph (1) for a project which involves direct human consumption of treated wastewater may be awarded on or after the date of promulgation of guidelines under this subsection only if the applicant demonstrates to the satisfaction of the Administrator that the project— Grant awards, criteria.

(A) will comply with all national primary drinking water regulations under section 1412 of the Public Health Service Act; 42 USC 300g-1.

(B) will comply with all guidelines under this subsection; and

(C) will in other respects provide safe drinking water.

Any such grant awarded before the date of promulgation of such guidelines shall be conditioned on the applicant's agreement to comply to the maximum feasible extent with such guidelines as expeditiously as practicable following the date of promulgation thereof.

(3) Guidelines under this subsection may, in the discretion of the Administrator—

42 USC 300j-3a.

(A) be nationally and uniformly applicable to all projects funded under section 5 of Public Law 95-155 or section 1442(a)(2) of the Public Health Service Act;

(B) vary for different classes or categories of such projects (as determined by the Administrator);

(C) be established and applicable on a project-by-project basis; or

(D) any combination of the above.

(4) Nothing in this subsection shall be construed to prohibit or delay the award of any grant referred to in paragraph (1) prior to the date of promulgation of such guidelines.

(c) There is authorized to be appropriated to the Administrator for the fiscal year 1979, for purposes of section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1978, $15,000,000.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-985 (Comm. on Science and Technology) and No. 95-1593 (Comm. of Conference).

SENATE REPORT No. 95-877 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 27, considered and passed House.

May 26, considered and passed Senate, amended.

Sept. 26, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

Public Law 95-478
95th Congress

An Act

To amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes.

Oct. 18, 1978
[H.R. 12255]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Comprehensive Older Americans Act Amendments of 1978".

Comprehensive Older Americans Act Amendments of 1978. 42 U.S.C. 3001 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965.

42 USC 3001 note.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

OBJECTIVES

SEC. 101. Section 101(8) is amended by inserting after "provide" the following: "a choice in supported living arrangements and". 42 USC 3001.

ADMINISTRATION

SEC. 102. (a)(1) Section 202(a) is amended by redesignating clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), and (16) as clauses (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17), respectively, and by inserting after the dash the following new clause: 42 USC 3012.

"(1) serve as the effective and visible advocate for the elderly within the Department of Health, Education, and Welfare and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting the elderly;".

(2) Section 202 is amended by redesignating subsection (b), and all references thereto, as subsection (c), and by inserting after subsection (a) the following new subsection: 42 USC 3012.

"(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

"(1) develop planning linkages with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 3001–4);

"(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

"(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.".

(b) Section 203 is amended to read as follows: 42 USC 3013.

"FEDERAL AGENCY CONSULTATION

"SEC. 203. (a) The Commissioner, in carrying out the purposes and provisions of this Act, shall advise, consult, and cooperate with the head of each Federal agency or department proposing or administering programs or services substantially related to the purposes of this Act, with respect to such programs or services. The head of each Federal agency or department proposing to establish programs and services substantially related to the purposes of this Act shall consult with the Commissioner prior to the establishment of such programs and services. The head of each Federal agency administering any program substantially related to the purpose of this Act, particularly administering any program set forth in subsection (b), shall, to achieve appropriate coordination, consult and cooperate with the Commissioner in carrying out such program.

"(b) For the purposes of subsection (a), programs related to the purpose of this Act shall include—

29 USC 801 note. "(1) the Comprehensive Employment and Training Act of 1973,

42 USC 5001. "(2) title II of the Domestic Volunteer Service Act of 1973,

42 USC 1395, 1396, 1397. "(3) titles XVIII, XIX, and XX of the Social Security Act,

12 USC 1715v, 1715w. "(4) sections 231 and 232 of the National Housing Act,

42 USC 1437 note. "(5) the United States Housing Act of 1937,

12 USC 1701q. "(6) section 202 of the Housing Act of 1959,

42 USC 5301. "(7) title I of the Housing and Community Development Act of 1974,

42 USC 2809. "(8) section 222(a)(8) of the Economic Opportunity Act of 1964,

20 USC 821 note. "(9) the community schools program under the Elementary and Secondary Education Act of 1965, and

"(10) sections 3, 5, 9, and 16 of the Urban Mass Transportation Act of 1964.".

49 USC 1602, 1604, 1607a, 1612. (c) Section 204(a)(1) is amended by inserting before the semicolon a comma and the following: "including information related to transportation services for older individuals offered by Federal, State, and local public agencies".

42 USC 3014. (d) Section 204(c) is amended to read as follows:

"(c) There are authorized to be appropriated to carry out the provisions of this section, for fiscal years 1979, 1980, and 1981, such sums as may be necessary.".

42 USC 3015. (e)(1) Section 205(a) is amended by inserting "rural and urban" after "of" in the second sentence, and by adding at the end thereof the following new sentence: "No full-time officer or employee of the Federal Government may be appointed as a member of the Council.".

(2) Section 205(c) is amended by striking out the last sentence thereof.

(3) Section 205(e) is amended to read as follows:

"(e) The Council shall have staff personnel, appointed by the Chairman, to assist it in carrying out its activities. The head of each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its activities.".

(4)(A) Section 205(g) is amended to read as follows:

"(g)(1) The Council shall undertake a thorough evaluation and study of programs conducted under this Act.

"(2) The study required in this subsection shall include—

"(A) an examination of the fundamental purposes of such pro-

grams, and the effectiveness of such programs in attaining such purposes;

"(B) an analysis of the means to identify accurately the elderly population in greatest need of such programs; and

"(C) an analysis of numbers and incidence of low-income and minority participants in such programs.

"(3) The study required under this subsection may include—

"(A) an exploration of alternative methods for allocating funds under such programs to States, State agencies on aging, and area agencies on aging in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas;

"(B) an analysis of the need for area agencies on aging to provide direct services within the planning and service area; and

"(C) an analysis of the number of nonelderly handicapped in need of home delivered meal services.".

(B) Section 205 is amended by striking out subsections (h) and (i) and inserting in lieu thereof the following new subsection: 42 USC 3015.

"(h) There are authorized to be appropriated to carry out the provisions of this section, for fiscal years 1979, 1980, and 1981, such sums as may be necessary.".

(f) Section 206 is amended by redesignating subsection (b) and subsection (c), and all references thereto, as subsection (c) and subsection (d), respectively, and by inserting after subsection (a) the following new subsection: 42 USC 3016.

"(b) The Commissioner shall prepare and submit to the Congress not later than September 30, 1980 a report on the effectiveness of programs conducted under part B of title III relating to legal services and an analysis of the need for a separate program of legal services under this Act and of factors which may prohibit the funding of legal services under this Act without such a separate program, together with such recommendations, including recommendations for additional legislation, as the Commissioner deems appropriate.". *Post*, p. 1535.

(g)(1) Section 207(c) is amended by inserting before the period a comma and the following: "and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives". 42 USC 3017.

(2) Section 207(d) is amended—

(A) by inserting after "summaries" the following: "and analyses";

(B) by striking out "be available" and inserting in lieu thereof "be transmitted"; and

(C) by inserting before "the public" the following: "be accessible to".

(h)(1) Section 211 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection: 42 USC 3020a.

"(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law.".

(2) Section 211(a), as so redesignated in paragraph (1), is amended by inserting after "88 Stat. 1604)" the following: ", and of title V of the Act of October 15, 1977 (Public Law 95-134; 91 Stat. 1164),". 48 USC 1469a.

(i) Title II is amended by adding at the end thereof the following new sections:

"REDUCTION OF PAPERWORK

42 USC 3020b. "SEC. 212. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies designated under section 305(a)(1), and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration on Aging for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the purposes and provisions of this Act.

"CONTRACTING AND GRANT AUTHORITY

42 USC 3020c. "SEC. 213. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization, where such organization demonstrates clear superiority with respect to the quality of services covered by such contract to carry out the provisions of this Act and of the appropriate State plan.

"SURPLUS PROPERTY ELIGIBILITY

42 USC 3020d. "SEC. 214. Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under the Economic Opportunity Act of 1964, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.".

42 USC 601, 1397. 42 USC 2701 note.

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

42 USC 3021 note.

SEC. 103. (a)(1) The Congress finds that—

(A) approximately 3 percent of the eligible population is presently served under community services programs authorized under the Older Americans Act of 1965, 17 percent of whom are minority group members;

42 USC 3001 note.

(B) approximately 1 percent of the eligible population is presently served by the nutrition program authorized under the Older Americans Act of 1965, 21 percent of whom are minority group members;

(C) there is program fragmentation at the national, State, and local levels which inhibits effective use of existing resources; and

(D) coordination and consolidation of services provided under the Older Americans Act of 1965 allowing greater local determination to assess the need for services will facilitate achieving the goals of the Older Americans Act of 1965.

(2) It is the purpose of the amendments made by subsection (b) to combine within a consolidated title, subject to the modifications imposed by the provisions and requirements of the amendments made by subsection (b), the programs authorized by title III, title V, and title VII of the Older Americans Act of 1965 in the fiscal year 1978, and funds appropriated to carry out such consolidated title shall be used solely for the purposes and for the assistance of the same types of programs authorized under the provisions of such titles.

Post, p. 1517. 42 USC 3041, 3045.

(b) Title III is amended to read as follows:

"TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

"PART A—GENERAL PROVISIONS

"PURPOSE; ADMINISTRATION

"SEC. 301. (a) It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and local agencies, and with the providers of social services, including nutrition services and multipurpose senior centers, for the planning for the provision of, and for the provision of, social services, nutrition services, and multipurpose senior centers, in order to— 42 USC 3021.

"(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

"(2) remove individual and social barriers to economic and personal independence for older individuals; and

"(3) provide a continuum of care for the vulnerable elderly.

"(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration on Aging.

"(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Labor, the Community Services Administration, the Department of Housing and Urban Development, the Department of Transportation, and such other agencies and departments of the Federal Government as may be appropriate.

"DEFINITIONS

"SEC. 302. For the purpose of this title— 42 USC 3022.

"(1) The term 'comprehensive and coordinated system' means a system for providing all necessary social services, including nutrition services, in a manner designed to—

"(A) facilitate accessibility to, and utilization of, all social services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

"(B) develop and make the most efficient use of social services and nutrition services in meeting the needs of older individuals; and

"(C) use available resources efficiently and with a minimum of duplication.

"(2) The term 'information and referral source' means a location where the State or any public or private agency or organization—

"(A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities; and

"(B) employs a specially trained staff to inform older individuals of the opportunities and services which are avail-

able, and to assist such individuals to take advantage of such opportunities and services.

"(3) The term 'long-term care facility' means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, and any other similar adult care home.

42 USC 1395x.
42 USC 1396d.
42 USC 1396g.

"(4) The term 'legal services' means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

"(5) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(6) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"(7) The term 'State agency' means the State agency designated by a State under section 305(a)(1).

"(8) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

"(B) an Indian tribal organization.

"AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

42 USC 3023.

"SEC. 303. (a) There are authorized to be appropriated $300,000,000 for fiscal year 1979, $360,000,000 for fiscal year 1980, and $480,000,000 for fiscal year 1981 for the purpose of making grants under part B of this title (relating to social services).

Post, p. 1535.

"(b)(1) There are authorized to be appropriated $350,000,000 for fiscal year 1979, $375,000,000 for fiscal year 1980, and $400,000,000 for fiscal year 1981 for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

Post, p. 1536.

"(2) There are authorized to be appropriated $80,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, and $120,000,000 for fiscal year 1981 for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

"(c) Grants made under parts B and C of this title may be used for paying part of the cost of—

"(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

"(2) the development of comprehensive and coordinated systems for social services, congregate and home delivered nutrition services, the development and operation of multipurpose senior centers, and the delivery of legal services.

"ALLOTMENT; FEDERAL SHARE

"SEC. 304. (a)(1) From the sums appropriated under parts B and C for fiscal years 1979, 1980, and 1981, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (C) American Samoa and the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (D) no State shall be allotted an amount less than the State received for fiscal year 1978. For the purpose of the exception contained in clause (A) only, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. 42 USC 3024. *Post*, pp. 1535, 1536.

"(2) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such allotment available for carrying out such purpose to one or more other States to the extent he determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(B) for such State, by funds for in-kind resources from non-Federal sources.

"(d)(1) From any State's allotment under this section for any fiscal year—

"(A) such amount as the State agency determines, but not more than 8.5 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans; and

"(B) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency deter-

mines, but not more than 90 percent in fiscal years 1979 and 1980, and 85 percent in fiscal year 1981, of the cost of social services and nutrition services authorized under parts B and C provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

Post, pp. 1535, 1536.

"(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

"ORGANIZATION

42 USC 3025.

"SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

"(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

State plan, development and approval.

"(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

"(B) administer the State plan within such State;

"(C) be primarily responsible for the coordination of all State activities related to the purposes of this Act;

"(D) serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and

"(E) divide the State into distinct areas, in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for social services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

"(2) the State agency designated under clause (1) shall—

"(A) determine for which planning and service area an area plan will be developed, in accordance with section 306, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

"(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

"(C) develop a formula, in accordance with guidelines issued by the Commissioner, for the distribution within the State of funds received under this title, taking into account,

to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment;

"(D) submit its formula developed under subclause (C) to the Commissioner for review and comment; and

"(E) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs and include proposed methods of carrying out the preference in the State plan.

"(b)(1) In carrying out the requirement of clause (1) of subsection (a), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a), any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a) such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title. Planning and service area, designation.

"(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a) to include the area covered by the appropriate economic development district involved in any planning and service area designated under such clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.

"(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, he shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

"(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of clause (1) of subsection (a), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a plan- Appeal.

ning and service area, or take such other action as the Commissioner deems appropriate.

Area agency on aging.

"(c) An area agency on aging designated under subsection (a) shall be—

"(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

"(2) any office or agency of a unit of general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit;

"(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of such combination for such purpose; or

"(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services, or nutrition services within such planning and service area;

and shall provide assurance, determined adequate by the State agency, that the area agency will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

"AREA PLANS

42 USC 3026.

"SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a 3-year period with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

"(1) provide, through a comprehensive and coordinated system, for social services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for social services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

"(2) provide assurances that at least 50 percent of the amount allotted for part B to the planning and service area will be expended for the delivery of—

Post, p. 1535.

"(A) services associated with access to services (transportation, outreach, and information and referral);

"(B) in-home services (homemaker and home health aide, visiting and telephone reassurance, and chore maintenance); and

"(C) legal services;

and that some funds will be expended for each such category of services;

"(3) designate, where feasible, a focal point for comprehensive service delivery in each community to encourage the maximum collocation and coordination of services for older individuals, and give special consideration to designating multipurpose senior centers as such focal point;

"(4) provide for the establishment and maintenance of information and referral services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services;

"(5)(A) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs and include proposed methods of carrying out the preference in the area plan; and

"(B) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on rural elderly, and inform such individuals of the availability of such assistance;

"(6) provide that the area agency on aging will—

"(A) conduct periodic evaluations of activities carried out under the area plan;

"(B) furnish appropriate technical assistance to providers of social services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

"(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

"(D) serve as the advocate and focal point for the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly;

"(E) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children;

"(F) where possible, enter into arrangements with local educational agencies, institutions of higher education, and nonprofit private organizations, to use services provided for older individuals under the community schools program under the Elementary and Secondary Education Act of 1965;

20 USC 821 note.

"(G) establish an advisory council consisting of older individuals who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, and the general public, to advise continuously the area agency on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

Advisory council, establishment.

"(H) develop and publish methods by which priority of

services is determined, particularly with respect to the delivery of services under clause (2); and

"(I) establish effective and efficient procedures for coordination between the programs assisted under this title and programs described in section 203(b).

Ante, p. 1514.

Waiver.

"(b)(1) Each State, in approving area agency plans under this section, may, for fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of multipurpose senior centers which such agency cannot meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978, except that the State agency may grant such a waiver only if the area agency demonstrates to the State agency that it is taking steps to meet the requirements of this title, but in any event the State agency may not grant a waiver for any requirement of this Act in effect on September 30, 1978.

Ante, p. 1513.

"(2) Each State, in approving area agency plans under this section, may waive the requirement described in clause (2) of subsection (a) for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area. If the State agency grants a waiver under the preceding sentence with respect to any category, then the area agency shall expend under clause (2) of subsection (a) a percentage of the amount allotted for part B to the planning and service area, for the categories with respect to which such waiver does not apply, that is agreed upon by the State agency and the area agency.

"(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

29 USC 701 note.
42 USC 1396, 1397.

Transportation services, funds.

"(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

"STATE PLANS

42 USC 3027.

"SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a 3-year period, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall—

Requirements.

"(1) contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306;

"(2) provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency

for approval an area plan which complies with the provisions of section 306;

"(3)(A) provide that the State agency will evaluate the need for social services (including legal services), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need; and

"(B) provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978; 42 USC 3041, 3045.

"(4) provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration;

"(5) provide that the State agency will afford an opportunity for a hearing upon request to any area agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; Hearing.

"(6) provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports; Reports.

"(7) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract; Accounting procedures.

"(8) provide that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

"(9) provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services;

"(10) provide that no social services, including nutrition services, will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services;

"(11) provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify;

"(12) provide assurances that the State agency will— Ombudsman program.

"(A) establish and operate, either directly or by contract or other arrangement with any public agency or other appro-

priate private nonprofit organization which is not responsible for licensing or certifying long-term care services in the State or which is not an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), a long-term care ombudsman program which will—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

"(ii) monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in that State;

"(iii) provide information as appropriate to public agencies regarding the problems of older individuals residing in long-term care facilities;

"(iv) provide for training volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(v) carry out such other activities as the Commissioner deems appropriate;

Record access and disclosure.

"(B) establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

Reporting system.

"(C) establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis; and

"(D) establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order;

Nutrition services.

"(13) provide with respect to nutrition services that—

"(A) each project providing nutrition services will be available to individuals aged 60 or older, and to their spouses;

"(B) each project will provide meals in a congregate setting, except that each such project may provide home delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this title;

"(C)(i) each project will permit recipients of grants or contracts to charge participating individuals for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and

"(ii) such charges will be used to increase the number of meals served by the project involved;

"(D) a site for such services and for comprehensive social services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished or home delivered meals are furnished to eligible individuals who are homebound;

"(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

"(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

"(G) each project will provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

"(H) each area agency will give consideration, where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that funds made available under this title to the organization will not be used to supplant funds from non-Federal sources; and

"(I) each State agency may, only for fiscal years 1979 and 1980, use not to exceed 20 percent of the amounts allotted under part C to the State for supportive services, including recreational activities, informational services, health and welfare counseling, and referral services, directly related to the delivery of congregate or home delivered meals, except that the Commissioner may approve an application from a State to use not to exceed 50 percent of its amount allotted under part C in areas with unusually high supportive services costs;

Post, p. 1536.

"(14) provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

Multipurpose senior centers, facilities.

"(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share

of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

"(B) the plan contains or is supported by reasonable assurances that, in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

"(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

42 USC 4151 note.

"(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5; commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

"(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation;

Legal services.

"(15) provide that with respect to legal services—

"(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal services which can demonstrate the experience or capacity to deliver legal services; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve the private bar in legal services activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

42 USC 2996 note.

"(B) the plan contains assurances that no legal services will be furnished unless the grantee—

"(i) is a recipient of funds under the Legal Services Corporation Act; or

"(ii) administers a program designed to provide legal services to all older individuals with social or economic need and has agreed to coordinate its services with existing Legal Services Corporation projects in the area in

order to concentrate the use of funds provided under this title on individuals with the greatest such need but who are not eligible for legal assistance under the Legal Services Corporation Act;

42 USC 2996 note.

and the area agency makes a finding after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

"(C) the State agency will provide for the coordination of the furnishing of legal services to older individuals within the State, and provide advice and technical assistance in the provision of legal services to older individuals within the State and support the furnishing of training and technical assistance for legal services for older individuals; and

"(D) the plan contains assurances, to the extent practicable, that legal services furnished under the plan will be in addition to any legal services for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal services for older individuals; and

"(16) provide that the State agency, from funds allotted under section 304(a) for part B will use an amount equal to an amount not less than 1 percent of such allotment or $20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

Post, p. 1535.

"(b)(1) The Commissioner shall approve any State plan which he finds fulfills the requirements of subsection (a).

"(2) The Commissioner, in approving any State plan under this section may, for the fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of multipurpose senior centers which the State agency cannot meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978 or because meeting such requirement would reduce or jeopardize the quality of services under this Act, except that the Commissioner may grant such a waiver only if the State agency demonstrates that it is taking steps to meet the requirements of this title, but in any event the Commissioner may not grant a waiver for any requirement of this Act in effect on September 30, 1978. The Commissioner may not disapprove any State plan under paragraph (1) solely on the ground that a State requested a waiver under the preceding sentence.

Waiver.

Ante, p. 1513.

"(3) The Commissioner, in approving any State plan under this section, may waive the requirement described in clause (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with the requirement described in clause (3)(B) of subsection (a).

"(c) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final

Hearing.

determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

State plan, failure to comply.

"(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

"(1) the State is not eligible under section 305,

"(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

"(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 307. Any such payment shall be matched in the proportions specified in section 304.

Appeal.

"(e)(1) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

Petition filing.

"(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

Grants.
42 USC 3028.

"SEC. 308. (a)(1) Amounts appropriated under section 303 may be used to make grants to States for paying such percentages as each

State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

"(2) Any sums received by a State under this section for part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

"(3) Any State which has designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

Funds, allocation.

"(b)(1) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this section, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $300,000, whichever is greater; and (B) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands shall be each allotted no less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $75,000, whichever is greater. For the purpose of the exception contained in clause (A), the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"State."

Applications for additional funds.

"(2)(A) Any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

"(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need, that—

"(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

"(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the

administration of its State plan in accordance with subsection (a); and

"(iii) the State agency and area agencies of such State designated under section 305 are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this Act.

"(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which he determines has been justified in such application.

Limitation.

"(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

"(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

State allotments.

"(3) Each State shall be entitled to an allotment under this section for any fiscal year in an amount which is not less than the amount of the allotment to which such State was entitled under paragraph (1) for the fiscal year ending June 30, 1975.

"(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(5) Notwithstanding any other provision of this title, with respect to funds received under section 303(b)(1) and (2), a State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer a portion of the funds appropriated between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless he determines that such transfer is not consistent with the purposes of this Act.

Post, p. 1536.

"(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

Post, pp. 1535, 1536.

"PAYMENTS

42 USC 3029.

"SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan.

"(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

"(2) Funds required to meet the non-Federal share required by section 304(d)(1)(B), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be met from State sources.

"(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its expenditures from such sources for the preceding fiscal year.

"DISASTER RELIEF REIMBURSEMENTS

"SEC. 310. (a)(1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies in such State for the delivery of social services during any major disaster declared by the President in accordance with the Disaster Relief Act of 1974. 42 USC 3030. 42 USC 5121 note.

"(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 5 percent of the total amount appropriated and available for carrying out the purposes of section 421. *Post*, p. 1539.

"(b)(1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 5 percent of the total amount appropriated and available for carrying out the purposes of section 421.

"(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available for carrying out the purposes of section 421.

"(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

"AVAILABILITY OF SURPLUS COMMODITIES

"SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title. Nutrition services. 42 USC 3030a.

"(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

"(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title. Dairy products.

"(4) In donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal during the three succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among

the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

High protein foods, meat, and meat alternates.

"(b)(1) During each of the fiscal years ending before October 1, 1981, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

"(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) with respect to the annually programmed level of assistance under subsection (a).

"(3) There are authorized to be appropriated such sums as may be necessary in order to carry out the program established by paragraph (1).

Cash payments.

"(c)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

"(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

"(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

"MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

42 USC 3030b.

"SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

"(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action

brought in the United States district court for the district in which such facility is situated.

"AUDIT

"SEC. 313. The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title. 42 USC 3030c.

"PART B—SOCIAL SERVICES

"PROGRAM AUTHORIZED

"SEC. 321. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following social services: Grant program. 42 USC 3030d.

"(1) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

"(2) transportation services to facilitate access to social services or nutrition services, or both;

"(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

"(4) services designed to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of older individuals suffering from physical disabilities;

"(5) services designed to assist older individuals in avoiding institutionalization, including preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, letter writing services, and other similar services designed to assist such individuals to continue living independently in a home environment;

"(6) services designed to provide legal services and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older individuals;

"(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

"(8) services designed to provide health screening to detect or prevent illness, or both, that occur most frequently in older individuals;

"(9) services designed to provide preretirement and second career counseling for older individuals;

"(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate the well-being of such individuals;

"(11) services which are designed to meet the unique needs of older individuals who are disabled; or

"(12) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals.

"(b)(1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for Facilities.

the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers which shall be community facilities for the organization and provision of a broad spectrum of services, including provision of health, social, nutritional, and educational services and provision of facilities for recreational activities for older individuals.

Professional and technical personnel, compensation.

"(2) Funds made available to a State under this part may be used, for the purpose of assisting in the operation of multipurpose senior centers, to meet all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

"PART C—NUTRITION SERVICES

"Subpart 1—Congregate Nutrition Services

"PROGRAM AUTHORIZED

Grants.
42 USC 3030e.

"SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

"(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

"(2) which shall be provided in congregate settings; and

"(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

"Subpart 2—Home Delivered Nutrition Services

"PROGRAM AUTHORIZED

Grants.
42 USC 3030f.

"SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

"CRITERIA

Efficiency and quality standards.
42 USC 3030g.

"SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Association of Area Agencies on Aging, the National Association of Title VII Project Directors, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section

shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.".

TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 104. (a)(1) Section 401 is amended to read as follows: 42 USC 3031.

"STATEMENT OF PURPOSE

"SEC. 401. (a) The purpose of this part is to develop and implement a national manpower policy for the field of aging. Such a policy shall reflect the present and future needs for training personnel, including personnel involved in advocacy and leadership, in all programs serving the elderly recognizing the unique health, transportation, and housing problems of the elderly, the continual growth of the elderly population of the United States, and the high incidence of disabilities within such population. The national manpower policy established under this part shall require that training programs shall give priority to training personnel responsible for carrying out projects relating to multipurpose senior centers under part B of title III and for carrying out programs under part C of title III. National manpower policy. *Ante*, p. 1535. *Ante*, p. 1536.

"(b) The policy required by this title shall be developed and implemented by the Commissioner in cooperation with other departments and agencies of the Federal Government, including the Public Health Service, the Health Care Financing Administration, the Social Security Administration, the National Institutes of Health, and in particular the National Institute on Aging, the Administration for Public Services, the Rehabilitation Services Administration, the Veterans' Administration, the Department of Labor, the Department of Housing and Urban Development, and the Department of Transportation, State employment agencies, State and area agencies on aging, and other appropriate agencies.". Implementation.

(2) Section 402 is amended to read as follows: 42 USC 3032.

"APPRAISING PERSONNEL NEEDS IN THE FIELD OF AGING

"SEC. 402. (a) The Commissioner shall, at such times as he deems appropriate and in cooperation with representatives referred to in section 401(b), assess the Nation's existing and future personnel needs in the field of aging, including as part of such assessment, the needs for personnel in both institutional and non-institutional long-term care settings, and evaluate all programs, including institutional and non-institutional long-term care programs, serving the elderly at all levels of government recognizing the continual growth of the elderly population. The assessment required by this section shall be conducted in accordance with the national manpower policy developed under section 401.

"(b) The assessment required by this section shall be submitted biennially to the Congress. Each such report shall indicate the impact of the assessment on the national manpower policy and plans for the future.". Report to Congress.

(3)(A) Section 403 is amended by striking out "The" and inserting in lieu thereof the following: "In accordance with the requirements set forth in the national manpower policy, the". 42 USC 3033.

42 USC 3033. (B) Section 403(4) is amended by striking out "to the purposes of this Act" and inserting in lieu thereof "to the field of aging".

42 USC 3034. (4)(A) Section 404(a) is amended—

(i) by striking out "The" and inserting in lieu thereof the following: "In accordance with the requirements set forth in the national manpower policy, the"; and

(ii) by striking out "fields related to the purposes of this Act" and inserting in lieu thereof "the field of aging".

(B) Section 404(a)(1) is amended by striking out "purposes of this Act" and inserting in lieu thereof "field of aging".

(C) Section 404(a) is further amended by redesignating clauses (1), (2), (3), (4), (5), and (6) as clauses (2), (3), (4), (5), (6), and (7), respectively, and by inserting after the dash the following new clause:

"(1) to coordinate the training efforts of all programs serving the elderly at the Federal, State, and local levels recognizing the continual growth of the elderly population,".

(D) Section 404(a) is further amended by redesignating clauses (6) and (7), as so redesignated in subparagraph (C), as clauses (8) and (9), respectively, and by inserting after clause (5), as so redesignated in subparagraph (C), the following new clauses:

"(6) to assess future national personnel needs, including the need for training of advocates, with respect to the elderly with special emphasis on the needs of elderly minority group individuals and the need for the training of minority group individuals to meet such needs,

"(7) to assist in paying the costs, in whole or in part, of special courses of training designed to meet the needs of service providers in rural areas,".

42 USC 3035. (b)(1)(A) Section 411 is amended by inserting "(a)" after the section designation.

(B) Section 411(a), as so redesignated in subparagraph (A), is amended by striking out "The" and inserting in lieu thereof "To support research efforts related to the implementation of this Act together with areas of concern relating to the living conditions of the elderly, the".

(2) Section 411 is further amended by adding at the end thereof the following new subsections:

Grants and contracts. "(b) In accordance with the purposes of this part, the Commissioner shall make grants to any public agency or nonprofit private organization or institution and contracts with any agency, organization, or institution or with an individual for the purpose of—

Study. "(1) conducting a study related to the problems experienced by State and area agencies on aging and other service providers in operating transportation services, with particular emphasis on the difficulties of continually rising insurance costs and restrictions being placed upon the operation of such services by insurance underwriters;

"(2) revising existing Federal transportation programs for older individuals to—

"(A) provide more coordinated and comprehensive services to such individuals;

"(B) eliminate unnecessary duplication among such programs;

"(C) eliminate disparities in eligibility requirements among Federal transportation programs for older individuals; and

"(D) study the possibility of transferring to a single administrative unit the responsibility for the administration of all Federal transportation programs for older individuals; and

"(3) conducting a study related to the differences in unit costs, service delivery, and access between rural areas and urban areas for services assisted under this Act and the special needs of the elderly residing in rural areas. Study.

"(c) Upon completion of the studies described in subsection (b), but not later than 2 years after the date of the enactment of the Comprehensive Older Americans Act Amendments of 1978, the Commissioner shall submit to the Congress and make available through the National Information and Resource Clearing House for the Aging the results of the studies, together with such recommendations as he deems necessary.". Submittal of study results to Congress.

(3) Section 412 is hereby repealed. Repeal.

(c)(1) Title IV is amended— 42 USC 3035a.

(A) by redesignating part C and part E as part D and part F, respectively; 42 USC 3031.

(B) by redesignating sections 421, 431, and 432 of sections 441, 451, and 452, respectively; and 42 USC 3036, 3037.

(C) by inserting after part B the following new parts: 42 USC 3036, 3037, 3037a.

"PART C—DISCRETIONARY PROJECTS AND PROGRAMS

"DEMONSTRATION PROJECTS

"SEC. 421. (a) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand social services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly. Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services. Grants and contracts. 42 USC 3035b.

"(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

"(1) assist in meeting the special housing needs of older individuals by— Housing assistance.

"(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards;

"(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities; and

"(C) demonstrating alternative methods of relieving older individuals of the burden of real property taxes on their homes;

"(2) provide continuing education to older individuals designed Continuing education.

to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older individuals, emphasizing, where possible, free tuition arrangements with colleges and universities;

Preretirement education information.

"(3) provide preretirement education information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to individuals planning retirement;

Special services.

"(4) provide services to assist in meeting the particular needs of physically and mentally impaired older individuals, including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading more independent lives;

"(5) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-speaking individuals and the rural elderly;

"(6) assist older individuals to remain within their communities and out of institutions and to maintain their independent living, in their own residences or in a family living arrangement, by—

"(A) providing financial assistance for the establishment and operation of senior ambulatory care day centers (providing a planned schedule of health, therapeutic, education, nutrition, recreational, rehabilitation, and social services at least 24 hours per week, transportation arrangements at low or no cost for participants to and from the center, a mid-day meal, outreach and public information programs, and opportunities for maximum participation of senior participants and senior volunteers in the planning and operation of the center); and

"(B) maintaining or initiating arrangements (or providing reasonable assurances that such arrangements will be maintained or initiated) with any agency of the State involved which administers or supervises the administration of a State plan approved under titles XIX and XX of the Social Security Act, and with other appropriate social services agencies receiving, or reimbursed through, Federal financial assistance, for the payment of all or a part of the center's costs in providing services to eligible individuals;

Rural areas.

"(7) meet the special needs of older individuals residing in rural areas; or

"(8) develop or improve methods of coordinating all available social services for the homebound elderly, blind, and disabled by establishing demonstration projects in 10 States, in accordance with subsection (c).

Procedures.

"(c)(1) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

"(A) identifying elderly, blind, and disabled individuals who need social services;

"(B) compiling a list in each community of all services available to the elderly, blind, and disabled; and

"(C) establishing an information and referral service within the appropriate community agency to—

"(i) inform those in need of the availability of such services; and

"(ii) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(8) no later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects at the end of fiscal year 1979. In such report, the Commissioner shall make such recommendation, based upon the findings, as may be appropriate to improve the delivery of social services to such elderly, blind, and disabled individuals.

Report to Congress.

"(2)(A) There are authorized to be appropriated for fiscal years 1979, 1980, and 1981, such sums as may be necessary for the purpose of implementing the demonstration projects under subsection (b)(8).

Appropriation authorization.

"(B) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for fiscal year 1979.

"SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

"SEC. 422. (a)(1) The Commissioner may make grants to selected State agencies designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and private nonprofit organizations, associations, and groups to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon—

Grants. 42 USC 3035c.

"(A) services designed to support alternatives to institutional living; and

"(B) the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including non-institutional and institutional services, where appropriate.

"(2) A grant under this section may be made to pay part or all of the estimated cost of a program (including start-up cost) for a period of not more than 3 years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX, or title XX of the Social Security Act.

42 USC 1395, 1396, 1397.

"(3) A grant made under this section shall be used for the development of programs which provide a full continuum of services. Such services may include—

"(A) adult day health;

"(B) monitoring and evaluation of service effectiveness;

"(C) supported living in public and private nonprofit housing;

"(D) family respite services;

"(E) preventive health services;

"(F) home health, homemaker, and other rehabilitative and maintenance in-home services;

"(G) geriatric health maintenance organizations; and

"(H) other services which the Commissioner determines are appropriate, which were previously unavailable to the individuals to be served and which, at a minimum, provide for identification and assessment of the long-term care needs of older individuals, referral of such individuals to the appropriate services, and follow-up and evaluation of the continued appropriateness of such services with provision for re-referral as appropriate.

"(4) A grant under this section may be used to encourage the development of manpower training programs designed to further the purposes described in paragraph (3).

"(b)(1) In making grants to States under this section preference shall be given to applicants which demonstrate that—

"(A) adequate State standards have been developed to ensure the quality of services provided;

"(B) the State has made a commitment to carry out the program assisted under this section with the State agency responsible for the administration of title XIX of the Social Security Act or title XX of the Social Security Act, or both such agencies;

"(C) the State will develop plans to finance the comprehensive program assisted under this section; and

"(D) the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access to older individuals for long-term care services.

Preference of applicants.

"(2) In awarding grants to agencies and organizations under this section, preference shall be given to applicants that—

"(A) possess the capability to establish community-based long-term care programs; and

"(B) demonstrate that a need exists for the establishment of such programs in the area to be served.

Program evaluation procedures.

"(3) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services including coordination with other local programs, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

Report to Congress.

"(c) The Secretary shall involve appropriate Federal departments and agencies in carrying out the provisions of this section in order to assure coordination at the Federal level and to avoid duplication and shall report to the Congress annually on the impact of grants made, on the experiences of grantees in meeting the requirements of this section, and on the comparative benefits and costs of projects assisted under this section.

"(d) Sums appropriated to carry out this section shall, to the extent feasible, be used to support programs equitably distributed throughout the Nation between urban and rural areas.

"SPECIAL DEMONSTRATION PROJECTS ON LEGAL SERVICES FOR OLDER AMERICANS

42 USC 3035d.

"SEC. 423. (a) The Commissioner may make grants to and enter into contracts with public and private nonprofit agencies or organizations in order to—

"(1) support legal research, technical assistance, training, information dissemination, and other support activities to agen-

cies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced-fee legal services to older individuals; and

"(2) support demonstration projects to expand or improve the delivery of legal services to older individuals with social or economic need.

"(b) Any grants or contracts entered into under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

"(c) From the sums appropriated under section 451 for each fiscal year, not less than $5,000,000 shall be reserved to carry out the provisions of this section.

"NATIONAL IMPACT DEMONSTRATIONS

"SEC. 424. (a) The Commissioner may carry out directly or through grants or contracts— 42 USC 3035e.

"(1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of social services, nutrition services, or multipurpose senior centers or otherwise promoting the well-being of older individuals; and

"(2) dissemination of information activities related to such programs.

"(b) An amount not to exceed 15 percent of any sums appropriated under section 451 may be used for carrying out this section.

"UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

"SEC. 425. The Secretary may, after consultation with the appropriate State agency designated under section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern engaged in providing home heating oil to the public, or a public utility, provides home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals. 42 USC 3035f.

"PART D—MORTGAGE INSURANCE AND INTEREST GRANTS FOR MULTIPURPOSE SENIOR CENTERS

"MORTGAGE INSURANCE AUTHORIZED

"SEC. 431. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for programs for the elderly. 42 USC 3035g.

"(b) For the purpose of this part the terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act. 12 USC 1713.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, renovation, or construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary

is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 percent of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

"(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

"(5) In the plans for such multipurpose senior center, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 percent of the cost of the project).

Mortgage insurance premium charges.

"(e) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund issued at par plus accrued interest. In the case of any mortgage such charge shall not be less than an amount equivalent to one-fourth of 1 percent per annum nor more than an amount equivalent to 1 percent per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge provided for in this subsection, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during acquisition, alteration, or renovation; but such charges for appraisal and inspection shall not aggregate more than 1 percent of the original principal face amount of the mortgage.

"(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage

insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. 12 USC 1707.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare. 12 USC 1713.

"(h)(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund. Multipurpose Senior Center Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

"(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired or constructed in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"ANNUAL INTEREST GRANTS

"SEC. 432. (a) To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration, 42 USC 3035h.

renovation, or construction of facilities for multipurpose senior centers, the Secretary may make annual interest grants to such agencies.

"(b) Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the acquisition, alteration, renovation, or construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 percent per annum, except that the amount on which such grant is based shall be approved by the Secretary.

"(c)(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for payment of annual interest grants in accordance with this section.

Limitation. "(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts.

Limitation. "(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.".

(2) The heading of title IV is amended to read as follows:

"TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS".

42 USC 3036. (d)(1) The first sentence of section 441, as so redesignated in subsection (c)(1), is amended by inserting before the period a comma and the following: "and gerontology centers of special emphasis (including health, income maintenance, housing, service delivery and utilization, preretirement and retirement, and long-term care and alternatives)".

(2) Section 441(1)(A), as so redesignated in subsection (c)(1), is amended by inserting before the comma the following: "in accordance with the national manpower policy as described in section 401".

(3) Section 441, as so redesignated in subsection (c)(1), is amended by striking out "and" at the end of clause (2), by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and "and", and by adding at the end thereof the following new clause:

"(4) provides for making biennial reports to the Commissioner summarizing the training, research, and special demonstration efforts of the centers which shall then be made available through the National Information and Resource Clearing House for the Aging, where appropriate.".

42 USC 3037. (e)(1) Section 451, as so redesignated in subsection (c)(1)(B), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 451. (a) Except as otherwise specifically provided in this title, there are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for each fiscal year ending prior to October 1, 1981.

"(b) No funds appropriated under this section—

"(1) may be transferred to any office or other authority of the Department of Health, Education, and Welfare which is not directly responsible to the Commissioner; or

"(2) may be used for any research program or activity which is not specifically authorized by this title.".

(2) Section 452, as so redesignated in subsection (c)(1), is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection: 42 USC 3037a.

"(c) The Commissioner may make multicategorical grants or contracts under any or all sections of this title by making grants or contracts for the purpose of supporting extensive research and demonstration of particular areas of need.". Grants and contracts.

COMMUNITY SERVICE EMPLOYMENT

SEC. 105. (a) The Act is amended by redesignating title IX as title V, and by redesignating section 901 through section 908 as section 501 through section 508, respectively. 42 USC 3056. 42 USC 3001 note, 3056–3056f.

(b)(1) Section 502(b) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

"(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.". Senior Environmental Employment Agency.

(2) Section 502, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsections:

"(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title. Review.

"(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision. Notice and opportunity for hearing.

"(e) The Secretary, in addition to any other authority contained in this title, may enter into agreements designed to assure the transition of individuals employed in public service jobs under this title to employment opportunities with private business concerns. The Secretary, from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreement entered into under the provisions of this subsection.". 42 USC 3056d.

(c)(1) Section 503(a), as so redesignated in subsection (a), is amended by striking out "304" each place it appears therein and inserting in lieu thereof "305". 42 USC 3056a.

42 USC 3056a.

(3) Section 503, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsection:

"(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.".

42 USC 3056f.

42 USC 3056c.

(d) Section 505, as so redesignated in subsection (a), is amended by adding at the end thereof the following new subsection:

"(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.".

42 USC 3056d.

(e)(1) Section 506(a)(1), as so redesignated in subsection (a), is amended—

(A) by inserting "(A)" after "(1)" and by adding at the end thereof the following new subparagraph:

"(B) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary may reserve an amount not to exceed one per centum of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.";

(B) by striking out "From" and inserting in lieu thereof "Subject to the provisions of paragraph (2), from"; and

(C) by striking out "the fiscal year ending June 30, 1975" and inserting in lieu thereof "fiscal year 1978".

(2) Section 506(a), as so redesignated in subsection (a), is amended by redesignating paragraph (2) and paragraph (3) as paragraph (3) and paragraph (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated for fiscal year 1978, the Secretary shall reserve not more than 45 per centum of such excess amount for the purpose described in paragraph (1). The remainder of such excess shall be allotted pursuant to paragraph (3).".

(3) Section 506(a)(3), as so redesignated in subsection (a) and in paragraph (2), is amended by striking out "908" and inserting in lieu thereof "508".

42 USC 3056e.

(f) Section 507(2), as so redesignated in subsection (a), is amended by inserting "(including any such individual whose income is not more than 125 per centum of the poverty guidelines established by the Bureau of Labor Statistics)" after "low income".

(g) Section 508, as so redesignated in subsection (a), is amended by striking out "and" the second place it appears therein, and by inserting before the period at the end thereof the following: ", $350,000,000 for the fiscal year ending September 30, 1979, $400,000,000 for the fiscal year ending September 30, 1980, and $450,000,000 for the fiscal year ending September 30, 1981".

GRANTS FOR INDIAN TRIBES

SEC. 106. The Act is amended by adding after title V the following new title:

"TITLE VI—GRANTS FOR INDIAN TRIBES

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of social services, including nutritional services, for Indians that are comparable to services provided under title III. 42 USC 3057.

Ante, p. 1517.

"ELIGIBILITY

"SEC. 602. (a) A tribal organization of an Indian tribe is eligible for assistance under this title only if— 42 USC 3057a.

"(1) the tribal organization represents at least 75 individuals who have attained 60 years of age or older;

"(2) the tribal organization demonstrates the ability to deliver social services, including nutritional services; and

"(3) individuals to be served by the tribal organization will not receive for the year for which application under this title is made, services under title III.

"(b) The terms 'Indian tribe' and 'tribal organization' for the purposes of this title are defined as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 603. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of social services and nutritional services for Indians who are aged 60 and older. 42 USC 3057b.

"APPLICATIONS

"SEC. 604. (a) No grant may be made under this title unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall— Approval criteria. 42 USC 3057c.

"(1) provide that the eligible tribal organization will evaluate the need for social and nutritional services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide that a nonprofit private organization selected by the tribal organization will conduct periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this title toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and

referral services to assure that older Indians to be served by the assistance made available under this title will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full- or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutritional services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III;

Ante, p. 1536.

Ante, p. 1524.

"(9) contain assurances that the provisions of sections 307 (a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide assurances that either directly or by way of grant or contract with appropriate entities legal and ombudsman services will be made available to older Indians represented by the tribal organization substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

Ante, p. 1517.

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

Population statistics development.

"(b) For the purpose of any application submitted under this title, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(d) Whenever the Commissioner approves an application under this title he shall withhold from the allotment of the appropriate State made under section 304 an amount attributable to the Indians to be served under the application who were also counted for the purpose of allotments under title III. The Commissioner shall reallot sums withheld under this subsection in accordance with the provisions of section 304(b).

Ante, p. 1519.

"(e) Whenever the Commissioner determines not to approve an application submitted under subsection (a) he shall—

"(1) state his objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome his stated objections; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as he may prescribe.

"(f) Whenever the Commissioner approves an application of a tribal organization under this title, funds shall be awarded for not less than 12 months, during which time such tribal organization may not receive funds under title III.

"ADMINISTRATION

"SEC. 605. (a) In establishing regulations for the purpose of this title the Commissioner shall consult with the Secretary of the Interior. 42 USC 3057d.

"(b) The Commissioner shall prescribe final regulations for the administration of this title not later than 90 days after the date of the enactment of the Comprehensive Older Americans Act Amendments of 1978. Regulations.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 606. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutritional services, child care services, and other social services. Available for use as multipurpose senior centers. 42 USC 3057e.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PAYMENTS

"SEC. 607. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine. 42 USC 3057f.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 608. (a) Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for fiscal years 1979, 1980, and 1981, to carry out the provisions of this title. 42 USC 3057g.

"(b) For any fiscal year in which less than $5,000,000 is appropriated under subsection (a) tribal organizations are authorized to receive assistance in accordance with the provisions of title III. *Ante*, p. 1517.

"(c) There are authorized to be appropriated such sums as may be necessary for fiscal years 1979, 1980, and 1981, to carry out the provisions of section 606.".

TITLE II—WHITE HOUSE CONFERENCE ON AGING

1981 White House Conference on Aging Act.

SHORT TITLE

SEC. 201. This title may be cited as the "1981 White House Conference on Aging Act". 42 USC 3001 note.

FINDINGS AND POLICY

SEC. 202. (a) The Congress finds that— 42 USC 3001 note.

(1) the number of individuals fifty-five years of age or older was approximately 43,000,000 in 1976, and will, by the end of this century, be over 57,000,000;

(2) nearly 5,200,000 individuals fifty-five years of age or older had incomes below the poverty level in 1976, as determined by the Federal Government;

(3) there is a great need to improve the economic well-being of older individuals;

(4) there is a great need to make comprehensive and quality health care more readily available to older individuals;

(5) there is a great need for expanding the availability of suitable and reasonably priced housing for older individuals, together with services needed for independent or semi-independent living;

(6) there is a great need for a more comprehensive and effective social service delivery system for older individuals;

(7) there is a great need for a more comprehensive long-term care policy responsive to the needs of older patients and their families;

(8) there is a great need to promote greater employment opportunities for middle-aged and older individuals who want or need to work;

(9) there is a great need to develop a national retirement policy that contributes to the fulfillment, dignity, and satisfaction of retirement years for older individuals;

(10) there is a great need for a national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes of the aging process; and

(11) false stereotypes about aging and the process of aging are prevalent throughout the Nation and policies should be developed to overcome such stereotypes.

(b)(1) It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this title.

(2) In developing programs for the aging pursuant to this title, emphasis should be placed upon the right and obligation of older individuals to free choice and self-help in planning their own futures.

AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT

White House Conference on Aging, 1981. 42 USC 3001 note.

SEC. 203. (a) The President may call a White House Conference on Aging in 1981 in order to develop recommendations for further research and action in the field of aging which will further the policies set forth in section 202. The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of the conditions of older individuals, the Conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the field of aging (including researchers on problems of the elderly and the process of aging), and representatives of the general public, including older individuals.

Report to President.

(c) A final report of the Conference, which shall include a statement of a comprehensive coherent national policy on aging together with

recommendations for the implementation of the policy, shall be submitted to the President not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the report shall be immediately available to the public. The Secretary shall, within 90 days after submission of the report, transmit to the President and to the Congress his recommendations for administrative action and the legislation necessary to implement the recommendations contained in the report.

Report to President and Congress.

ADMINISTRATION

SEC. 204. (a) In administering this title the Secretary shall— 42 USC 3001 note.

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in carrying out the provisions of this title;

(2) render all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on aging, and to other appropriate organizations to enable them to organize and conduct conferences on aging prior to the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference which he deems necessary, and prepare and distribute any such report of the Conference as may be necessary and appropriate; and

(4) engage such additional personnel as may be necessary to carry out the provisions of this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. 5 USC 5101 *et seq.*, 5331.

(b) In carrying out his functions under clause (2) of subsection (a) the Secretary shall assure that conferences will be so conducted as to assure broad participation of older individuals.

(c) In carrying out his responsibilities under this title the Secretary shall assure that current and adequate statistical data and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to participants in the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out the requirements of this subsection the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations. Statistics and information availability. Grants and contracts.

ADVISORY COMMITTEES

SEC. 205. (a) The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The Secretary shall establish such other committees, including technical committees, as may be necessary to assist in planning, conducting, and reviewing the Conference. Each such committee shall be composed of professional and public members and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older. Establishment. 42 USC 3001 note. Membership.

(b) Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at Compensation.

a rate to be fixed by the Secretary but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons in Federal Government service employed intermittently.

5 USC 5703.

DEFINITIONS

42 USC 3001 note.

SEC. 206. For the purpose of this title—

Ante, p. 1520.

(1) The term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Older Americans Act of 1965.

(2) The term "State agency on aging" means the agency designated under 305(a)(1) of the Older Americans Act of 1965.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "Conference" means the White House Conference on Aging authorized in section 203(a).

(5) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

AUTHORIZATION OF APPROPRIATIONS

42 USC 3001 note.

SEC. 207. There are authorized to be appropriated such sums as may be necessary, for fiscal years 1979, 1980, and 1981, to carry out the provisions of this title.

TITLE III—STUDY OF RACIAL AND ETHNIC DISCRIMINATION IN PROGRAMS FOR OLDER AMERICANS

STUDY AUTHORIZED

42 USC 1975c note.

SEC. 301. (a) The Commission on Civil Rights shall (1) undertake a comprehensive study of discrimination based on race or ethnic background in any federally-assisted programs and activities which affect older individuals; and (2) identify with particularity any such federally-assisted program or activity in which evidence is found of individuals or organizations who are otherwise qualified being, on the basis of race or ethnic background, excluded from participation in, denied the benefits of, refused employment or contracts with, or subject to discrimination under, such program or activity.

Hearings.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including the heads of Federal departments and agencies, on issues relating to racial or ethnic discrimination in programs and activities affecting older individuals receiving Federal financial assistance, and particularly with respect to discrimination among potential participants in, or beneficiaries of, specific federally-assisted programs.

ADMINISTRATIVE PROVISIONS

Independently prepared analyses, research and studies.
42 USC 1975c note.

SEC. 302. (a)(1) The Commission may obtain, through grant or contract, analyses, research, and studies by independent experts of

issues relating to racial and ethnic discrimination in aging programs and activities and publish the results thereof.

(2) For purposes of the study required by section 301, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b)). Voluntary or uncompensated personnel, utilization. 42 USC 1975d.

(b) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by section 301, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

REPORTS

SEC. 303. (a) Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit a report of its findings and its recommendations for any statutory changes and administrative action, including suggested general regulations, to the Congress and to the President. The Commission shall provide a copy of its report to the head of each Federal department or agency with respect to which the Commission makes findings or recommendations. 42 USC 1975c note.

(b) Not later than 45 working days after receiving a copy of the report required by subsection (a), the head of each Federal department or agency with respect to which the Commission makes its recommendations or findings shall submit his comments and recommendations regarding such report to the President and to the appropriate committees of the Congress.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. 42 USC 1975c note.

TITLE IV—AMENDMENTS TO OTHER LAWS

AMENDMENTS TO AGE DISCRIMINATION ACT OF 1975

SEC. 401. (a) Section 302 of the Age Discrimination Act of 1975 is amended by striking out "unreasonable". 42 USC 6101.

(b) (1) The last sentence of section 304(a)(4) of the Age Discrimination Act of 1975 is amended to read as follows: "Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.". 42 USC 6103.

(2) Section 304(a)(5) of the Age Discrimination Act of 1975 is amended by striking out "January 1, 1979" and inserting in lieu thereof "July 1, 1979".

(c) Section 305 of the Age Discrimination Act of 1975 is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections: 42 USC 6104.

"(e)(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than 30 days prior to the commencement of that action to the Secretary of Health, Education, and Welfare, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover Notice of violations.

reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

"(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event that the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

"(f) With respect to actions brought for relief based on an alleged violation of the provisions of this title, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.".

42 USC 6104. (d) Section 305(b) of the Age Discrimination Act of 1975 is amended by adding at the end thereof the following new sentence: "Whenever the head of any Federal department or agency who prescribes regulations under section 304 withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 304.".

(e) The Age Discrimination Act of 1975 is amended by redesignating section 308 as section 309, and by inserting after section 307 the following new section:

42 USC 6106, 6107.

"REPORTS

42 USC 6106a. "SEC. 308. (a) Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health, Education, and Welfare a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 303; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 303.

"(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health, Education, and Welfare shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 303.".

AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

42 USC 5001. SEC. 402. (a) Section 201 of the Domestic Volunteer Service Act of 1973 is amended—

(1) in subsections (a) and (c), by striking out "section 304 (a)(1)" and inserting in lieu thereof "section 305(a)(1)" and by striking out "section 3024(a)(1)" and inserting in lieu thereof "section 3025(a)(1)";

(2) in subsection (c), by striking out "sixty" and inserting in lieu thereof "forty-five"; and

(3) by inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.".

(b) Section 211 of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new subsections: 42 USC 5011.

"(e) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as volunteers under this part, such allowances, stipends, and other support as he determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this subsection shall not be less than $2 per hour, except that (1) no increase in the stipend or allowance shall be made pursuant to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to $2 per hour, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception. Domestic Volunteer Service, allowances and stipends.

"(f) For the purposes of this part, the terms 'low-income person' and 'person of low income' mean (1) any person whose income is not more than 125 percent of the poverty line set forth in section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d); and (2) any person considered a poor or low-income person under section 421(4) of this Act, with special consideration for participation in projects under this part provided to persons described in clause (2).". "Low-income person" and "person of low income."

(c) Section 212(a) of the Domestic Volunteer Service Act of 1973 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph: 42 USC 5012.

"(2)(A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), unless (i) the State has not established or designated such an agency; or (ii) such agency has been afforded at least 45 days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State; and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such agency. Grants and contracts.

"(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)) have been afforded at least 45 days to (i) review the proj-

ect application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community; and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.".

42 USC 5082. (d) Section 502 of the Domestic Volunteer Service Act of 1973 is amended—

(1) in subsection (a), by striking out "and" after "September 30, 1976", and by inserting "$25,000,000 for the fiscal year ending September 30, 1979, $30,000,000 for the fiscal year ending September 30, 1980, and $35,000,000 for the fiscal year ending September 30, 1981," after "September 30, 1978,"; and

(2) in subsection (b)(2), by adding at the end thereof the following new sentence: "There are further authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1979, $62,500,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981, for the purpose of carrying out programs under part B of such title.".

TITLE V—MISCELLANEOUS PROVISIONS

REPEALERS; EXISTING PROJECTS

42 USC 3056 note. 42 USC 3041-3041f, 3042, 3045-3045i. *Ante*, p. 1547.

SEC. 501. (a) Effective at the close of September 30, 1978, title V and title VII are repealed. The Commissioner on Aging may complete any project which was undertaken under either such title, or under title V, as so redesignated in section 105(a), before such date, and which is unfinished on such date, with funds obligated but unexpended on such date.

42 USC 3045 note. *Ante*, p. 1536. *Ante*, p. 1517.

(b) Any project receiving funds under title VII of the Older Americans Act of 1965, as in effect on the day before the effective date of this Act, shall continue to receive funds under part C of title III of such Act, as amended by this Act, if such project meets the requirements and criteria established in such title III, as amended by this Act, except that a State, pursuant to regulations prescribed by the Commissioner on Aging, shall not discontinue the payment of such funds to a project unless such State, after a hearing (if requested by the person responsible for administering such project), determines that such project has not carried out activities supported by such funds with demonstrated effectiveness.

LIMITATIONS ON PAYMENTS

SEC. 502. No authorization of appropriations in this Act shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no payment under this Act, or authorization to make payments or to enter into contracts under this Act, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 503. (a)(1) Section 102(1) is amended by inserting ", other than for purposes of title V" before the period at the end thereof. 42 USC 3002.

(2) Section 102 is amended by redesignating paragraph (4), the second place it appears therein, as paragraph (5), and by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively.

(b)(1) Section 201(a) is amended by striking out "VI and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973" and inserting in lieu thereof "V". 42 USC 3011.

(2) Section 202(a)(15), as so redesignated in section 102(b)(1), is amended by inserting after "Discrimination" the following: "in Employment". 42 USC 3012.

(3) Section 205(d)(3) is amended by striking out "and" at the end thereof. 42 USC 3015.

(4)(A) Sections 202, 204, and 205 are amended by striking out "older persons" each place it appears therein and inserting in lieu thereof "older individuals". 42 USC 3012, 3014, 3015.

(B) Section 202(a)(12), as so redesignated in section 102(b)(1), is amended by striking out "such persons" and inserting in lieu thereof "such individuals".

(c)(1) Section 404(a)(6), as so redesignated in section 104(a)(4)(C), is amended by striking out "curricula" the second place it appears therein and inserting in lieu thereof "curriculum". 42 USC 3034.

(2) Section 404(b) is amended by striking out "federally supported" and inserting in lieu thereof "federally-supported".

(3) Sections 404 and 411 are amended by striking out "older persons" each place it appears therein and inserting in lieu thereof "older individuals". 42 USC 3034, 3035.

(d) Section 504(b), as so redesignated in section 105(a), is amended by striking out the comma after "contract" the second place it appears therein. 42 USC 3056b.

EFFECTIVE DATE

SEC. 504. This Act, and the amendments made by this Act, shall take effect at the close of September 30, 1978. 42 USC 3001 note.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1150 (Comm. on Education and Labor) and No. 95-1618 (Comm. of Conference).

SENATE REPORTS: No. 95-855 accompanying S. 2850 (Comm. on Human Resources) and No. 95-1236 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 15, considered and passed House.

July 24, considered and passed Senate, amended, in lieu of S. 2850.

Oct. 4, House agreed to conference report.

Oct. 6, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:

Oct. 18, Presidential statement.

Public Law 95-479
95th Congress

An Act

Oct. 18, 1978
[H.R. 11886]

To amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Act of 1978".

Veterans' Disability Compensation and Survivors' Benefits Act of 1978.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

38 USC 101 note.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

38 USC 314.

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$41" in subsection (a) and inserting in lieu thereof "$44";

(2) by striking out "$75" in subsection (b) and inserting in lieu thereof "$80";

(3) by striking out "$113" in subsection (c) and inserting in lieu thereof "$121";

(4) by striking out "$155" in subsection (d) and inserting in lieu thereof "$166";

(5) by striking out "$216" in subsection (e) and inserting in lieu thereof "$232";

(6) by striking out "$272" in subsection (f) and inserting in lieu thereof "$292";

(7) by striking out "$322" in subsection (g) and inserting in lieu thereof "$346";

(8) by striking out "$373" in subsection (h) and inserting in lieu thereof "$400";

(9) by striking out "$419" in subsection (i) and inserting in lieu thereof "$450";

(10) by striking out "754" in subsection (j) and inserting in lieu thereof "$809";

(11) by striking out "$937" and "$1,312" in subsection (k) and inserting in lieu thereof "$1,005" and "$1,408", respectively;

(12) by striking out "$937" in subsection (l) and inserting in lieu thereof "$1,005";

(13) by striking out "$1,032" in subsection (m) and inserting in lieu thereof "$1,107";

(14) by striking out "$1,172" in subsection (n) and inserting in lieu thereof "$1,258";

(15) by striking out "$1,312" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,408"; and

(16) by striking out "$843" in subsection (s) and inserting in lieu thereof "$905".

(b) Subsection (p) of section 314 (as amended by clause (15) of subsection (a) of this section) is further amended by inserting before the semicolon a period and the following new sentence: "In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of $1,408". 38 USC 314.

(c) Section 314(r) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "Subject to section 3203(e) of this title, if any veteran, otherwise entitled to the compensation authorized under subsection (o) of this section or at the maximum rate authorized under subsection (p) of this section, is in need of regular aid and attendance, then, in addition to such compensation under subsection (o) or (p) of this section— 38 USC 3203.

"(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of $604; or

"(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of $900, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physican carrying out such function under contract or fee arrangement based on an examination by such physician.".

(d) Section 314 is amended by adding at the end thereof the following new subsection: 38 USC 314.

"(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by $175.

"(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate

of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.".

Rates of compensation.
38 USC 314 note.
38 USC prec. 101 note.

(e) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by the amendments made by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC 301 *et seq.*

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

38 USC 315.

SEC. 102. (a) Section 315(1) is amended—

(1) by striking out "$46" in clause (A) and inserting in lieu thereof "$49";

(2) by striking out "$77" in clause (B) and inserting in lieu thereof "83";

(3) by striking out "$98" in clause (C) and inserting in lieu thereof "$110";

(4) by striking out "$120" and "$22" in clause (D) and inserting in lieu thereof "$137" and "$27", respectively;

(5) by striking out "$30" in clause (E) and inserting in lieu thereof "$34";

(6) by striking out "$52" in clause (F) and inserting in lieu thereof "$61";

(7) by striking out "$77" and "$22" in clause (G) and inserting in lieu thereof "$88" and "$27", respectively;

(8) by striking out "$37" in clause (H) and inserting in lieu thereof "$40";

(9) by striking out "$83" in clause (I) and inserting in lieu thereof "$89"; and

(10) by striking out "$70" in clause (J) and inserting in lieu thereof "$75".

(b) Section 315 is further amended by striking out "50 per centum" in the matter preceding paragraph (1) and in paragraph (2) and inserting in lieu thereof "30 per centum".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

38 USC 362.

SEC. 103. Section 362 is amended by striking out "$203" and inserting in lieu thereof "$218".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

38 USC 411.

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose

(2) by striking out "$140" in subsection (b) and inserting in lieu thereof "$150"; and

(3) by striking out "$71" in subsection (c) and inserting in lieu thereof "$76".

BENEFITS FOR SURVIVING SPOUSES AND CHILDREN OF CERTAIN TOTALLY DISABLED VETERANS

38 USC 410.

SEC. 204. Section 410 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection (b):

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

"(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

38 USC 411.

TITLE III—MISCELLANEOUS PROVISIONS

NONTAXABLE STATUS OF CERTAIN RETIRED PAY RECEIVED IN LIEU OF VETERANS' BENEFITS

38 USC 3101.

SEC. 301. Section 3101 is amended by adding at the end thereof the following new subsection:

"(d) In the case of a person who—

"(1) has been determined to be eligible to receive pension or compensation under laws administered by the Veterans' Administration but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

"(2) files a waiver of such pay in accordance with section 3105 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Veterans' Administration of such person's eligibility for such pension or compensation.

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.".

RATE OF SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

SEC. 302. Section 562(a) is amended by striking out "$100" and inserting in lieu thereof "$200". 38 USC 562.

BURIAL BENEFITS

SEC. 303. (a) Section 902(a) and section 903(a)(1) are amended by striking out "$250" and inserting in lieu thereof "$300". 38 USC 902, 903.

(b) Section 906(b) is amended by striking out "dying in the service, and". 38 USC 906.

(c) The first sentence of section 907 is amended by inserting "the greater of (1) $1,100, or (2)" after "not exceeding". 38 USC 907.

AUTOMOBILE ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 304. Section 1902(a) is amended by striking out "$3,300" and inserting in lieu thereof "$3,800". 38 USC 1902.

STUDY OF HEALTH-CARE AND COMPENSATION NEEDS OF FORMER PRISONERS OF WAR

SEC. 305. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of Defense, shall carry out a comprehensive study of the disability compensation awarded to, and the health-care needs of, veterans who are former prisoners of war. The Administrator shall include in such study— 38 USC 301 note.

(1) descriptions and analyses of the repatriation procedures, including physical examinations, for former prisoners of war and the adequacy of such procedures and the resultant medical records of former prisoners of war;

(2) the types and severity of disabilities that are particularly prevalent among former prisoners of war in various theaters of operation at various times;

(3) a description and analysis of procedures used with respect to former prisoners of war in determining eligibility for health-care benefits and in adjudicating claims for disability compensation, including an analysis of the current use of statutory and regulatory provisions specifically relating to former prisoners of war; and

(4) a survey and analysis of the medical literature on the health-related problems of former prisoners of war.

"(b) The Administrator shall transmit to the Congress and to the President a report on the results of such study not later than February 1, 1980. Such report shall include recommendations for such administrative and legislative action as the Administrator considers Report to Congress and President.

may be necessary to assure that former prisoners of war receive compensation and health-care benefits for all disabilities which may reasonably be attributed to their internment.

REQUIREMENT OF UNITED STATES CITIZENSHIP FOR SUPERINTENDENTS AND ASSISTANT SUPERINTENDENTS OF CEMETERIES OPERATED BY THE AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 306. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by adding after the last sentence thereof the following new sentence: "No individual may be employed as the superintendent, or as an assistant superintendent, of a cemetery operated by the Commission unless such individual is a citizen of the United States.".

MEMORIAL TO HONOR VETERANS OF THE VIETNAM CONFLICT IN MEMORIAL AMPHITHEATER OF ARLINGTON NATIONAL CEMETERY

24 USC 295a note.

SEC. 307. The Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque which shall bear the following inscription: "The people of the United States of America pay tribute to those members of the Armed Forces of the United States who served honorably in Southeast Asia during the Vietnam conflict.". To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict.

TITLE IV—EFFECTIVE DATES

38 USC 314 note.

SEC. 401. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1978.

(b) The amendment made by section 302 shall take effect on January 1, 1979.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1226 (Comm. on Veterans' Affairs).
SENATE REPORT No. 95-1054 accompanying S. 2828 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 28, considered and passed House.
Aug. 7, considered and passed Senate, amended in lieu of S. 2828.
Sept. 26, House concurred in Senate amendments with amendments.
Oct. 2, Senate agreed to House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:
Oct. 18, Presidential statement.

Public Law 95-480
95th Congress

An Act

Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 18, 1978
[H.R. 12929]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1979, and for other purposes, namely:

Departments of Labor and Health, Education, and Welfare Appropriations Act, 1979.

TITLE I—DEPARTMENT OF LABOR

Department of Labor Appropriation Act, 1979.

EMPLOYMENT AND TRAINING ADMINISTRATION

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to unemployed Federal employees and ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, of benefits and payments as authorized by title II of Public Law 95-250, of trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941-1944 and 1952; part I, subchapter B, chapter 2, title II of the Trade Act of 1974), and for reimbursement to States for unemployment benefits paid on the basis of public service employment as authorized by title II of the Emergency Jobs and Unemployment Assistance Act of 1974, as amended, and for reimbursements as authorized by Section 121 of P.L. 94-566, $950,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That, in addition, there shall be transferred from the Postal Service Fund to this appropriation such sums as the Secretary of Labor determines to be the cost of benefits for ex-Postal Service employees: *Provided further*, That amounts received during the current fiscal year from the Postal Service or recovered from the States pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year: *Provided further*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

5 USC 8501 *et seq.*

Ante, p. 172.

19 USC 2291.

26 USC 3304 note.

Ante, p. 180.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n; 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); sections 312 (e) and (g) of the Comprehensive Employment and Training Act of 1973, as amended; and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, 19 U.S.C. 1941-1944, 1952, and chapter 2, title II, of the Trade Act of 1974,

29 USC 882.

19 USC 2271.

including, upon the request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, $21,600,000, together with not to exceed $1,693,600,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $234,145,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

42 USC 299e.

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by subsection b(2) of section 3 of the Black Lung Benefits Revenue Act of 1977, and for non-repayable advances to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1980, $200,000,000.

Ante, p. 12.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, $59,754,000.

PENSION BENEFIT GUARANTY CORPORATION

The Pension Benefit Guaranty Corporation is authorized to make such expenditures within limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program through September 30, 1979 for such corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal and local agencies and their employees for inspection services rendered, $120,444,000 together with $320,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

33 USC 939, 944.

SPECIAL BENEFITS

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and fifty per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, $231,200,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1979.

5 USC 8101 *et seq.*
60 Stat. 696.
57 Stat. 513.
33 USC 910.

BLACK LUNG DISABILITY TRUST FUND

For payments from the Black Lung Disability Trust Fund, $422,265,000, of which $389,400,000 shall be available for payments of all benefits and interest on advances under subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977, as authorized by section 424(a)(1), (2), and (4) of the Black Lung Benefits Act, as amended, and of which $24,555,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses and $8,310,000 for transfer to Departmental Management, Salaries and Expenses for expenses of operation and administration of the Black Lung Benefits program as authorized by section 424(a)(5) of the Black Lung Benefits Act, as amended: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year.

Ante, pp. 12, 13.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $171,224,000: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or

29 USC 651 note.
29 USC 666.

fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants.

29 USC 651 note.

29 USC 662.

29 USC 656, 667.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $125,500,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work: *Provided*, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disasters.

30 USC 962.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $94,752,000.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for departmental management including $1,616,000 for the President's Committee on Employment of the

Handicapped, $76,247,000, together with not to exceed $1,817,000 to be derived from the Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $70,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated by this title may be used by the Department of Labor to carry out any activities for or on behalf of any individual who is an alien in the United States in violation of the Immigration and Nationality Act or any other law, convention or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

This title may be cited as the "Department of Labor Appropriation Act, 1979." Citation of title.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Department of Health, Education, and Welfare Appropriation Act, 1979.

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For carrying out titles III, V, and XII of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, and titles V and XI of the Social Security Act, $712,115,000, including 9,258 full-time permanent positions, of which $1,600,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses, hereafter incurred, by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health, Education, and Welfare, and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation.

42 USC 241, 219, 300d.
42 USC 253b and note.
42 USC 701, 1301.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

42 USC 241, 300d. 30 USC 801 note. 29 USC 651 note.

To carry out titles III and XVII of the Public Health Service Act, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $162,849,000, including 3,982 full-time permanent positions, of which $1,912,000 shall remain available until expended and shall be for construction and equipment of facilities of or used by the Center for Disease Control: *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

42 USC 241.

For carrying out, to the extent not otherwise provided, section 301 of the Public Health Service Act with respect to cancer, $917,000,000, including 2,062 full-time permanent positions.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For expenses, not otherwise provided for, necessary to carry out section 301 of the Public Health Service Act with respect to heart, lung, blood vessel, and blood diseases, $485,584,000, including 788 full-time permanent positions.

NATIONAL INSTITUTE OF DENTAL RESEARCH

42 USC 281.

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to dental diseases, $61,920,000, including and not to exceed 287 full-time permanent positions.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV of the Public Health Service Act with respect to arthritis, rheumatism, metabolic diseases, and digestive diseases, $287,869,000, including 642 full-time permanent positions.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $205,000,000, including 567 full-time permanent positions.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to allergy and infectious

diseases, $183,198,000, including and not to exceed 649 full-time permanent positions.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV of the Public Health Service Act with respect to general medical sciences, $231,058,000, including 179 full-time permanent positions. 42 USC 281.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to child health and human development, $114,305,000, including 400 full-time permanent positions.

NATIONAL INSTITUTE ON AGING

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to aging, $54,526,000, including 258 full-time permanent positions.

NATIONAL EYE INSTITUTE

For expenses necessary to carry out title IV of the Public Health Service Act, with respect to eye diseases and visual disorders, $100,549,000, including 186 full-time permanent positions.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301 and 311 of the Public Health Service Act with respect to environmental health sciences, $73,512,000, including 405 full-time permanent positions. 42 USC 241, 243.

RESEARCH RESOURCES

To carry out, except as otherwise provided, section 301 of the Public Health Service Act with respect to research resources and general research support grants, $153,649,000, including 80 full-time permanent positions: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Support program, shall be used to pay recipients of the general research support grants programs any amount for indirect expenses in connection with such grants.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $8,989,000, of which $1,700,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and part I of title

42 USC 241. III of the Public Health Service Act, $33,444,000, including 503 full-time permanent positions.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided, $67,950,000 to remain available until expended.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, $19,673,000, including 4,780 full-time permanent positions and including purchase of not to exceed thirteen passenger motor vehicles for replacement only.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

42 USC 201 note. For carrying out the Public Health Service Act with respect to mental health, the Community Mental Health Centers Act, as amended (42 U.S.C. 2681, et seq.), and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation 21 USC 801 note. Act of 1970, as amended, $741,022,000.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in scientific research into the nature, causes, prevention, and treatment of mental illness, $75,824,000, or such amounts as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and $98,792,000.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For carrying out titles III and VII of the Public Health Service 42 USC 241, 292. Act, section 1122 of the Social Security Act, $462,972,000, including 1,275 full-time permanent positions, of which $3,000,000 shall remain available until expended for loan guarantees and interest subsidies 42 USC 1320a-1. under Part B of title VII. 42 USC 293.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

42 USC 300o. For carrying out title XVI of the Public Health Service Act, $42,000,000 shall be available without fiscal year limitation for the payment of interest subsidies. The total principal amount of loans to be guaranteed or directly made, which may be allotted among the 42 USC 291, 300o. States, pursuant to titles VI and XVI of the Public Health Service Act shall not exceed a cumulative amount of $1,750,000,000.

PAYMENT OF SALES INSUFFICIENCIES AND INTEREST LOSSES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in the Health Professions Education Fund assets or Nurse Training Fund assets, authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, $110,000, and for payment of amounts pursuant to 42 U.S.C. 294(q) or 42 U.S.C. 297(f) to schools which borrow any sums from the Health Professions Education Fund or Nurse Training Fund, $2,302,000: *Provided*, That the amounts appropriated herein shall remain available until expended.

81 Stat. 390.
12 USC 1717.

HEALTH EDUCATION LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Health Professions Education Fund and the Nurse Training Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year.

31 USC 849.

ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

For expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XIII, and XVII of the Public Health Service Act, $51,232,000, including 1,921 full-time permanent positions.

42 USC 241, 300e, 300u–1.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

Any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act and any other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets, shall be available to the Secretary without fiscal year limitation for direct loans and loan guarantees, as authorized by said title XIII, in addition to funds specifically appropriated for that purpose.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan; Survivor Benefit Plan and payments for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year.

10 USC 1071 *et seq.*

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States,

for necessary expenses for conducting scientific activities overseas, as authorized by law, $11,387,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations for such activities, for payments in the foregoing currencies.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

42 USC 1396.

For carrying out, except as otherwise provided, title XIX of the Social Security Act, $11,250,000,000.

For making, after June 30 of the current fiscal year, payments to States under title XIX of the Social Security Act, for the last three months of the current fiscal year; and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under such title to be charged to the subsequent appropriation therefor for the current or succeeding fiscal year.

In the administration of title XIX of the Social Security Act, payments to a State under such title for any quarter in the period beginning July 1 of the prior year and ending September 30 of the current year may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which a subsequently approved plan was submitted.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year.

PAYMENT TO HEALTH CARE TRUST FUNDS

42 USC 417, 429, 1320c-17, 1395w. 42 USC 426a, 1395i-1.

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b), 1168 and 1844 of the Social Security Act, and sections 103(c) and 111(d) of the Social Security Amendments of 1965, $7,760,913,000.

QUALITY CARE MANAGEMENT, RESEARCH AND ADMINISTRATION

42 USC 1301, 1395. 1396. 42 USC 300m-5, 300n-2. 42 USC 401.

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and sections 1526 and 1533(d) of the Public Health Service Act, $106,612,000, together with not to exceed $802,899,000, to be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under title XVIII of the Social Security Act: *Provided further*, That $20,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679

of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved. 42 USC 1395.

EDUCATION DIVISION

Office of Education

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I, part A ($3,077,132,000), title IV, part C, title VII and title IX of the Elementary and Secondary Education Act; title VII of the Education Amendments of 1974; the General Education Provisions Act; and Public Law 92-506, $3,448,382,000: *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1979, and shall remain available until September 30, 1980: title I, part A ($3,077,132,000), title IV, part C ($190,000,000) of the Elementary and Secondary Education Act and section 417(a)(2) of the General Education Provisions Act ($1,250,000). For carrying out title IV, part C of the Elementary and Secondary Education Act an additional $7,400,000 to become available for obligation on July 1, 1979, and to remain available until September 30, 1980: *Provided*, That none of such funds may be paid to any State for which the allocation for fiscal year 1980 exceeds the allocation for comparable purposes for fiscal year 1979.

20 USC 241a, 1831, 880b note, 1134. 20 USC 1901, 1221. 86 Stat. 907

20 USC 1226c.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), $786,100,000 of which $63,500,000 shall be for payments under section 6, and $710,600,000 shall be for payments under sections 2 and 3 in accordance with subsection 5(c) (1) and (2) of said Act, and $12,000,000 shall be for payments under section 7 of said Act: *Provided*, That the total amount paid with respect to entitlements under section 3(b) of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under section 3(b).

20 USC 237 *et seq.* 20 USC 241. 20 USC 237, 238, 240. 20 USC 241-1.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $30,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act: *Provided*, That with the exception of up to $13,000,000 for section 10 and up to $16,000,000 for section 14 none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under section 5: *Provided further*, That, notwithstanding section 421A(c)(2)(A) of the General Education Provisions Act, the Commissioner of Education is authorized to approve applications for funds to increase school facilities in communities located near the Trident Support Site, Ban-

20 USC 631 *et seq.* 20 USC 640, 644. 20 USC 1231.

gor, Washington, on such terms and conditions as he may reasonably require without regard to any provision in law.

EMERGENCY SCHOOL AID

42 USC 2000c. 20 USC 1601 note.

For carrying out title IV of the Civil Rights Act of 1964 and the Emergency School Aid Act, $341,350,000: *Provided*, That the Assistant Secretary, in awarding funds under this program, shall not give less favorable consideration to the application of a local educational agency which has voluntarily adopted a plan qualified for assistance under this title than to the application of a local educational agency which has been legally required to adopt such a plan.

EDUCATION FOR THE HANDICAPPED

20 USC 871–880a notes. 20 USC 1411. 20 USC 1419.

For carrying out the Education of the Handicapped Act, $976,637,000: *Provided*, That of this amount $804,000,000 for part B and $17,500,000 for section 619 shall become available for obligation on July 1, 1979, and shall remain available until September 30, 1980.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

20 USC 2563. 20 USC 2301, 1201 note. 20 USC 2401.

For carrying out, to the extent not otherwise provided, section 523 of the Education Amendments of 1976, the Vocational Education Act of 1963, as amended, and the Adult Education Act, $774,453,000 of which $10,000,000 for part B, subpart 2 of the Vocational Education Act shall remain available until expended: *Provided*, That the amounts appropriated above shall become available for obligation on July 1, 1979, and shall remain available until September 30, 1980, unless otherwise specified herein: *Provided further*, That not to exceed $112,317,000 shall be for carrying out part A, subpart 3 of the Vocational Education Act.

20 USC 2350.

STUDENT ASSISTANCE

20 USC 1070a, 1070b, 1070c. 42 USC 2751, 20 USC 1087aa. 20 USC 1221. 20 USC 1146–1150 note. 20 USC 1001 note.

For carrying out subparts 1 ($2,600,000,000), 2 ($340,100,000), and 3 ($76,750,000) of part A, and parts C ($550,000,000) and E ($328,900,000) of Title IV of the Higher Education Act, and, to the extent not otherwise provided, the General Education Provisions Act, $3,922,650,000, of which $3,895,750,000 shall remain available until September 30, 1980: *Provided*, That such funds may be expended notwithstanding the provisions of section 1208(a)(2) of the Higher Education Act: *Provided further*, That (1) Funds appropriated in this Act for Basic Educational Opportunity Grants under the Higher Education Act of 1965 shall be used to make basic grants consistent with the Schedule of Expected Family Contribution in effect as of October 1, 1978, except that (A) such schedule shall not have an assessment rate on parental discretionary income in excess of 10.5 per centum, (B) such schedule shall not reduce the maximum basic grant below $1,800, and (C) such schedule shall retain the provisions relating to independent students as were in effect for the academic year 1978–79.

(2) If funds contained in this Act available for basic educational opportunity grants are insufficient to satisfy fully all basic grant entitlements as determined by the Family Contribution Schedule as modified by paragraph (1), the amount paid with respect to each such entitlement shall be—

(A) the full amount in the case of any entitlement which exceeds $1,600;

(B) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

(C) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

(D) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(E) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(F) in the case of any entitlement which does not exceed $600, 50 per centum thereof:

Provided further, That amounts appropriated for basic opportunity grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for basic opportunity grants published by the Commissioner of Education during the prior fiscal year: *Provided further*, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for basic opportunity grants which exceed the amounts required to meet the payment schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated the next fiscal year. 20 USC 1070a.

HIGHER AND CONTINUING EDUCATION

For carrying out titles I-A, III, VIII, IX, and XI and sections 417, 418, 420, 705, 745, and 1203 of the Higher Education Act; the Mutual Education and Cultural Exchange Act of 1961; section 421 of the General Education Provisions Act; title VI of the National Defense Education Act; and the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act, $393,000,000: *Provided*, That funds contained in Public Law 95-205 for carrying out section 525 of the Education Amendments of 1976 shall remain available for obligation until September 30, 1980. 20 USC 1001, 1051, 1133, 1134, 1136, 1070e-1, 1132a-4, 1132c-4, 1142b. 22 USC 2451 note. 20 USC 1230. 20 USC 511. 91 Stat. 1460. 20 USC 2565.

LIBRARY RESOURCES

For carrying out, to the extent not otherwise provided, titles I and III of the Library Services and Construction Act (20 U.S.C., ch. 16); title II of the Higher Education Act; and title IV, part B of the Elementary and Secondary Education Act, $266,475,000: *Provided*, That $180,000,000 for Title IV, part B of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1979, and shall remain available until September 30, 1980. 20 USC 352, 355e, 351 *et seq.* 20 USC 1021. 20 USC 1821.

SPECIAL PROJECTS AND TRAINING

For carrying out the Special Projects Act (Public Law 93-380), the General Education Provisions Act, to the extent not otherwise provided, title V, part A and section 532 of the Higher Education Act of 1965, and the Career Education Incentive Act (Public Law 95-207), $134,472,000, of which not to exceed $1,840,000 shall be for carrying out section 403 of the Special Projects Act. 20 USC 1851 note. 20 USC 1221. 20 USC 1101, 1119a, 2601 note. 20 USC 1862.

SALARIES AND EXPENSES

20 USC 1221.

For carrying out, to the extent not otherwise provided, the General Education Provisions Act, including rental of conference rooms in the District of Columbia, $126,830,000: *Provided*, That during the current fiscal year up to $10,000,000 in collections on Federally insured defaulted loans may be transferred to the Salaries and Expenses account for the payment of related collection activities.

STUDENT LOAN INSURANCE FUND

20 USC 1071.

For necessary expenses under title IV, part B of the Higher Education Act, and to the extent not otherwise provided, the General Education Provisions Act, $714,314,000, to remain available until expended: *Provided*, That the Commissioner is authorized to issue to the Secretary of the Treasury notes or other obligations, in an amount not to exceed a total of $25,000,000 without fiscal year limitation, to maintain the adequacy of the fund, but only with respect to payments authorized under section 431 of the Higher Education Act.

20 USC 1081.

HIGHER EDUCATION FACILITIES LOAN AND INSURANCE FUND

81 Stat. 390.

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)), $2,204,000 to remain available until expended, and the Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Higher Education Facilities Loan and Insurance Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such fund.

HEALTH PROFESSIONS GRADUATE STUDENT LOAN INSURANCE FUND

42 USC 294.

For necessary expenses for the Health Professions Graduate Student Loan Insurance Fund, authorized by title VII, part C, subpart 1 of the Public Health Service Act, the Secretary is authorized to issue to the Secretary of the Treasury notes or obligations, in an amount not to exceed a total of $2,500,000, without fiscal year limitation, to maintain the adequacy of the fund, but only with respect to payments authorized under section 734.

42 USC 294g.

NATIONAL INSTITUTE OF EDUCATION

NATIONAL INSTITUTE OF EDUCATION

20 USC 1221e.

For carrying out section 405 of the General Education Provisions Act, including rental of conference rooms in the District of Columbia, $92,300,000.

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

SALARIES AND EXPENSES

For necessary expenses to carry out sections 402, 404 and 406 of the General Education Provisions Act, $38,483,000, of which not to exceed $1,500 may be for official reception and representation expenses. 20 USC 1221b, 1221d, 1221e-1.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under section 217(a), 228(g), 229(b), and 1131(b)(2) of the Social Security Act, $760,774,000. 42 USC 417, 428, 429, 1320b-1.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses either on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $1,016,608,000: *Provided*, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation. 30 USC 901.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income program under title XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201 (g)(1) of the Social Security Act, $5,557,854,000: *Provided*, That for carrying out these activities after July 31, such sums as may be necessary shall be available, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year: *Provided further*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury. 42 USC 1381. 42 USC 1382e note. 87 Stat. 155. 42 USC 1383 note. 42 USC 401.

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV, X, XI and XIV of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., Ch. 9), $6,663,000,000. 42 USC 301, 601, 1201, 1301, 1351. 24 USC 321 *et seq.*

For making, after June 30 of the current fiscal year, payments to States under titles I, IV, X, XIV, and XVI, respectively, of the Social Security Act for the last three months of the current fiscal year; and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the sub-

sequent appropriations therefor for the current or succeeding fiscal year.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year.

NATIONAL COMMISSION ON SOCIAL SECURITY

For carrying out the purposes of the National Commission on Social Security established pursuant to section 361 of Public Law 95-216, $500,000 to remain available until expended.

42 USC 907a.

REFUGEE ASSISTANCE

For expenses necessary to carry out the provisions of the Migration and Refugee Assistance Act of 1962 (Public Law 87-510), relating to aid to Cuban refugees within the United States, including hire of passenger motor vehicles, and the Indochina Migration and Refugee Assistance Act of 1975, as amended, $155,300,000: *Provided*, That $7,500,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be admin stered primarily by the private voluntary resettlement agencies.

22 USC 2601 note.

22 USC 2601 note.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $2,234,587,000 may be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsider interviews and to proceedings before administrative law judges under title II, XVI, and XVIII of the Social Security Act: *Provided further*, That $25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 66), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitations has been achieved: *Provided further*, That $14,800,000 authorized herein shall be available only for acquisition of sites, construction and equipment of facilities and for payments of principal, interest, taxes and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Buildings Amendments of 1972, and shall remain available until expended.

42 USC 401.
42 USC 421 note.

42 USC 401, 1381, 1395.

31 USC 665.

42 USC 421.

40 USC 356 note.
86 Stat. 216.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-105), $3,906,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681, et seq.), $16,625,000.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), $44,833,000, of which $11,105,000 shall be for construction and shall remain available until expended: *Provided*, That if requested by the college, such construction shall be supervised by the General Services Administration.

HOWARD UNIVERSITY

For the partial support of Howard University, $113,393,000, of which $10,000,000 shall be for construction and shall remain available until expended: *Provided*, That if requested by the University, such construction shall be supervised by the General Services Administration.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

For carrying out activities authorized by sections 420 and 2001 of the Social Security Act, $2,578,052,000, of which $56,500,000 shall be for child welfare services authorized by section 420. 42 USC 620, 1397.

For making, after June 30 of the current fiscal year, payments to States authorized by section 2001 of the Social Security Act, for the last three months of the current fiscal year, and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year.

ADOPTIONS OPPORTUNITIES

To carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (title II of Public Law 95-266), $5,000,000. 42 USC 5111.

WORK INCENTIVES

For carrying out a work incentives program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $385,000,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which 42 USC 630. 42 USC 602. 42 USC 631.

the States may become entitled pursuant to section 403(d) of such
42 USC 603. Act, for these purposes.

DEPARTMENT MANAGEMENT

OFFICE OF CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights $71,156,000, together with not to exceed $1,200,000, to be transferred and expended
42 USC 401. as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $36,606,000, together with not to exceed $4,705,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

GENERAL DEPARTMENTAL MANAGEMENT

For expenses not otherwise provided, necessary for general departmental management, including hire of six medium sedans, $128,026,000, together with not to exceed $6,890,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein: *Provided*, That
Ante, p. 112. funds, appropriated under this head in Public Law 95-240 for compensating the State of Washington for expenses related to the Tacoma Indian Hospital, shall remain available until expended.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research
42 USC 1310. studies under section 1110 of the Social Security Act, $25,000,000.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare is hereby reduced in the amount of $1,000,000,000: *Provided*, That this reduction shall be achieved by the reduction of fraud, abuse, and waste as defined and cited in the annual report, dated March 31, 1978, of the Inspector General of the Department of Health, Education, and Welfare: *Provided further*, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act.

SEC. 202. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 203. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be awarded to these institutions in the form of lump-sum grants and expenditures made therefrom shall be subject to audit by the Secretary of Health, Education and Welfare.

SEC. 204. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 205. None of the funds contained in this title shall be available for additional permanent positions in the Washington area if the total authorized positions in the Washington area is allowed to exceed the proportion existing at the close of fiscal year 1966.

SEC. 206. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, and Health Resources Administration and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; rental or lease of living quarters (for periods not exceeding 5 years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country, purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

42 USC 209.

5 USC 5332 note.

SEC. 207. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student

School busing.

42 USC 2000c.

attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 208. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

42 USC 2000c.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing, or clustering. The prohibition described in this section does not include the establishment of magnet schools.

Abortions.

SEC. 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 211. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act.

42 USC 254a.

Experts or consultants.

SEC. 212. Funds appropriated under this title may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $194,000,000 during fiscal year 1979.

For the purposes of this section, consultant costs are defined by chapter 815 of the General Administration Manual of the Department of Health, Education, and Welfare.

Citation of title.

This title may be cited as the "Department of Health, Education, and Welfare Appropriation Act, 1979."

TITLE III—RELATED AGENCIES

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President; hire of passenger motor vehicles; and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93–360 for mandatory mediation in health care industry negotiation disputes, and for convening factfinding boards of inquiry appointed by the Director in the health care industry, $22,686,000. 88 Stat. 395.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, $4,776,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $648,000. 20 USC 1501 note.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $100,467,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concering bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $3,969,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $7,658,000.

RAILROAD RETIREMENT BOARD

PAYMENTS TO RAILROAD RETIREMENT TRUST FUND

For payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, $313,000,000.

45 USC 231n.

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

For payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973, to remain available until expended, including not to exceed $75,000 for payment to the Railroad Retirement Board for administrative expenses, $25,000,000.

45 USC 779.

LIMITATION ON SALARIES AND EXPENSES

For expenses necessary for the Railroad Retirement Board, $34,317,000, to be derived from the railroad retirement accounts: *Provided*, That $500,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the foregoing limitation has been achieved: *Provided further*, That nothwithstanding any other provision in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a–r).

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $16,939,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the

Board of Commissioners of the Home and the Surgeon General of the Army.

TITLE IV—GENERAL PROVISIONS

Experts and consultants.

SEC. 401. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

5 USC 5332 note.

Uniforms or allowances.

SEC. 402. Appropriations contained in this Act available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Meetings.

SEC. 403. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

Funds to campus disrupters, prohibition.

SEC. 404. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

Funds, transfer.

SEC. 405. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

Fiscal year limitation.

SEC. 406. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Lobbying.

SEC. 407. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

Ante, pp. 1567, 1571.

SEC. 408. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under tiles I and II, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service".

Human participation projects.

SEC. 409. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or his parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

Short title.

This Act may be cited as the "Departments of Labor and Health, Education, and Welfare Appropriations Act, 1979".

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1248 (Comm. on Appropriations) and No. 95-1746 (Comm. of Conference).

SENATE REPORT No. 95-1119 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 7, 8, 13, considered and passed House.

Sept. 25, 27, considered and passed Senate, amended.

Oct. 12, House agreed to conference report; concurred in certain Senate amendments, in others with amendments; insisted on disagreement to Senate amendment No. 103; Senate agreed to conference report; concurred in House amendments, receded from amendment No. 103, with an amendment.

Oct. 14, House concurred in Senate amendment.

Public Law 95-481
95th Congress

An Act

Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

Oct. 18, 1978
[H.R. 12931]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, namely:

Foreign Assistance and Related Programs Appropriations Act, 1979.

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

Funds Appropriated to the President

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until September 30, 1979, unless otherwise specified herein, as follows:

22 USC 2151 note.

ECONOMIC ASSISTANCE

Agriculture, rural development, and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $605,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for expenditure until September 30, 1980.

22 USC 2151a.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $185,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for expenditure until September 30, 1980.

22 USC 2151b.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $130,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for expenditure until September 30, 1980: *Provided further*, That not more than $5,000,000 shall be available for an Expanded Immunization Program—Yaws Eradication Program in West Africa.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $97,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for expenditure until September 30, 1980.

22 USC 2151c.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, $115,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for expenditure until September 30, 1980.

22 USC 2151d.

Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of

22 USC 2151a–2151d.

sections 103–106, not less than $396,200,000 shall be available for loans for fiscal year 1979: *Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $550 but less than $900 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans, and loans to countries whose annual per capita gross national product is greater than $900 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

22 USC 2221.
22 USC 287 note.

International organizations and programs: For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, as amended, and of section 2 of the United Nations Environment Program Participation Act of 1973, $260,000,000: *Provided*, That none of the funds appropriated under this heading may be available to provide a United States contribution to the United Nations University.

22 USC 2174.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $25,000,000: *Provided*, That $1,000,000 shall be available only for support of Israeli students studying in American sponsored centers of learning in the Arab countries and Arab students studying in American sponsored centers of learning in Israel.

Contingency fund: For necessary expenses, $3,000,000, to be used for the purposes set forth in section 451.

22 USC 2261.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $20,000,000: *Provided*, That $1,000,000 shall be available only to control locust plagues in Africa.

Ante, p. 953.

Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $15,000,000.

22 USC 2151s.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $75,000,000, to remain available until expended: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program.

22 USC 2291.

International narcotics control: For necessary expenses to carry out the provisions of section 481, $38,500,000: *Provided*, That not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control.

22 USC 801 note.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund," as authorized by the Foreign Service Act of 1946, as amended, $24,820,000: *Provided*, That none of these funds or other funds available to the Foreign Service Retirement and Disability Fund shall be available to carry out the provisions of section 406 of the Foreign Relations Authorization Act, Fiscal Year 1979.

Ante, p. 979.

22 USC 2362.

Overseas training (foreign currency program): For necessary expenses to carry out the provisions of section 612, $400,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

None of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance," "Population, Development Assistance," "Health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," International organizations and programs," "American schools and hospitals abroad," "Assistance to African refugees," "Sahel development pro-

gram," "International narcotics control," "Economic support fund," "Peacekeeping operations," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Foreign military credit sales," "Inter-American Foundation," "Peace Corps," or "Migration and refugee assistance," shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1979 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance.

ECONOMIC SUPPORT FUND

Economic support fund: For necessary expenses to carry out the provisions of sections 531 through 534 of the Foreign Assistance Act of 1961, as amended, $1,882,000,000: *Provided*, That of the funds appropriated under this paragraph, $785,000,000 shall be allocated to Israel, $750,000,000 shall be allocated to Egypt and, $93,000,000 shall be allocated to Jordan: *Provided further*, That not more than $45,000,000, of which sum not more than $5,000,000 shall be for refugee assistance through International Relief Organizations in Rhodesia, shall be available for the Southern Africa Program: *Provided further*, That none of the funds appropriated under this heading may be used to provide a United States contribution to the United Nations Relief and Works Agency. *Ante*, pp. 733, 735.

PEACEKEEPING OPERATIONS

Peacekeeping operations: For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, as amended, $27,400,000: *Provided*, That none of the funds appropriated under this heading may be available for the Middle East Special Requirements Fund. *Ante*, p. 736.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, as amended, $254,000,000: *Provided*, That not more than $97,000,000 of this amount shall be for AID-Washington Operating Expenses: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109: *Provided further*, That not to exceed $10,000,000 of the funds made available by this Act shall be made available for personal service contracts and that of this amount not to exceed $2,000,000 shall be made available from Operating Expenses of the Agency for International Development and not to exceed $8,000,000 shall be available from other funds made available by this Act. 22 USC 2427.

ISRAEL-UNITED STATES BINATIONAL AGRICULTURAL RESEARCH AND DEVELOPMENT FUND

For payment to the Israel-United States Binational Agricultural Research and Development Fund as authorized by section 1458 of the Food and Agriculture Act of 1977, $40,000,000, to remain available until expended. 7 USC 3291.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the
22 USC 290f. Foreign Assistance Act of 1969, as amended, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, $10,000,000: *Provided*, That not to exceed $3,618,000 of previously appropriated funds shall also be available for necessary expenses during the current fiscal year.

MILITARY ASSISTANCE

Military assistance: For necessary expenses to carry out the provi-
22 USC 2311. sions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $83,375,000, in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are continued available for the fiscal year 1979 and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $210,375,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for the fiscal year 1979: *Provided further*, That none of the funds contained under this heading shall be available for the purchase of new automotive vehicles outside of the United States.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

International military education and training: For necessary expenses to carry out the provisions of section 541 of the Foreign
22 USC 2347. Assistance Act of 1961, as amended, $27,900,000, in addition to which amount the unobligated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1977 and the unobli-

gated balance as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are continued available for the fiscal year 1979 and, further, amounts obligated as of September 30, 1978, in the basic account symbol assigned by the Treasury for the appropriation made available under this heading for the fiscal year 1978 are, if deobligated, continued available for the fiscal year 1979, the total of all such funds made available not to exceed $28,755,000. The unobligated and obligated balances as of September 30, 1978, shall be merged with and accounted for under the same basic account symbol assigned by the Treasury for the appropriation made under this heading: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such deobligated funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for the fiscal year 1979.

GENERAL PROVISIONS

SEC. 101. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the Principles and Standards for Planning Water and Related Land Resources dated October 25, 1973.

Water or land related resource project, prohibitions.

SEC. 102. Except for the appropriations entitled "Contingency fund", "International disaster assistance", and "United States emergency refugee and migration assistance fund", not more than 15 per centum of any appropriation item made available by this Act for fiscal year 1979 shall be obligated or reserved during the last month of availability.

SEC. 103. Unobligated balances as of September 30, 1978, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for "International disaster assistance", "Middle East special requirements fund", and "United States emergency refugee and migration assistance fund" are hereby continued available for the fiscal year 1979, for the same appropriation account and for the same purposes for which appropriated.

SEC. 104. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

Pensions, annuities and certain compensation payment prohibition.

SEC. 105. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

Procurement contracts, payment prohibition. 22 USC 2151 note.

SEC. 106. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

United Nations members, assessments, payment prohibition.

SEC. 107. None of the funds contained in title I of this Act may be used to carry out the provisions of sections 209(d) and 251(h) of the Foreign Assistance Act of 1961, as amended.

22 USC 2169, 2211.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam: *Provided, however*, That such prohibition shall not apply to graduate students from Uganda completing their studies at United States institutions.

Uganda, Cambodia, Laos, and the Socialist Republic of Vietnam, assistance prohibition, exception.

SEC. 109. Of the funds appropriated or made available pursuant to this Act, not to exceed $118,000 shall be for official residence expenses of the Agency for International Development during fiscal year 1979: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 110. Of the funds appropriated or made available pursuant to this Act, not to exceed $13,000 shall be for entertainment expenses of the Agency for International Development during fiscal year 1979.

SEC. 111. Of the funds appropriated or made available pursuant to this Act, not to exceed $96,000 shall be for representation allowances of the Agency for International Development during fiscal year 1979: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

Nuclear material, assistance prohibitions.

22 USC 2151 note.

SEC. 112. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the export of nuclear equipment, fuel, or technology or to provide assistance for the training of foreign nationals in nuclear fields.

Human rights.

SEC. 113. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

Mozambique or Angola, assistance prohibition.

SEC. 114. None of the funds appropriated or made available pursuant to this Act shall be obligated or expended to finance directly any assistance to Mozambique or Angola; except that, such funds shall be available to finance the completion of the training of Angolan students who started training prior to fiscal year 1978.

SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

22 USC 2763, 2764.

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $654,500,000: *Provided*, That of the amount provided for the total aggregate credit sale ceiling during the current fiscal year, not less than $1,000,000,000 shall be allocated to Israel.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For expenses necessary for Action to carry out the provisions of the Peace Corps Act, as amended (22 U.S.C. 2501 et seq.), $95,000,000: *Provided*, That of the funds appropriated under this heading, not more than $320,000 shall be available for the United Nations Volunteer Program: *Provided further*, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; $111,544,200: *Provided*, That not to exceed $3,225,000 of this amount shall be available for refugees in Africa: *Provided further*, That $20,000,000 of these funds be expended only by the Department of Health, Education, and Welfare for the resettlement in the United States of Soviet and other refugees not currently covered by existing Federal refugee programs: *Provided further*, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $9,500,000, to remain available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, $265,000,000, for the (1) United States share of the increase in subscriptions to the (a) paid-in capital stock, and (b) callable capital stock, and (2) the United States contribution to the increase in resources of the Asian Development Fund as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided*, That no such payment may be made while the United States Director to the Bank is compensated by the Bank at a rate which, together with whatever compensation such Direc- 22 USC 285t.

tor receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, $763,728,483, for the United States share of (1) the increase in subscriptions to (a) paid-in capital stock, and (b) callable capital stock, and (2) the fifth replenishment of the resources of the Fund for Special Operations as authorized by the Act
22 USC 283w. of May 31, 1976 (Public Law 94-302), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, $163,079,165, for the United States share of the increase in subscriptions to the (1) paid-in capital stock, and (2) callable capital stock, as authorized by the Act
22 USC 282u. of October 3, 1977 (Public Law 95-118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,045,100, for the United States share of the increase in subscriptions to capital stock, as authorized by the Act
22 USC 285s. of October 3, 1977 (Public Law 95-118), to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $458,000,000 for the United States contribution to the fourth replenishment as authorized by the Act of
22 USC 284*l*. August 14, 1974 (Public Law 93-373), to remain available until expended and $800,000,000, for the second installment of the United

States contribution to the fifth replenishment as authorized by the Act of October 3, 1977 (Public Law 95-118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 22 USC 284n.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $25,000,000, for the United States contribution to the increase in resources as authorized by the Act of October 3, 1977 (Public Law 95-118), to remain available until expended. 22 USC 290g-10.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions: 22 USC 262c note.

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 18 percent;
Inter-American Development Bank:
Paid-in capital, 34.5 percent;
Callable capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 24 percent;
Callable capital, 24 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the 31 USC 849.

Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed $5,347,345,000 (of which not to exceed $3,750,000,000 shall be for direct loans) shall be authorized during the current fiscal year for other than administrative expenses.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $13,515,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, and not to exceed $24,000 for entertainment allowances for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

TITLE V—UNITED STATES PARTICIPATION, SUPPLEMENTARY FINANCING FACILITY, INTERNATIONAL MONETARY FUND

For the purpose of participation by the United States, in an amount equivalent to 1,450,000,000 Special Drawing Rights, in the Supplementary Financing Facility established by decision numbered 5508–(77/127) of the Executive Directors of the Fund, as provided in the decision numbered 5509–(77/127) of the Fund, and for the expenditures resulting therefrom, not to exceed $1,831,640,000, to remain available until the termination of the facility: *Provided*, That no such payment may be made while the United States Executive Director to the International Monetary Fund is compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Fund is compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

TITLE VI—GENERAL PROVISIONS

Publicity or propaganda.

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Fiscal year.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided here.n.

Countries in default.

SEC. 603. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

Office of the Inspector General of Foreign Assistance, prohibition.

SEC. 604. None of the funds appropriated by this Act shall be available for the Office of the Inspector General of Foreign Assistance.

Certain international financial institutions, prohibition.

SEC. 605. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States' representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the inst.tution, or the compensation and related benefits of employees of the institution.

Cuba, assistance prohibition.

SEC. 606. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly to Cuba.

Terrorism, prohibitions.

SEC. 607. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Financial assistance for expanding production for commodities of other countries, prohibition.

SEC. 608. None of the funds appropriated or made available pursuant to this Act for direct foreign assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expanded to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity.

World financial institutions, assistance for commodities in surplus on world markets, prohibition.
22 USC 262h.

SEC. 609. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank and the Asian Development Bank, and the executive director representing the United States at the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity.

Presidential consultations with OECD. 22 USC 2169 note.

SEC. 610. The President shall initiate wide international consultations beginning with the member nations of the Organization of Economic Cooperation and Development (OECD), designed to develop a viable standard governing the allocation of development assistance for the production and export of commodities. Such consultations shall relate to commodities which are in surplus in the world market and if produced for export would cause substantial harm to producers of the same, similar or competing products. Not later than one year after the enactment of this Act the President shall report to the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Appropriations Committees on the progress made in carrying out this section.

Presidential report to Congress.

Human rights standards. 22 USC 262d note.

SEC. 611. The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institutions to establish human rights standards to be considered in connection with each application for assistance.

Short title.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1979".

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1250 (Comm. on Appropriations) and No. 95-1754 (Comm. of Conference).

SENATE REPORT No. 95-1194 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 31, Aug. 2-4, 14, considered and passed House.

Sept. 21, 22, considered and passed Senate, amended.

Oct. 12, House agreed to conference report; concurred in certain Senate amendments, in others with amendments, insisted on disagreement to Senate amendment No. 63.

Oct. 13, Senate agreed to conference report; concurred in House amendments, receded from amendment No. 63.

Public Law 95-482
95th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1979, and for other purposes.

Oct. 18, 1978
[H.J. Res. 1139]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1979, namely:

Continuing appropriations, FY 1979.

SEC. 101. (a) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1978, but at a rate for operations not in excess of the current rate:

activities under the Community Services Act; 42 USC 2701 note.

activities under the Environmental Education Act;

activities under the Educational Television Broadcasting Facilities and Telecommunications Demonstration Act; 20 USC 1531 note.

activities under the Social Security Act; 47 USC 390 note.

activities under the Older Americans Act including provision of cash or commodities; 42 USC 1305.

activities under the Rehabilitation Act; 42 USC 3001 note.

activities under the International Health Research Act; 29 USC 701 note.

activities under the Developmental Disabilities Services and Facilities Construction Act; 22 USC 2101 note.

activities under the Public Health Service Act; 42 USC 2661 note.

activities under the Lead-based Paint Poisoning Prevention Act; 42 USC 201 note.

activities under the Community Mental Health Center Act; 42 USC 4801 note.

activities under the Alcohol and Drug Abuse Education Act;

activities under the Child Abuse Prevention and Treatment Act; 42 USC 2681 note.

activities under the Runaway Youth Act; 21 USC 1001 note.

activities under the Comprehensive Employment and Training Act, except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by S. 2570 as passed the House of Representatives; 42 USC 5101 note.

activities under the Domestic Volunteer Services Act; 42 USC 5701 note.

activities under the Public Broadcasting Financing Act; 29 USC 801 note.

activities for support of Home Health Services under Public Law 94-63; and 42 USC 4951 note.

activities under the Drug Abuse Office and Treatment Act. 47 USC 396 note. 12 USC 246 note.

(b) Such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1979, for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriation Act, 1979 (H.R. 12928) as enacted by the Congress: *Provided*, That no funds shall be available for the Narrows Unit, Colorado; Bayou Bodcau and Tributaries, Louisiana; Yatesville Lake, Kentucky; Fruitland Mesa, Colorado; Savery-Pot Hook, Colorado and Wyoming; and Lukfata Lake, Oklahoma, projects: 21 USC 1101 note.

Provided further, That no funds shall be available for construction of the Animas-La Plata, Colorado; McGee Creek, Oklahoma; Uintah Unit and Upalco Unit of the Central Utah Project, Utah; Kaskaskia Island Drainage and Levee District, Illinois; Units L611-614, Missouri River Levee System, Iowa; Cedar River Harbor, Michigan; Milan, Illinois; Arcadia Lake, Oklahoma; Burlington Dam, North Dakota; and Big Pine Lake, Texas, projects; but funds shall be made available to continue planning of these projects: *Provided further*, That sections 201 and 305 of said Act are not applicable to the funds and authority made available by this subsection: *Provided further*, That the paragraph in said Act entitled "Office of the Secretary, water resources planning" is not applicable to the funds and authority made available by this subsection: *Provided further*, That there is hereby appropriated for the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $12,681,900, to remain available until expended, including $2,668,000, for expenses in administering the Act (42 U.S.C. 1962d(b)), $2,480,900 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $1,047,000 for preparation of plans (33 U.S.C. 1289), $2,886,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), and $3,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $600,000 for groundwater studies in the Delaware River Basin and Susquehanna River Basin.

42 USC 1962b.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1978, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1979, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1978.

SEC. 107. Any appropriation for the fiscal year 1979 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 109. Section 406 of Public Law 95-426 is repealed. Repeal.

SEC. 110. Title II of the Department of Transportation and Related Agencies Appropriation Act, 1979 (Public Law 95-335), is amended by striking out under the heading "UNITED STATES RAILWAY ASSOCIATION" "PAYMENTS FOR PURCHASE OF CONRAIL SECURITIES" all that follows after the last comma and inserting in lieu thereof a period. *Ante*, p. 979. *Ante*, p. 445.

SEC. 111. For payment to the Rhode Island Indian Claims Settlement Fund, as authorized by Public Law 95-395, $3,500,000, to remain available until expended. *Ante*, p. 813.

SEC. 112. Section 105(e)(3) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(e)(3)), is amended—

(1) by striking out "four" in subparagraph (A) and inserting in lieu thereof "two";

(2) by striking out "two such" in subparagraph (A) and inserting in lieu thereof "four such"; and

(3) by striking out "three such" in subparagraph (B) and inserting in lieu thereof "five such".

SEC. 113. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") is authorized to award grants to the United States Olympic Committee (hereinafter in this section referred to as "the Corporation") to assist in the development of amateur athletics in the United States. The Corporation may apply to the Secretary for funds available under this section, and shall use such funds consistent with the provisions of the Amateur Sports Act of 1978. The Secretary may approve any application which meets the requirements of this section, and award grants to the Corporation in a total sum not exceeding $16,000,000 to finance the construction, improvement, and maintenance of facilities for programs of amateur athletic activity and to defray direct operating costs of programs of amateur athletic activity, consistent with section 104 of the Act entitled "An Act to incorporate the United States Olympic Association", approved September 1, 1950 (36 U.S.C. 371 et seq.), as amended by the Amateur Sports Act of 1978. 36 USC 384.

(b) The Corporation shall, on or before the first day of June of each year, transmit to the Congress a report which shall include a detailed accounting of the funds made available to the Corporation by the Sec- Report to Congress.

retary pursuant to subsection (a) and a comprehensive description of those projects which the Corporation anticipates it will finance during the next fiscal year with funds authorized by this section.

(c) Each application for funds available under this section shall be in such form as the Secretary shall provide and shall contain provisions to assure that such funds are disbursed in accordance with the provisions of this section. For the purpose of review or audit, the Secretary shall have access to any books, documents, papers, and records which are relevant to any grant received under this section.

(d) There are authorized to be appropriated to the Secretary not to exceed $16,000,000 in fiscal year 1980, such sums to remain available until expended.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1599 (Comm. on Appropriations).
SENATE REPORT No. 95-1317 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 26, considered and passed House.
Oct. 15, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 95-483
95th Congress

An Act

To provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes.

Oct. 18, 1978
[H.R. 9998]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Shipping Act of 1978".

Ocean Shipping Act of 1978.
46 USC 842 note.

SEC. 2. The first section of the Shipping Act, 1916, as amended (46 U.S.C. 801), is further amended by inserting the following definition of the term "controlled carrier" immediately following the definition of the term "common carrier by water":

"The term 'controlled carrier' means a common carrier by water operating, offering, or proposing to offer service in the foreign commerce of the United States which carrier is or whose operating assets are directly or indirectly owned or controlled by the government under whose registry the vessels of the controlled carrier operate. Ownership or control by such government shall be deemed to exist if a majority portion of the interest in the carrier is owned or controlled in any manner by such government, by any agency of the government, or by any person, corporation, or entity controlled by such government. Ownership or control shall also be deemed to exist if the government has the right to appoint or disapprove the appointment of a majority of the directors or the chief operating or executive officer of the carrier".

"Controlled carrier."

SEC. 3. Section 18 of the Shipping Act, 1916, as amended (46 U.S.C. 817), is further amended by adding at the end thereof, the following new subsection:

"(c)(1) No controlled carrier subject to this Act shall maintain rates or charges in its tariffs filed with the Commission that are below a level which is just and reasonable, nor shall any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in such tariffs. An unjust or unreasonable classification, rule, or regulation means one which results or is likely to result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable. The Commission may at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier which have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

Notice and hearing.

"(2) For the purpose of this subsection, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors, including, but not limited to, whether: (i) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's

actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade; (ii) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade; (iii) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or (iv) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

"(3) Notwithstanding the provisions of subsection (b)(2) of this section, rates, charges, classifications, rules, or regulations of controlled carriers shall not, without special permission of the Commission, become effective within less than thirty days following the date of filing with the Commission. Following the effective date of this subsection, each controlled carrier shall, upon the request of the Commission, file within twenty days of request, with respect to its existing or proposed rates, charges, classifications, rules, or regulations a statement of justification which sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations, upon which the Commission may reasonably base its determination of the lawfulness thereof.

"(4) Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, charges, classifications, rules, or regulations at any time prior to their effective date. In the case of any rates, charges, classifications, rules, or regulations which have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than sixty days notice to the controlled carrier. No period of suspension hereunder may be greater than one hundred and eighty days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this provision, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations: *Provided, however*, That the Commission may reject such new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

"(5) Concurrently with the publication thereof, the Commission shall transmit to the President any order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to the provisions of this subsection. Within ten days after the receipt or the effective date of such Commission order, whichever is later, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that such stay is required for reasons of national defense or foreign policy which reasons shall be specified in the report. Notwithstanding any other provision of law, the Commission shall immediately grant such request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

"(6) The provisions of this subsection shall not apply to: (i) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; (ii) any controlled carrier of a state which, on the effective date of this subsection, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development; (iii) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement approved under section 15 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection; (iv) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein, and the United States, or any of its districts, territories, or possessions; or (v) a trade served exclusively by controlled carriers.".

SEC. 4. The provisions of this Act, including the amendments made by this Act, shall become effective thirty days after its date of enactment.

Effective date.
46 USC 801 note.

Approved October 18, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1381 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-1260 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 31, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 95-484
95th Congress

An Act

Oct. 19, 1978
[H.R. 13797]

To authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes.

Fort Scott National Historic Site, Kans. Establishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided*, that the buildings so acquired shall not include the structure known as "Lunette Blair".

Publication in Federal Register. 16 USC 461 note.

SEC. 2. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

Administration.

SEC. 3. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

43 USC 1457.

16 USC 461.

Repeal.

SEC. 4. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided*, That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further*, That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

Appropriation authorization.

SEC. 5. In addition to such sums as might be made available to the historic site by the preceding section, effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

Approved October 19, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1644 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 29, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 95-485
95th Congress

An Act

To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

Oct. 20, 1978
[S. 3486]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

Department of Defense Appropriation Authorization Act, 1979.

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

Presidential certification to Congress.

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

Report to congressional committees.

SEC. 203. The Secretary of Defense shall, not later than October 31, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.
(2) The Navy, 523,550.
(3) The Marine Corps, 190,000.
(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve Component of the Armed Forces shall be programmed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.
(2) The Army Reserve, 195,750.
(3) The Naval Reserve, 87,000.
(4) The Marine Corps Reserve, 33,000.
(5) The Air National Guard of the United States, 92,150.
(6) The Air Force Reserve, 53,075.
(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members. Reduction.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military services; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENT IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

37 USC 308c.

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

Administration.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

Refund.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

Reports to Congress.

"(e) The Secretary of defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a) (1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act. 10 USC 269 note.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended— 10 USC 271.

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection: Regulations.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c) (1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended— Enlistment terms. 10 USC 511.

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

10 USC 511 note.

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

10 USC 652.

"§ 652. Ready Reserves: requirement of notification of change of status

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selected Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

Repeal.

(b)(1) Section 279 of such title is repealed.

10 USC 279.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

End strength.

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Report to Congress.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National

Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

Personnel increase, limitation.

Notification to Congress.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.
(2) The Navy, 57,996.
(3) The Marine Corps, 21,324.
(4) The Air Force, 44,410.
(5) The Army National Guard of the United States, 11,793.
(6) The Army Reserve, 5,959.
(7) The Naval Reserve, 991.
(8) The Marine Corps Reserve, 3,074.
(9) The Air National Guard of the United States, 2,471.
(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

Apportionment adjustment.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force

10 USC 2662 note.

structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

Notification to congressional committees.

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committee on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

Certification.

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

"Training base."

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

50 USC app. 2251 note.

CIVIL DEFENSE STUDY

50 USC app. 2281 note.

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

Copies, filing with congressional committees.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

Effective date. 37 USC 308 note.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

Effective date.

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

37 USC 305a.

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E–4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

Effective date.

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100"

37 USC 305a note.

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

37 USC 305.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section,

under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and *Ante*, p. 1620.

(C) by striking out **"sea duty or"** in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978. Effective date. 37 USC 305 note.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)). 37 USC 305 note.

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.". Recommendations.

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 3081. Dental Corps: Chief, functions 10 USC 3081.

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title. 10 USC 3040.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps. Regulations.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignments, and transfer of dental personnel; and

"(3) serve as the adviser to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army Regulations.

shall be organized into units commanded by a designated Dental Corps Officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 8081.

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

10 USC 1086.

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

Supra.

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

10 USC 1079 note.

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows: "(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training. 10 USC 2102 note.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section. Regulations.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy. 10 USC 7291 note. Plans and programs.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations. Presidential conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed. Repeal. 10 USC 7291 note.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG–2 DESTROYER CONVERSION

10 USC 7291 note.

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

Study.

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

Report to congressional committees.

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

10 USC 2304 note.

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission

50 USC 1431.

of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85-804, or other similar requests submitted before the date of enactment of this Act. 50 USC 1431.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979. Report to congressional committees. 10 USC 2304 note.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION ON SALE OF CERTAIN DEFENSE ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense 10 USC 975.

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness. "Decrement stock."

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan. Report to Congress.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Pamana Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

10 USC 5232.

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

COMMISSARY BAGGERS

29 USC 203 note.

SEC. 819. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

29 USC 201.

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 820. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071. 10 USC 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; **Women's Army Corps**" in the catchline of section 3209; 10 USC 3209.

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215; 10 USC 3215.

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and 10 USC 3220.

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section; 10 USC 3283.

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2); 10 USC 3296.

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and"; 10 USC 3297.

(4) by striking out section 3311; and 10 USC 3311.

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army Corps" in the second sentence of such section; 10 USC 3363.

(2) by striking out "and to the Women's Army Corps" in section 3364(a); 10 USC 3364.

(3) by striking out "or the Women's Army Corps" and "or corps" in section 3364(b);

(4) by striking out "or the Women's Army Corps" in section 3364(c) each time it appears; and

(5) by striking out the second sentence of section 3383(b). 10 USC 3383.

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580. 10 USC 3580.

(g) Section 3818 of such title is amended— 10 USC 3818.

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" 10 USC 3848.

before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

10 USC 3916.

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. 821. (a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts numbered N00024-69-C-0283, N00024-70-C-0275, N00024-71-C-0268, and N00024-74-C-0206 for the procurement for the United States of landing helicopter assault vessels (LHA), DD-963 vessels, and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any total combined profit on such contracts.

Contractor relief, prohibition.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with contracts described in such subsection, to the extent that the use of such funds would result in any total combined profit on such contracts, as determined by the Comptroller General of the United States.

Annual report to Congress by Comptroller General.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1573, accompanying H.R. 14042 (Comm. on Armed Services).

SENATE REPORT No. 95-1197 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 26, considered and passed Senate.

Sept. 29, Oct. 4, H.R. 14042 considered and passed House; passage vacated, and S. 3486, amended, passed in lieu.

Oct. 7, Senate concurred in House amendment.

Public Law 95-486
95th Congress

An Act

To provide for the appointment of additional district and circuit judges, and for other purposes.

Oct. 20, 1978
[H.R. 7843]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the central district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the northern district of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional

Federal district and circuit judges, additional appointments. District judges. 28 USC 133 note.

section 136 shall not be effective with respect to any district having two judges in regular active service so long as the district judge holding the position of chief judge of any such district on such date of enactment continues to hold such position".

SEC. 5. (a) Section 46(c) of title 28 of the United States Code is amended—

(1) in the first sentence, by striking out "division" and inserting "panel" in lieu thereof; and

(2) by striking out the third sentence.

(b) The heading of section 46 of title 28 of the United States Code is amended by striking out "**divisions**" and inserting "**panels**" in lieu thereof.

(c) The item relating to section 46 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "divisions" and inserting "panels" in lieu thereof.

SEC. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals.

Appeals court units.
28 USC 41 note.

SEC. 7. (a) The first section and section 2 of this Act shall take effect immediately upon the President's promulgation and publication of standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act.

28 USC 133 note.

(b) The President may waive such standards and guidelines with respect to any nomination by notifying the Senate of the reasons for such waiver.

Waiver, notification to Senate.

(c) Following the promulgation and publication of such standards and guidelines, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any standards or guidelines promulgated under this section.

(d) This Act, other than the first section and section 2, shall take effect on the date of enactment of this Act.

SEC. 8. The Congress—

28 USC 133 note.

(1) takes notice of the fact that only 1 percent of Federal judges are women and only 4 percent are blacks; and

(2) suggests that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due consideration to qualified individuals regardless of race, color, sex, religion, or national origin.

SEC. 9. (a) Section 1337 of title 28 of the United States Code is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however*, That the district courts shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), only if the matter in con-

troversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of any interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

(b) Subsection (b) of section 1445, of title 28 of the United States Code is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

(c) The item relating to section 1337 in the table of sections for chapter 85 of title 28 of the United States Code is amended to read as follows:

"1337. Commerce and antitrust regulations; amount in controversy, costs.".

Position classifications.

SEC. 10. Section 5108(c)(3) of title 5, United States Code, is amended to read as follows:

"(3) the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 15 positions in GS–16, 17, and 18;".

5 USC 5332 note.

28 USC 133 note.

SEC. 11. Notwithstanding any other provision of this Act, the first section and section 2 shall not take effect before November 1, 1978.

Appropriation authorization.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-858 (Comm. on the Judiciary) and No. 95-1643 (Comm. of Conference).

SENATE REPORTS: No. 95-117 accompanying S. 11 (Comm. on the Judiciary) and No. 95-1257 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): May 23, 24, S. 11 considered and passed Senate.

Vol. 124 (1978): Feb. 7, considered and passed House; considered and passed Senate, amended, in lieu of S. 11.

Sept. 28, Conference report filed in disagreement in House.

Oct. 4, House concurred in Senate amendment with an amendment.

Oct. 7, Senate agreed to conference report; concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 42 (1978): Oct. 20, Presidential statement.

Public Law 95-487
95th Congress

An Act

To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

Oct. 20, 1978
[H.R. 14026]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provisions of law, any Indian tribal or other entity that holds any lands described in section 2 of this Act, or interests therein, in fee simple may freely alienate and convey such lands or interests therein to others and, upon request of any Indian tribal or other entity for whom the United States holds title in trust to any lands described in section 2 of this Act, the Secretary of the Interior shall convey such lands to such entity in fee simple, free of all encumbrances and restrictions whatsoever, and (b) notwithstanding any other provisions of law, the corporation organized for the Natives of the village of Kake, Alaska, pursuant to the Alaska Native Claims Settlement Act, 85 Stat. 688, as amended and supplemented, shall be entitled to retain, and shall not be required to reconvey to any others, title to the surface estate in any lands described in section 2 of this Act that is conveyed to it pursuant to the Settlement Act.

Indians.
Acquisition and retention of certain lands, Kake, Alaska.

43 USC 1601 note.

SEC. 2. The lands subject to this Act are:

(a) That portion of United States Survey 963 in section 35, township 56 south, range 72 east, Copper River Meridian, Alaska, described as follows:

Beginning at the southwest corner of United States Survey 963, thence along the south boundary of said survey north 67 degrees 24 minutes 20 seconds east, a distance of 220.53 feet to a point on the boundary of power easement numbered E-2 of the Alaska Department of Highways; thence along the boundary of said easement north 34 degrees west a distance of 36.71 feet to a point which coincides with a corner on the boundary of such easement; thence continuing on the boundary of such easement, north 9 degrees 30 minutes west a distance of 100 feet; thence north 61 degrees 16 minutes 58 seconds west a distance of 149.93 feet; thence south 76 degrees 35 minutes west a distance of 100 feet to a point on the west boundary of United States Survey 963; thence along said boundary south 13 degrees 25 minutes east a distance of 270 feet to the point of beginning, containing 1.09 acres, more or less, together with all improvements thereon and appurtenances thereto;

(b) That portion of lot 2 of United States Survey 3852 that lies between the west side of Keku Road as presently alined and Keku Straight, containing less than 1 acre, together with all improvements thereon and appurtenances thereto; and

(c) That portion of Alaska Tideland Survey Numbered 1091 designated as parcel E on the preliminary plat thereof, containing 2.183 acres, more or less, together with all improvements thereon and appurtenances thereto.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1615 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 95-488
95th Congress

An Act

To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes.

Oct. 20, 1978
[H.R. 13167]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 192 of the Internal Revenue Code of 1954 (relating to contributions to black lung benefit trusts) is amended to read as follows:

Taxes.
Deductions for contributions to a black lung benefit trust.
26 USC 192.

"(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

"(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

"(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year."

26 USC 501.

(b) Paragraph (1) of section 192(c) of such Code (relating to special rules) is amended to read as follows:

26 USC 192.

"(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

"(A) IN GENERAL.—The amounts described in subsection (b) shall be determined by using reasonable actuarial methods and assumptions which are not inconsistent with regulations prescribed by the Secretary.

"(B) FUNDING PERIOD.—Except as provided in subparagraph (C), the funding period for purposes of subsection (b)(1) shall be the greater of—

"(i) the average remaining working life of miners who are present employees of the taxpayer, or

"(ii) 10 taxable years.

For purposes of the preceding sentence, the term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"Miner."

"(C) DIFFERENT FUNDING PERIODS.—To the extent that—

"(i) regulations prescribed by the Secretary provide for a different period, or

"(ii) the Secretary consents to a different period proposed by the taxpayer,

such different period shall be substituted for the funding period provided in subparagraph (B)."

(c) Subsection (c) of section 192 of such Code is amended by adding at the end thereof the following new paragraph:

"(5) DENIAL OF SECTION 162 DEDUCTION WITH RESPECT TO LIABILITY.—No deduction shall be allowed under section 162(a) with respect to any liability taken into account in determining the deduction under subsection (a) of this section of the taxpayer (or a predecessor)."

26 USC 162.

26 USC 6104.

(d)(1) The first sentence of subparagraph (A) of section 6104(a)(1) of such Code (relating to inspection of applications for tax exemption) is amended by striking out "(other than in paragraph (21) thereof)".

(2) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out the last sentence.

26 USC 192 note.

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1977. Nothing in the amendments made by subsection (d) to section 6104 of the Internal Revenue Code of 1954 shall be construed to permit the disclosure under such section 6104 of confidential business information of contributors to any trust described in section 501(c)(21) of such Code.

26 USC 501.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1656 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 95-489
95th Congress

An Act

To terminate the authorization of the navigation project on the Columbia Slough, Oregon.

Oct. 20, 1978
[H.R. 13803]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the navigation project on the Columbia Slough, Oregon, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 167) is not authorized after the date of enactment of this Act.

Columbia Slough, Oreg., navigation project.
Termination.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 95-490
95th Congress

An Act

Oct. 20, 1978
[S. 1318]

To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose.

Hawaii.
Revenue or proceeds from disposition of certain lands, use.
72 Stat. 850.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 4(a) of the Act entitled "An Act to provide for the transfer of title to certain land at Sand Island, Territory of Hawaii, to the Territory of Hawaii, and for other purposes", approved August 25, 1958, the State of Hawaii may use for any public purpose the revenue or proceeds from the sale, lease, or other disposition of the lands held by it under a transfer made by Executive Order Numbered 10833 under such Act on August 25, 1959. Such sale, lease, or other disposition shall comply with the laws of the State of Hawaii relating to public lands.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-515 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 28, considered and passed Senate.
Vol. 124 (1978): Oct. 10, considered and passed House.

Public Law 95-491
95th Congress

An Act

To authorize the permanent establishment of a system of Federal information centers.

Oct. 20, 1978
[S. 3259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Information Centers Act".

Federal Information Centers Act. 40 USC 751 note.

SEC. 2. (a) Title I of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new section:

"FEDERAL INFORMATION CENTERS

"SEC. 112. (a) The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

Establishment. 40 USC 760.

"(b) The Administrator is authorized to prescribe such rules and regulations as may be necessary to the functioning of the Federal information centers.

Rules and regulations.

"(c) There is hereby authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.".

Appropriation authorization.

(b)(1) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 109 the following new items:

"Sec. 110. Federal telecommunications fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.".

(2) Title I of the Federal Property and Administrative Services Act is further amended by inserting immediately before section 110 the following heading:

40 USC 757.

"FEDERAL TELECOMMUNICATION FUND".

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1530, accompanying H.R. 13688 (Comm. on Governmental Operations).
SENATE REPORT No. 95-1129 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 12, considered and passed Senate.
Sept. 25, H.R. 13688 considered and passed House; passage vacated and S.3259, amended, passed in lieu.
Oct. 5, Senate concurred in House amendments.

Public Law 95-492
95th Congress

An Act

Oct. 20, 1978
[S. 3373]

To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes.

Girl Scouts of America. Transportation services. 10 USC 2545.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 151 of title 10, United States Code, is amended by adding after section 2544 the following new section:

"§ 2545. Transportation services: international Girl Scout events

"(a) The Secretary of Defense is authorized, under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sealift Command or aircraft of the Military Airlift Command for (1) those Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing the Girl Scouts of the United States of America at any International World Friendship Event or Troops on Foreign Soil meeting which is endorsed and approved by the National Board of Directors of the Girl Scouts of the United States of America and is conducted outside of the United States, (2) United States citizen delegates coming from outside of the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America, and (3) the equipment and property of such Girl Scouts and officials, to the extent that such transportation will not interfere with the requirements of military operations.

"(b) Before furnishing any transportation under subsection (a), the Secretary of Defense shall take from the Girl Scouts of the United States of America a good and sufficient bond for the reimbursement to the United States by the Girl Scouts of the United States of America, of the actual costs of transportation furnished under subsection (a).

"(c) Amounts paid to the United States to reimburse it for the actual costs of transportation furnished under subsection (a) shall be credited to the current applicable appropriations or funds to which such costs were charged and shall be available for the same purposes as such appropriations or funds.".

SEC. 2. The table of sections at the beginning of chapter 151 of title 10, United States Code, is amended by adding after the item relating to section 2544 the following new item:

"2545. Transportation services: international Girl Scout events.".

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1572 (Comm. on Armed Services).
SENATE REPORT No. 95-1137 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 24, considered and passed Senate.
Oct. 10, considered and passed House.

Public Law 95-493
95th Congress

An Act

To incorporate the United States Capitol Historical Society.

Oct. 20, 1978
[H.R. 11035]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons:

United States Capitol Historical Society, incorporation.
36 USC 1201.

Honorable Fred Schwengel, Washington, District of Columbia;
Honorable Marguerite Stitt Church, Evanston, Illinois;
Doctor Melvin M. Payne, Washington, District of Columbia;
Carl Haverlin, Northridge, California;
Doctor Walter Rundell, College Park, Maryland;
Victor M. Birely, Washington, District of Columbia;
Arthur B. Hanson, Esquire, Washington, District of Columbia;
Mrs. Adlai Stevenson III, Hanover, Illinois;
Mrs. Florian Thayn, Washington, District of Columbia;

and their successors are hereby created and declared to be a body corporate of the District of Columbia having the name "United States Capitol Historical Society" (hereinafter the corporation"). The said corporation shall have perpetual existence and the powers, limitations, and restrictions herein contained.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

36 USC 1202.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be— 36 USC 1203.

(a) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States of America as the tangible symbol of their representative form of government;

(b) to undertake research into the history of the Congress and the Capitol and to promote the discussion, publication, and dissemination of the results of such studies;

(c) to foster and increase an informed patriotism of the land in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(d) to mutually cooperate with the standing committees of the Congress, the Library of Congress, the Architect of the Capitol, and relevant departments and agencies of the executive branch of the Federal Government in furthering the objectives of the corporation.

POWERS OF THE CORPORATION

36 USC 1204.

SEC. 4. The corporation shall have the power—

(a) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(b) to adopt, alter, and use a corporate seal;

(c) to choose officers, managers, and agents as the business of the corporation may require;

(d) to charge and collect membership dues;

(e) to adopt, amend, apply, and alter a constitution and bylaws not inconsistent with the laws of the United States of America or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(f) to contract and be contracted with;

(g) to take hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real, personal, or mixed, necessary or convenient for attaining the objects of the corporation, subject, however, to applicable provisions of law of any State (1) governing the amount or kind of real and personal property which may be held by, or (2) otherwise limiting or controlling the ownership or real and personal property which may be held by, or (3) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State;

(h) to transfer, lease, or convey real or personal property;

(i) to borrow money for the purposes of the corporation and issue bonds or other evidences of indebtedness therefor and secure the same mortgage or pledge subject to applicable Federal or State laws;

(j) to conduct campaigns for raising of funds and to accept contributions from individuals, corporations, and other bodies, foundations, and organizations;

(k) to print, to create and distribute commemorative medals, edit and publish, make, display, and sell books and magazines, pictures, slides, and cinemas, as may be necessary or desirable for the accomplishment of the purposes of the corporation;

(l) to buy, sell, and generally deal in appropriate and related souvenirs, commemorative medals, curios, momentos, and publications; and

(m) to do any and all acts necessary and proper to carry out the purposes of the corporation.

PRINCIPAL OFFICE; TERRITORIAL SCOPE OF ACTIVITIES; RESIDENT AGENT

36 USC 1205.

SEC. 5. (a) The principal office of the corporation shall be located in Washington, District of Columbia, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various possessions of the United States.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent or mailed to the business address of such agent shall be deemed as service or notice upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide. 36 USC 1206.

ACTIVE BOARD OF TRUSTEES

SEC. 7. (a) The control and management of the affairs and funds of the corporation shall be vested in its active board of trustees which, exclusive of ex officio and honorary members, shall consist of not more than forty active members and not less than twelve active members, one of whom shall be elected chairman. 36 USC 1207.

(b) The term of an active trustee of the board shall be four years in duration and, except by the unanimous vote of the members of the board of trustees present and voting, no active trustee may be reelected as an active trustee until after a lapse of one year from the expiration of his term as active trustee.

(c) The board of trustees shall meet not less than once annually in the Capitol of the United States at Washington, District of Columbia, and at such other times as may be determined by the chairman. No meeting of the board of trustees may be held except pursuant to a time and place stated in the bylaws or upon thirty days written notice in advance of any such meeting.

(d) Trustees of the corporation shall be elected by action of the active board of trustees. Trustees may be removed by the vote of two-thirds of the other active trustees at any time with or without cause.

OFFICERS OF THE CORPORATION

SEC. 8. (a) The officers of the corporation shall be a president, who shall be the chief executive officer, five vice presidents, a treasurer, and a secretary. 36 USC 1208.

(b) During their respective terms of office, the officers of the corporation shall be ex officio members of the board with all the rights and privileges of a trustee including the right to vote. Officers may receive compensation or other remuneration for their services as determined by the board of trustees, and they may be reimbursed for their actual expenses.

(c) Officers of the corporation shall be elected annually by action of the board of trustees and shall continue in office at the pleasure of the board.

(d) The duties of the officers of the corporation shall be such as usually pertain to the offices they hold and also shall include such additional duties as may be delegated by the board of trustees.

(e) The board of trustees may employ an executive secretary and such other paid personnel as may be needed to assist the officers and the board and to accomplish the programs and business of the corporation. The board shall fix the compensation and prescribe the duties of the executive secretary and such other paid personnel who shall serve at the pleasure of the board.

USE OF INCOME: LOANS TO OFFICERS, TRUSTEES, OR EMPLOYEES

36 USC 1209.

SEC. 9. (a) No part of the income or assets of the Corporation shall inure to any of its members, trustees, or officers, as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers or employees of the corporation or reimbursement for actual expenses in amounts approved by the board of trustees of the corporation.

(b) The corporation shall not make loans to its officers, trustees, or employees. Any director who votes for or assents to the making of a loan or advance to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan or an advance shall be jointly and severally liable to the corporation for the amount of such loan or advance until the repayment thereof.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

36 USC 1210.

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

36 USC 1211.

SEC. 11. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS: INSPECTION

36 USC 1212.

SEC. 12. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of trustees, and committees having any authority under the board of trustees, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or the agent or attorney of such member, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

36 USC 1213.

SEC. 13. (a) The provisions of sections 2 and 3 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1102, 1103), shall apply with respect to the corporation.

(b) The corporation shall comply with the provisions of Public Law 91-510, section 451, October 26, 1970.

40 USC 193m-1.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

36 USC 1214.

SEC. 14. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, any remaining assets of the corporation shall be distributed in accordance with the determination of the board of trustees of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEM, SEALS, AND INSIGNIA

SEC. 15. The corporation shall have the sole and exclusive right to the name "United States Capitol Historical Society" and to have and use in carrying out its purpose, distinctive insignia, emblems, seals, descriptive or designating marks, and words or phrases, as may be required in the furtherance of its functions. Nothing in this section shall be construed to interfere or conflict with established or vested rights. 31 USC 1215.

ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING CORPORATION

SEC. 16. The corporation may acquire the assets of the United States Capitol Historical Society, a corporation incorporated under the laws of the District of Columbia. The United States Capitol Historical Society shall retain and maintain its existing status as a corporation incorporated under the laws of the District of Columbia or a State. 31 USC 1216.

ANNUAL REPORT

SEC. 17. The corporation shall, as soon as practicable after the end of each fiscal year, submit a report to each House of the Congress with respect to the activities of the corporation during the preceding fiscal year. Submittal to Congress. 31 USC 1217.

RESERVATION OF RIGHT TO AMEND OR REPEAL ACT

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 31 USC 1218.

Approved October 20, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1638 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 95-494
95th Congress

An Act

Oct. 21, 1978
[H.R. 12264]

To designate certain lands in the State of Wisconsin as wilderness.

Blackjack Springs Wilderness Area and Whisker Lake Wilderness Area, Wisc. Designation. 16 USC 1132 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Wilderness Act (78 Stat. 891), the following lands as generally depicted on maps appropriately referenced, dated March 1978, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, are hereby designated as Wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Nicolet National Forest, Wisconsin, which comprise approximately five thousand eight hundred and eight-six acres are generally depicted on a map entitled "Blackjack Springs Wilderness Area—Proposed"; and

(2) certain lands in the Nicolet National Forest, Wisconsin, which comprise approximately seven thousand three hundred and fifteen acres and are generally depicted on a map entitled "Whisker Lake Wilderness Area—Proposed".

Map and description, filing with congressional committees.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Blackjack Springs Wilderness and Whisker Lake Wilderness with the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

Administration.

SEC. 3. The Blackjack Springs Wilderness and Whisker Lake Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as Wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1323 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 9, considered and passed Senate.

Public Law 95-495
95th Congress

An Act

To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.

Oct. 21, 1978
[H.R. 12250]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Boundary Waters Canoe Area Wilderness, designation; Boundary Waters Canoe Area Mining Protection Area, establishment.

FINDINGS

SECTION 1. The Congress finds that it is necessary and desirable to provide for the protection, enhancement, and preservation of the natural values of the lakes, waterways, and associated forested areas known (before the date of enactment of this Act) as the Boundary Waters Canoe Area, and for the orderly management of public use and enjoyment of that area as wilderness, and of certain contiguous lands and waters, while at the same time protecting the special qualities of the area as a natural forest-lakeland wilderness ecosystem of major esthetic, cultural, scientific, recreational and educational value to the Nation.

PURPOSES

SEC. 2. It is the purpose of this Act to provide for such measures respecting the areas designated by this Act as the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area as will—

(1) provide for the protection and management of the fish and wildlife of the wilderness so as to enhance public enjoyment and appreciation of the unique biotic resources of the region,

(2) protect and enhance the natural values and environmental quality of the lakes, streams, shorelines and associated forest areas of the wilderness,

(3) maintain high water quality in such areas,

(4) minimize to the maximum extent possible, the environmental impacts associated with mineral development affecting such areas,

(5) prevent further road and commercial development and restore natural conditions to existing temporary roads in the wilderness, and

(6) provide for the orderly and equitable transition from motorized recreational uses to nonmotorized recreational uses on those lakes, streams, and portages in the wilderness where such mechanized uses are to be phased out under the provisions of this Act.

BOUNDARY WATERS CANOE AREA WILDERNESS DESIGNATION AND MAP

SEC. 3. The areas generally depicted as wilderness on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, comprising approximately one million and seventy-five thousand five hundred acres, are hereby designated as the Boundary Waters Canoe Area Wilderness (hereinafter referred to as the "wilderness"). Such designation shall supersede the designation of the Boundary Waters Canoe

16 USC 1132 note.

39-194 O—80—pt. 2——24 : QL3

16 USC 1132.

Area under section 3(a) of the Wilderness Act (78 Stat. 890) and such map shall supersede the map on file pursuant to such section. The map of the wilderness shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. The Secretary of Agriculture, hereinafter referred to as "The Secretary," shall, as soon as practicable but in no event later than one year after the date of enactment of this Act, publish a detailed legal description and map showing the boundaries of the wilderness in the Federal Register. Such map and description shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and map may be made.

Publication in Federal Register.

Filing with congressional committees.

ADMINISTRATION

SEC. 4. (a) The Secretary shall administer the wilderness under the provisions of this Act, the Act of January 3, 1975 (88 Stat. 2096; 16 U.S.C. 1132 note), the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131–1136), and in accordance with other laws, rules and regulations generally applicable to areas designated as wilderness.

Repeal. 16 USC 1133.

(b) Paragraph (5) of section 4(d) of the Wilderness Act of 1964 is hereby repealed and paragraphs (6), (7), and (8) of such section 4(d) are hereby redesignated as paragraphs (5), (6), and (7).

Motorboat use.

(c) Effective on January 1, 1979 the use of motorboats is prohibited within the wilderness designated by this Act, and that portion within the wilderness of all lakes which are partly within the wilderness, except for the following:

(1) On the following lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted: Fall, Lake County; Newton, Lake County; Moose, Lake County; Newfound, Lake County; Sucker, Lake County; Snowbank, Lake County; East Bearskin, Cook County; South Farm, Lake County; Trout, Saint Louis County; Basswood, except that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island; Saganaga, Cook County, except for that portion west of American Point; *Provided:* That, on the following lakes, until January 1, 1984, the horsepower limitations described in this paragraph shall not apply to towboats registered with the Secretary: Moose, Lake County: Newfound, Lake County; Sucker, Lake County; Saganaga, Cook County, as limited in this paragraph.

(2) On the following lakes and river, motorboats with motors no greater than ten horsepower shall be permitted: Clearwater, Cook County; North Fowl, Cook County; South Fowl, Cook County; Island River east of Lake Isabella, Lake County; Sea Gull, that portion generally east of Threemile Island, Cook County; Alder, Cook County; Canoe, Cook County.

(3) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than ten horsepower shall be permitted until the dates specified: Basswood River to and including Crooked Lake, Saint Louis and Lake Counties, until January 1, 1984; Carp Lake, the Knife River, and Knife Lake, Lake County, until January 1, 1984; Sea Gull, Cook County, that portion generally west of Threemile Island, until January 1, 1999; Brule,

Cook County, until January 1, 1994, or until the termination of operation of any resort adjacent to Brule Lake in operation as of 1977, whichever occurs first.

(4) On the following lakes, or specified portions of lakes, motorboats with motors of no greater than twenty-five horsepower shall be permitted until January 1, 1984: Birch, Lake County; Basswood, Lake County, that portion generally north of the narrows at the north end of Jackfish Bay and north of a point on the international boundary between Ottawa Island and Washington Island.

(d) The detailed legal description and map to be published pursuant to section 3 of this Act shall contain a description of the various areas where the motorized uses permitted by this section are located. No provision of this section shall be construed to limit mechanical portages or the horsepower of motors used on motorboats in the following areas within the wilderness: Exemptions.

Little Vermilion Lake, Saint Louis County; Loon River, Saint Louis County; Loon Lake, Saint Louis County; that portion of the Lac La Croix, Saint Louis County, south of Snow Bay and east of Wilkins Bay.

(e) For the purposes of this Act, a snowmobile is defined as any motorized vehicle which is designed to operate on snow or ice. The use of snowmobiles in the wilderness designated by this Act is not permitted except that the Secretary may permit snowmobiles, not exceeding forty inches in width, on (1) the overland portages from Crane Lake to Little Vermilion Lake in Canada, and from Sea Gull River along the eastern portion of Saganaga Lake to Canada, and (2) on the following routes until January 1, 1984: Snowmobile use.

Vermilion Lake portage to and including Trout Lake; Moose Lake to and including Saganaga Lake via Ensign, Vera and Knife Lakes, East Bearskin Lake to and including Pine Lake via Alder Lake and Canoe Lake.

In addition to the routes listed above, the Secretary may issue special use permits for the grooming by snowmobiles of specified cross-country ski trails for day use near existing resorts. Trail grooming, special permits.

(f) The Secretary is directed to develop and implement, as soon as practical, entry point quotas for use of motorboats within the wilderness portions of the lakes listed in subsection c, the quota levels to be based on such criteria as the size and configuration of each lake, and the amount of use on that lake: *Provided*, That the quota established for any one year shall not exceed the average actual annual motorboat use of the calendar years 1976, 1977, and 1978 for each lake, and shall take into account the fluctuation in use during different times of the year: *Provided further*, That on each lake homeowners and their guests and resort owners and their guests on that particular lake shall have access to that particular lake and their entry shall not be counted in determining such use. Motorboat use, entry point quotas.

(g) Nothing in this Act shall be deemed to require the termination of the existing operation of motor vehicles to assist in the transport of boats across the portages from Sucker Lake to Basswood Lake, from Fall Lake to Basswood Lake, and from Lake Vermilion to Trout Lake, during the period ending January 1, 1984. Following said date, unless the Secretary determines that there is no feasible nonmotorized means of transporting boats across the portages to reach the lakes previously served by the portages listed above, he shall terminate all such motorized use of each portage listed above. Boat portages, motorized assistance.

Motorized craft, authorizations.

(h) The motorized uses authorized by this section shall be confined to those types of snowmobiles, motorboats and vehicles which have been in regular use in the Boundary Waters Canoe Area prior to the date of enactment of this Act. The Secretary may set forth additional standards and criteria to further define the type of motorized craft which may be permitted.

Additional standards and criteria.

(i) Except for motorboats, snowmobiles, and mechanized portaging, as authorized and defined herein, no other motorized use of the wilderness shall be permitted. Nothing in this Act shall prohibit the use of aircraft, motorboats, snowmobiles, or other mechanized uses in emergencies, or for the administration of the wilderness area by Federal, State, and local governmental officials or their deputies, only where the Secretary finds that such use is essential.

RESORTS

Purchase, notice from owner.

SEC. 5. (a) The owner of a resort in commercial operation during 1975, 1976 or 1977 and located on land riparian to any of the lakes listed below may require purchase of that resort, including land and buildings appurtenant thereto, by written notice to the Secretary prior to September 30, 1985. The value of such resort for purposes of such sale shall be based upon its fair market value as of July 1, 1978, or as of the date of said written notice, whichever is greater, without regard to restrictions imposed by this Act:

Fair market value.

Fall, Lake County, Moose, Lake County, Snowbank, Lake County, Lake One, Lake County, Sawbill, Cook County, Brule, Cook County, East Bearskin, Cook County, Clearwater, Cook County, Saganaga, Cook County, Sea Gull, Cook County, McFarland, Cook County, North Fowl, Cook County, South Fowl, Cook County, Jasper Lake, Lake County, Ojibway, Lake County.

Residence retention.

(b) An owner requiring purchase of a resort under this provision may elect to retain one or more appropriate buildings and lands not exceeding three acres, for personal use as a residence: *Provided*, That the purchase price to the Government for a resort shall be reduced by the fair market value of such buildings and lands, with the same valuation procedures outlined above.

(c) With respect to any privately owned lands and interests in lands riparian to the lakes listed above, and if the Federal Government has been required to purchase a resort on said lake, said lands shall not be sold without first being offered for sale to the Secretary who shall be given a period of one hundred days after the date of each such offer within which to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary, and if such lands are reoffered for sale they shall first be reoffered to the Secretary: *Provided*, That, this right of first refusal shall not apply to a change in ownership of a property within an immediate family.

Appropriation authorization.

(d) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests therein as provided by this section.

TIMBER SALE CONTRACTS

Termination period.

SEC. 6. (a) The Secretary is directed to terminate within a period of one year after the date of passage of this Act, all timber sale contracts in the Boundary Waters Canoe Area Wilderness. There shall be no further logging of the virgin forest areas formerly enjoined from logging by the United States District Court on said contract areas during the termination period.

The purpose of said termination period is only to permit completion of the harvesting of timber within existing areas under contract that are not within the areas described above and permit the taking of ameliorative measures, including land and cover restoration that will, at the earliest feasible date, make the imprint of man's work substantially unnoticeable on the lands included as wilderness in this Act.

Substitution.

(b)(1) In the event that termination of timber sale contracts in subsection (a) reduces the total national forest volume which a purchaser has under contract on the Superior National Forest to less than two years cut based on the average volume of Superior National Forest timber harvested by the purchaser in the last three years, the Secretary may, with the consent of the purchaser, substitute, to the extent practicable, timber on other national forest lands approximately equal in species and volume to the timber sale contract affected. In offering substitute timber, the Secretary shall negotiate the substitution at a price that is mutually equitable considering such factors as species, volume, logging accessibility, and other terms of the agreement.

Compensation.

(2) The United States will pay just compensation for any timber contracts terminated or modified by this Act, consistent with amendment V to the Constitution of the United States. Losses due to costs incurred in directly fulfilling the terms of such contracts shall be paid by the United States. Any action for the recovery from the United States of cost as provided above shall be brought in a court of competent jurisdiction. Any such judgments shall be paid from the claims and judgments fund (31 U.S.C. 724a).

USC prec. title 1.

Recovery.

(c) Within the limits of applicable laws and prudent forest management:

Resource management review and plan. 16 USC 1601.

(1) the Secretary shall, in furtherance of the purposes of subsection (a) of this section and of section 4 of the National Forest Management Act of 1976 (90 Stat. 2949), expedite the intensification of resource management including emphasis on softwood timber production and hardwood utilization on the national forest lands in Minnesota outside the wilderness to offset, to the extent feasible, the reduction in the programmed allowable timber harvest resulting from reclassification of the Boundary Waters Area, and the Secretary shall make a review of progress to date in 1983, and a forecast of planned achievements by 1985 and shall submit, as a part of the 1985 program under the schedule called for in the Resources Planning Act of 1974, a Plan and recommendations for 1985–1990. In administering the Superior National Forest, the Secretary is authorized and directed to engage in artificial and natural regeneration, release, site preparation, and other forms of timber production enhancement.

Administrative provisions.

Grants system, cooperation.

(2) The Secretary, in carrying out the requirements in section (c)(1), is authorized and directed to cooperate with the State of Minnesota and its political subdivisions to develop and implement a system of grants, for the development of renewable resources on State, County and private lands. He may also seek the cooperation of other Federal departments and agencies to assure a coordinated approach to renewable resources development.

Appropriation authorizations.

(d) There is authorized to be appropriated, in addition to such sums as may otherwise be appropriated for the Superior National Forest from existing authorities established by law, the following additional sums for the fiscal years 1980 through 1990 inclusive:

(1) to carry out the purposes of subsection 6(c)(1) an additional $8,000,000 annually; and,

(2) to carry out the purposes of subsection 6(c)(2) an additional $3,000,000 annually: *Provided, however*, That the Federal share of any grant made pursuant to subsection 6(c)(2) shall not exceed 80 percent of the total cost of said grant.

(e) Funds appropriated pursuant to this section shall remain available until expended. Authorizations in excess of funds appropriated in a given fiscal year shall remain available for appropriation in subsequent fiscal years.

(f) In addition to those personnel who would otherwise be available, the Secretary is authorized to appoint and fix the compensation (not to exceed that of grade 15 on the General Schedule for Federal employees) of additional full-time personnel for the Superior National Forest to carry out the purposes of this Act.

5 USC 5332 note.

LAWS APPLICABLE TO CERTAIN LANDS AND WATERS IN THE SUPERIOR NATIONAL FOREST

SEC. 7. (a) The provisions of the Acts listed in paragraph (b) of this section shall continue to apply to lands and waters specified in such Acts notwithstanding the inclusion of any such lands and waters in the wilderness or mining protection area designated under this Act. For lands and waters to which such Acts listed in paragraph (b) apply which are also within the wilderness or mining protection area designated under this Act, any withdrawal, prohibition, or restriction contained in such Acts listed in paragraph (b) shall be in addition to any withdrawal, prohibition, or restriction otherwise applicable to such wilderness or mining protection area under any other law.

(b) The Acts referred to in paragraph (a) are as follows:

(1) The Act of July 10, 1930 (46 Stat. 1020; 16 U.S.C. 577a, 577b), herein referred to as the "Shipstead-Nolan Act".

(2) The Act of June 22, 1948 (62 Stat. 568, as amended, 16 U.S.C. 577c–577b), herein referred to as the "Thye-Blatnik Act".

(c) The provisions of the Shipstead-Nolan Act are hereby extended and made applicable to all lands and waters not otherwise subject to such Act which are within the wilderness designated under this Act.

(d)(1) The authorities contained in the Thye-Blatnik Act are hereby extended and made applicable to all lands and waters not otherwise subject to such Act which are within the wilderness designated under this Act.

(2) In applying the second proviso of section 5 of such Thye-Blatnik Act to the areas to which such Act is extended and made applicable under this subsection, the phrase "fiscal year 1980" shall be substituted for the phrase "the first full fiscal year after the approval of this Act" in such proviso.

16 USC 577g.

Appropriation authorization.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the Thye-Blatnik Act with respect to the lands and waters within the wilderness designated under this Act. Such sums may be used for the payment of court judgments in condemnation actions brought under the terms of the Thye-Blatnik Act without regard to the date such condemnation actions were initially instituted. Funds appropriated from the Land and Water Conservation Fund may be used for the acquisition of any lands and waters, or interests therein within such wilderness.

EXISTING AIRSPACE RESERVATION

SEC. 8. The provisions of Executive Order 10092 as made applicable to the Boundary Waters Canoe Area established by the Wilderness Act of 1964 shall be deemed incorporated into this Act.

3 CFR 1949–1953 Comp., p. 287
16 USC 1131 note.

MINING PROTECTION AREA ESTABLISHMENT

SEC. 9. In order to protect existing natural values and high standards of environmental quality from the adverse impacts associated with mineral development, there is hereby established the Boundary Waters Canoe Area Mining Protection Area (hereinafter in this Act referred to as the "mining protection area"), comprising approximately two hundred and twenty-two thousand acres.

MAP AND BOUNDARIES

SEC. 10. The mining protection area shall comprise the area generally depicted as a mining protection area on the map entitled "Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area" dated September 1978, which shall be on file and available for public inspection in the offices of the Supervisor of the Superior National Forest and of the Chief, United States Forest Service. As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the mining protection area with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such description may be made.

Filing with congressional committees.

MINING AND MINERAL LEASING IN THE WILDERNESS AND MINING PROTECTION AREA

SEC. 11. (a) In addition to any other applicable prohibition or withdrawal from entry or appropriation under any provision of the Wilderness Act or under any other provision of law, no permit, lease, or other authorization may be issued by any agency or authority of the United States for— Prohibitions.

(1) exploration for, or mining of, minerals owned by the United States within the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area; or

(2) exploration for, or mining of minerals within such areas if such activities may affect navigable waters; or

(3) the use of property owned by the United States in relation to any mining of or exploration for minerals in such areas which may materially impair the wilderness qualities of the wilderness area or which may materially impair the natural values and environmental quality of the mining protection area.

The prohibitions contained in this subsection and any withdrawal from entry or appropriation for mining of or exploration for minerals applicable to the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area shall not apply to the extent specifically provided in legislation enacted by the United States after the date of enactment of this Act pursuant to a national emergency declared by the President.

(b)(1) Consistent with the prohibitions and other requirements in subsection (a) of this section, no permit, lease, or other authorization shall be issued unless and until—

(A) the Secretary shall have approved a plan that details how mining will be conducted consistent with this Act and with other Federal, State, and local requirements, and that details how the

area will be restored to its original condition or to a substantially equivalent condition, including the estimated cost thereof;

(B) the applicant has posted a bond for performance payable to the United States in an amount determined by the Secretary to be sufficient to assure completion of the reclamation plan if the work had to be performed by the United States;

(C) the applicant shall have obtained all permits, licenses, certifications, and approvals required by Federal, State, or local law; and (iv) the Secretary has determined that no permanent facility will be constructed nor alteration will occur that could render the area incapable of reverting to its original condition or to a substantially equivalent condition.

(2) The provisions of paragraphs (2) and (3) of section 4(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1133(d)(2) and 16 U.S.C. 1133(d)(3)) shall not apply to the area designated herein as the Boundary Waters Canoe Area Wilderness.

Minerals or mineral rights, acquisition.

(c) The Secretary is authorized to acquire any minerals or mineral rights within the wilderness and mining protection area alleged to be owned by persons other than the Federal or State governments in the following manner:

(1) The Secretary first may seek to acquire these minerals or mineral rights by donation. In seeking a donation, the Secretary shall inform the person alleging the ownership interest of the procedures and limitations to be followed in acquisition by purchase as set forth in paragraph (2) below.

(2) If the person alleging the ownership interest does not donate his minerals or mineral rights to either the Federal or State governments, the Secretary is authorized to acquire the rights by purchase, within the limits of funds appropriated for property acquisition in the Superior National Forest, and in an amount appropriately discounted for the following factors if existent in relation to the particular mineral interest:

(A) The original patenting from the Federal public domain was fraudulent. The patenting of lands in the Boundary Waters Canoe Area Wilderness and Boundary Waters Canoe Area Mining Protection Area is prima facie fraudulent if (1) the Act under which the patent was issued was one of the Acts intended to put settlers on the land, such as, but without limitation, the Cash Purchase Act of 1820 (chapter LI, Act of April 24, 1820, 3 U.S. Stat. 566, 567, as amended); the Preemption Act of 1830 (chapter CCVIII, Act of May 29, 1830, 4 U.S. Stat. 420, 421, as amended); the Homestead Act of 1862 (chapter LXXV, Act of May 20, 1862, 12 U.S. Stat. 392–394, as amended); and the Timber and Stone Act (chapter 150, Act of June 3, 1878, 20 U.S. Stat. 88, 89, as amended, particularly by chapter 375, Act of August 4, 1892, 27 U.S. Stat. 348); and (2) the land was patented after 1875 and before the establishment of the Superior National Forest by proclamation on February 13, 1909. The Secretary also shall consider any other evidence of fraud when determining the value of the minerals such as (1) the transfer by the entryman or patentee of whole or partial interests in the property during the patenting process or soon thereafter, (2) the appearance in the chain of title of persons known to have participated in land speculation as land brokers, entrymen, or in other capacities.

(B) The date of separation of the mineral or mineral rights from the surface interest, if the separation occurred after 1927, the year when the courts have determined that the roadless policy was established by the Secretary for the area.

(C) Any other factor, such as restrictions on mining within the area imposed by State or local government, or by operation of treaty.

(d) In the event any legal action or proceeding is instituted by or against the United States in relation to minerals or mineral rights where the patenting is prima facie fraudulent as described in subsection (c) of this section, the Attorney General of the United States shall assert the public's equitable right to constructive or public trusts, or to recover or offset damages including but not limited to those based on the value of land fraudulently acquired plus interest at 6 per centum per annum.

(e) Notwithstanding any requirement of this section, the Secretary shall have authority to acquire within the wilderness or mining protection area designated by this Act, existing mineral interests by donation, purchase, exchange, or through exercise of the power of eminent domain.

(f) There is authorized to be appropriated to the Secretary such sums as may be required to carry out the purposes of this section, to be available until expended. Appropriation authorization.

SEVERABILITY

SEC. 12. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

EXISTING STRUCTURES

SEC. 13. Nothing in this Act or the Wilderness Act shall be construed to prohibit the maintenance of the Prairie Portage Dam (on the international boundary chain between Birch and Basswood Lakes), and the Secretary is authorized to perform such maintenance work as may be required to keep that dam functional at its present height and width. The Secretary is authorized to maintain other existing water control structures only where such structures are necessary to protect wilderness values or public safety. 16 USC 1131 note.

JURISDICTION OVER FISH AND WILDLIFE

SEC. 14. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the wilderness and the mining protection area.

JURISDICTION OVER WATERS

SEC. 15. The Secretary is authorized to promulgate and enforce regulations that limit or prohibit the use of motorized equipment on or relating to waters located within the wilderness in accordance with the provisions of this Act: *Provided*, That nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to such waters except to the extent that the exercise of such jurisdiction is less stringent than the Secretary's regulations promulgated pursuant to this section: *Provided further*, That any regulations adopted pursuant to this Act shall be complementary to, and not in derogation of regulations issued by the United States Coast Guard. Regulations.

Cooperative agreements.

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection area.

COOPERATION WITH STATE

Administration of mining protection area and adjacent lands.

SEC. 16. (a) The Secretary shall cooperate with the State of Minnesota and any political subdivision thereof in the administration of the mining protection area and in the administration and protection of lands within or adjacent to the mining protection area owned or controlled by the State or any political subdivision thereof. Nothing in this title shall deprive the State of Minnesota or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the wilderness and the mining protection area and impose land use controls and environmental health standards on non-Federal areas within the wilderness and the mining protection area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the wilderness and the mining protection area.

(b) The Secretary is authorized to enter into cooperative agreements with the State of Minnesota with respect to enforcement of Federal and State regulations affecting the wilderness and the mining protection and shall consult with the State of Minnesota in an effort to enhance the multiple-use benefits to be derived from both State and national forest lands.

TREATIES

SEC. 17. Nothing in this Act shall affect the provisions of any treaty now applicable to lands and waters which are included in the mining protection area and the wilderness.

EXPANSION OF RECREATION PROGRAMS

SEC. 18. (a) The Secretary is authorized and directed to expedite and intensify the program of dispersed outdoor recreation development on the Superior National Forest outside the Boundary Waters Canoe Area Wilderness, as designated by this Act. The Secretary shall consider in such new program development the need for the following: additional snowmobile trails, particularly those now planned or under construction; remote campsites on lightly developed lakes; and lake access sites and parking facilities to provide motorized recreation experiences similar to those previously available in the Boundary Waters Canoe Area.

16 USC 1131 note.

(b) The Secretary, consistent with the Wilderness Act of 1964 and with this Act, is authorized to construct a system of new hiking, backpacking and cross-country ski trails within the Boundary Waters Canoe Area Wilderness as designated by this Act, and on appropriate adjacent Federal lands outside the wilderness. In constructing such a trail system, consideration should be given to locating portions of the system near existing resorts on the perimeter of the wilderness to provide additional outdoor recreation opportunities for resort guests.

(c) The Secretary is authorized and directed to develop an educational program for the recreational users of the wilderness which will assist them to understand the purpose, value, and appropriate use of wilderness lands and the functioning of natural ecosystems in wilderness.

Program for disabled persons.

(d) The Secretary in cooperation with the State of Minnesota and other appropriate groups, consistent with the purposes of this Act,

is authorized and directed to develop a program providing opportunities for a wide range of outdoor experiences for disabled persons.

(e) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out the purposes of this section. Appropriation authorization.

SEC. 19. (a) The Secretary, in cooperation with other appropriate executive agencies, is authorized and directed to develop a cooperative program of technical and financial assistance to resorts in commercial operation in 1975, 1976, and 1977, and outfitters in commercial operation in 1977 which are located within the mining protection area or which are located on land adjacent to any of the lakes listed in section 5 of this Act. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection. Technical and financial assistance for certain commercial operations.

(b) There are authorized to be appropriated to the Secretary funds to be made available as grants to the Agricultural Extension Service, University of Minnesota, to provide over a three-year period educational and technical assistance to businesses and communities adjacent to the Boundary Waters Canoe Area Wilderness in order to improve economic opportunities for tourism and recreation-related businesses in a manner which is complementary to the management of the wilderness. Grants.

MANAGEMENT STUDY

SEC. 20. The Secretary, acting through the Chief, United States Forest Service, shall, not later than October 1, 1981, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive management plan setting forth the specific management procedures to implement the objectives of this Act. An interim report setting forth public involvement procedures, management alternatives, and a timetable for the remaining study actions, shall be submitted within one year from the date of enactment of this Act. Submittal to congressional committees. Interim report.

LIMITATION OF AUTHORIZATIONS

SEC. 21. All authorizations for any funds to be appropriated under the terms of this Act shall not be effective until October 1, 1979. Notwithstanding any other provision of this Act, authority to enter into agreements or to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1117, Pt. I (Comm. on Interior and Insular Affairs) and No. 95-1790 (Comm. of Conference).

SENATE REPORTS: No. 95-1274 (Comm. on Energy and Natural Resources) and No. 95-1327 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 5, considered and passed House.

Oct. 9, considered and passed Senate, amended.

Oct. 15, House and Senate agreed to conference report.

Public Law 95-496
95th Congress

An Act

Oct. 21, 1978
[S. 1081]

To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.

Indians.
Osage Tribe, Okla.
Tribal government, elections and appointments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of June 28, 1906 (34 Stat. 539, 545), as amended, is further amended to read as follows: "There shall be a quadrennial election of the officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage Tribal Council shall be elected to succeed the officers elected in the year 1974 at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1978 and on the first Monday in June of each fourth year thereafter, in a manner to be prescribed by the Secretary of the Interior, and said officers shall be elected for a period of four years commencing on the first day of July following the election. In case of a vacancy in the office of principal chief or other officer by death, resignation, or otherwise, the vacancy shall be filled in a manner to be prescribed by the Osage Tribal Council. In the event of a common disaster and a quorum of five of the Osage Tribal Council does not survive, the Secretary shall appoint a principal chief and/or the number of councilmen necessary to complete a total of eight, to serve until the next quadrennial election. The Secretary is hereby authorized to remove from the council any member or members for good cause, to be by him determined. after the party involved has had due notice and opportunity to appear and defend himself. The tribal government so constituted shall continue in full force and effect until January 1, 1984, and thereafter until otherwise provided by Act of Congress.".

SEC. 2. (a) The first paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, extending the mineral estate reserved to the Osage Tribe by the Act of June 26, 1906 (34 Stat. 539), is further amended by striking the phrase "until the eighth day of April 1983, and thereafter until otherwise provided by Act of Congress" and substituting, in lieu thereof, the phrase "in perpetuity".

(b) The second paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, is amended by striking the phrase "unless otherwise provided by Act of Congress" and inserting, in lieu thereof, the phrase "and thereafter until otherwise provided by Congress".

(c) The fourth paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1036) is amended by striking the phrase "January 1, 1984" and inserting, in lieu thereof, the phrase "January 1, 1984 and thereafter until otherwise provided by Congress".

Repeal.
25 USC 331 note.

SEC. 3. (a) The Act of February 5, 1948 (62 Stat. 18) is hereby repealed.

Competency certificate revocation, application.
25 USC 331 note.

(b) Any Osage Indian having received a certificate of competency under paragraph 7 of section 2 of the Act of June 28, 1906 (34 Stat. 539, 542); section 3 of the Act of March 2, 1929 (45 Stat. 1478, 1480); or the Act of February 5, 1948 (62 Stat. 18), may make application to the Secretary of the Interior to revoke such certificate and the Secretary shall revoke such certificate: *Provided*, That revocation of any

certificate shall not affect the legality of any transactions heretofore made by reason of the issuance of any such certificate. Restrictions against alienation of lands heretofore removed are not reimposed.

(c) Sections 3 and 4 of the Act of February 27, 1925 (43 Stat. 1008 1010–11); and section 4 of the Act of March 2, 1929 (45 Stat. 1478, 1480); and sections 1 and 3 of the Act of June 24, 1938 (52 Stat. 1034) are hereby amended by striking, wherever they occur, the phrases "of one-half or more Indian blood", "of more than one-half Indian blood", "of one-half or more Osage Indian blood", and "or who is one-half or more Osage Indian blood".

Oil and gas lease unitization, rules.
25 USC 331 note.

SEC. 4. In order to conserve natural resources and provide for the greatest ultimate recovery of oil and gas underlying the Osage mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leases producing from a common source of supply may be unitized.

Mineral interest and estate, disposition.

SEC. 5. (a) Section 8 of the Act of April 18, 1912 (37 Stat. 86, 88), is hereby amended to read as follows: "Any person of Osage Indian blood, eighteen years of age or older, may dispose of his Osage headright or mineral interest and the remainder of his estate (real, person, and mixed, including trust funds) from which restrictions against alienation have not been removed by will executed in accordance with the laws of the State of Oklahoma: *Provided*, That the will of any Osage Indian shall not be admitted to probate or have any validity unless approved after the death of the testator by the Secretary of the Interior. The Secretary shall conduct a hearing as to the validity of such will at the Osage Indian Agency in Pawhuska, Oklahoma. Notice of such hearing shall be given by publication at least ten days before the hearing in a newspaper of general circulation in Osage County, Oklahoma, and by mailing notice of such hearing to the last known address of all known heirs, legatees, and devisees. The cost of publication shall be borne by the estate. The rules of evidence of the State of Oklahoma shall govern the admissibility of evidence at such hearing. All evidence relative to the validity of the will of an Osage Indian shall be submitted to the Secretary within one hundred and twenty days after the date of the petition for approval of such will is filed with the Secretary, unless for good cause shown the Secretary extends the time: *Provided*, That such time shall not be extended beyond six months from the date of the first hearing. For purposes of determining the validity of any will, the Secretary is hereby granted the same subpena power as is vested in the courts. All costs of obtaining witnesses and evidence before the Secretary shall be borne by the party producing such witnesses or evidence, subject to such costs being taxed to the estate in the event that the District Court of the State of Oklahoma having jurisdiction should determine such costs beneficial to the whole estate. Notwithstanding any appeal from the decision of the Secretary, approval of such will by the Secretary shall entitle it to be admitted to probate without further evidence as to its validity or, upon disapproval thereof, the heirs may immediately petition for letters of administration in the district court. No appeal from the order of the Secretary approving or disapproving any will shall stay the issuance of letters testamentary or of administration: *Provided*, That such letters shall not confer power to sell any restricted assets by virtue of any provision in such will, pay or satisfy legacies, or distribute property of the decedent to the heirs or beneficiaries until the final determination of

Notice and hearing.

Subpenas.

Appeal.

the appeal, but all other action taken by the district court pending said appeal shall be valid and binding. No court except a Federal court shall have jurisdiction to hear a contest of a probate of a will that has been approved by the Secretary. Such appeals shall be on the record made before the Secretary and his decisions shall be binding and shall not be reversed unless the same is against the clear weight of the evidence or erroneous in law.".

Probate.

(b) Section 3 of the Act of April 18, 1912 (37 Stat. 86), is hereby amended to read as follows: "That the property of deceased and of orphan minor, insane, or other incompetent Osage Indians, such incompetency being determined by the laws of the State of Oklahoma which are hereby extended for such purpose to all Osage Indians, shall, in probate matters, be subject to the District Court of Oklahoma having jurisdiction. A copy of all papers filed in the district court shall be served on the Superintendent of the Osage Agency at the time of filing, and said Superintendent is authorized, whenever the protection of the interest of the Osage Indian requires, to appear in the district court. The Superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of executors, administrators, guardians, or other persons having charge of the estate of any minor, incompetent, or deceased Osage Indian. Whenever he shall be of the opinion that the estate is in any manner being dissipated, wasted, or permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the executor, administrator, guardian, or other person in charge of the estate, the Superintendent of the Osage Agency or the Secretary is authorized, and it shall be his duty, to report said matter to the district court, take the necessary steps to have such case fully investigated, and prosecute any remedy, either civil or criminal, as the exigencies of the case may require. The costs and expenses of any civil proceedings shall be a charge upon the estate of the Osage Indian or upon the executor, administrator, guardian, or other person in charge of the estate of the Osage Indian and his surety, as the district court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage Indian shall be subject to the provisions of this section and shall contain therein a reference hereto: *Provided*, That no guardian shall be appointed for a minor whose parents are living unless the estate of said minor is being wasted or misused by such parents: *Provided further*, That no land shall be sold or alienated under the provisions of this section without approval of the Secretary.".

Estate handling, investigation and prosecution.

Limitations.

Inheritance.
25 USC 331 note.

(7) Section 7 of the Act of February 27, 1925 (43 Stat. 1008, 1011), as amended, is hereby further amended to read as follows: "Hereafter none but heirs of Indian blood and children legally adopted by a court of competent jurisdiction and parents, Indian or non-Indian, shall inherit from Osage Indians any right, title, or interest to any restricted land, moneys, or Osage headright or mineral interest.".

25 USC 331 note.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, disposition of any Osage headright or mineral interest shall be subject to the provisions of section 7 of this Act.

Inter vivos trust.
25 USC 331 note.

SEC. 6. (a) With the approval of the Secretary of the Interior, any person of Osage Indian blood, eighteen years of age or older, may establish an inter vivos trust covering his headright or mineral interest except as provided in section 8 hereof; surplus funds; invested surplus

funds: segregated trust funds; and allotted or inherited land, naming the Secretary of the Interior as trustee. An Osage Indian having a certificate of competency may designate a banking or trust institution as trustee. Said trust shall be revocable and shall make provision for the payment of funeral expenses, expenses of last illness, debts, and an allowance to members of the family dependent on the settlor.

(b) Property placed in trust as provided by this section shall be subject to the same restrictions against alienation that presently apply to lands and property of members of the Osage Tribe, and the execution of such instrument shall not in any way affect the tax-exempt status of said property.

Headright or mineral interest, alienation limitations.
25 USC 331 note.

SEC. 7. After passage of this Act, a person not of Osage Indian blood, except a child legally adopted by an Osage Indian in any court of competent jurisdiction and the lineal descendants of such adopted child, subject to the stipulation that such adopted child or his lineal descendants cannot alienate his Osage headright or mineral interest and the devolution thereof is limited to intestacy, will, or inter vivos trust the same as if he were of Osage Indian blood, is prohibited from receiving more than a life estate in an Osage headright interest owned by an Osage Indian, such adopted child or his lineal descendants, whether such interest is received by will, inter vivos trust, or Oklahoma law of intestate succession. Upon the death of such recipient, the Osage headright or mineral interest shall vest in the remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendents of such adopted children designated by the will or inter vivos trust of the deceased Osage Indian, his adopted child, or the lineal descendants of such adopted child. If such instrument does not designate remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children, or if the deceased died intestate, the Osage headright or mineral interest shall vest in his heirs pursuant to the Oklahoma law of intestate succession, subject to the above limitations. On the death of the non-Osage beneficiary or heir, except in the case of adopted children or lineal descendants of such adopted children, such Osage headright or mineral interest shall vest in the Osage Tribe and the Tribe shall pay the estate of the non-Osage beneficiary or heir the market value of such Osage headright or mineral interest. Payments under this section shall be made from Osage tribal mineral funds authorized to be expended by section 8(b) hereof.

25 USC 331 note.

SEC. 8. (a) Any individual right to share in the Osage mineral estate (commonly referred to as "headright") owned by a person not of Indian blood may not, without the approval of the Secretary of the Interior, be sold, assigned, or transferred. Sale of any such interest shall be subject to the right of the Osage Tribe to purchase it within forty-five days at the highest legitimate price offered the owner thereof.

(b) Prior to the time and tribal mineral income is segregated for distribution to individual headright owners, the Secretary of the Interior, at the request of the Osage Tribal Council, may direct the use of any such income for the purchase of Osage headright interests offered for sale to the Osage Tribe pursuant to this section or vested in the Osage Tribe pursuant to section 7 of this Act.

Determination.
25 USC 331 note.

SEC. 9. Under such regulations as the Secretary of the Interior may prescribe, the heirs and legatees of any deceased owner of an Osage headright or mineral interest, real estate on which restrictions against alienation have not been removed, and funds on deposit at the Osage Agency may be determined by the Secretary if such aggregate interests do not exceed $10,000: *Provided*, That no court of competent jurisdiction has undertaken the probate of the deceased's estate and a request for such administrative determination has been made to the Secretary by one or more of the heirs or legatees.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1459, accompanying H.R. 11894 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1157 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 8, considered and passed Senate.
Oct. 3, H.R. 11894 considered and passed House; passage vacated, and S. 1081, amended, passed in lieu.
Oct. 7, Senate concurred in House amendments.

Public Law 95-497
95th Congress

An Act

Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.

Oct. 21, 1978
[H.R. 12051]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxes.
New York public employees.
Retirement systems.
26 USC 41.
26 USC 503.

SECTION 1. QUALIFIED STATUS OF PARTICIPATING PENSION PLANS.

(a) GENERAL RULE.—A participating pension plan shall not be considered to fail to satisfy the requirements of section 401(a) of the Internal Revenue Code of 1954, and shall not be considered to have engaged in a prohibited transaction described in section 503(b) of such Code, merely because—

(1) during the period beginning on July 1, 1978, and ending on June 30, 1982, the plan acquires city indebtedness which meets the applicable requirements of section 2, or

(2) the plan continues to hold any city indebtedness acquired—

(A) pursuant to this Act or Public Law 94-236, or 90 Stat. 238.

(B) before November 26, 1975.

(b) ACQUISITION OF INDEBTEDNESS PURSUANT TO AGREEMENT.—The acquisition of city indebtedness by a participating pension plan under an agreement for the acquisition of city indebtedness meets the applicable requirements of section 2 if—

(1) the agreement is not disapproved by the Secretary under subsection (c), and

(2) the plan certifies to the Secretary (and furnishes to the Secretary and to the appropriate committees of the Congress such supporting information and documentation as the Secretary shall require) that the acquisition—

(A) is made under the agreement, and

(B) meets the applicable requirements of section 2 (determined without regard to the provisions of subsections (b), (c), and (f) of section 2).

(c) SIXTY-DAY PERIOD FOR DISAPPROVAL.—

(1) IN GENERAL.—Before entering into an agreement described in subsection (b), and before acquiring any city indebtedness not covered by such an agreement, the participating pension plan shall notify the Secretary of the proposed agreement or acquisition. If the Secretary determines (not later than 60 days after the date of such submission or such shorter period as the Secretary may establish) that such agreement or acquisition does not meet any requirement of section 2, the Secretary shall disapprove such agreement or acquisition (as the case may be). For purposes of this subsection, an amendment, or a waiver of any provision, of such an agreement shall be treated as a new agreement.

(2) NOTIFICATION.—The Secretary shall, not later than the 10th day after the close of the period applicable under paragraph (1), notify the appropriate committees of the Congress of the determinations he has made with respect to the submission and the reasons on which such determinations were based.

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SEC. 2. REQUIREMENTS.

(a) LIMITATIONS ON AMOUNT OF DEBT TO BE ACQUIRED.—

(1) PERCENTAGE LIMITATIONS.—An acquisition of city indebtedness by a participating pension plan does not meet the requirements of this section if—

(A) AGGREGATE LIMIT ON ACQUISITIONS BY CITY PLANS.—In the case of a city plan, the plan acquires any city indebtedness after June 30, 1979, and before the city plans meet the percentage limitation on holdings of city indebtedness applicable under this subparagraph for the 12-month period ending on the most recently preceding June 30. The percentage limitation on holdings of city indebtedness under this subparagraph is not met if the value of city indebtedness held by all city plans exceeds a percentage of the aggregate assets of all city plans equal to—

(i) 40 percent for the 12-month period ending on June 30, 1979,

(ii) 36 percent for the 12-month period ending on June 30, 1980,

(iii) 33 percent for the 12-month period ending on June 30, 1981, and

(iv) 30 percent for the 12-month period ending on June 30, 1982.

(B) LIMIT ON ACQUISITIONS BY EACH CITY PLAN.—In the case of a city plan, the plan acquires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 50 percent of the assets of such plan at the time of the acquisition.

(C) LIMIT ON ACQUISITIONS BY STATE PLAN.—In the case of a State plan, the plan acquires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 10 percent of the assets of such plan at the time of the acquisition.

(D) DETERMINATIONS OF WHETHER THE PERCENTAGE LIMITATIONS HAVE BEEN MET.—

(i) AGGREGATE LIMIT.—For the purpose of determining whether the percentage limitation on holdings of city indebtedness under subparagraph (A) has been met for any 12-month period described in that subparagraph, the plan shall use the arithmetic mean (expressed as a percentage) of 4 fractions, the numerators of which are the value of city indebtedness held by all city plans as of the close of each calendar quarter within the 12-month period for which the determination is being made and the denominators of which are the value of the assets of all city plans as of the close of each such calendar quarter. If the percentage limitation under subparagraph (A) is not met for a 12-month period on the basis of the 4 fractions for the 4 calendar quarters within that 12-month period, the plan shall make a redetermination for that 12-month period as of the close of the first calendar quarter, if necessary, the second calendar quarter and, if necessary, the third calendar quarter following the 12-month period using the 4 fractions for the 12-month

period and the fraction or fractions for the additional quarter or quarters. If the value of city indebtedness or plan assets is not available for any quarter at the time the determination of the fraction for that quarter is being made, the plan shall use a value derived from interpolations from the most recently available semi-annual valuations.

(ii) PLAN LIMIT.—In making a determination of whether or not an acquisition of city indebtedness meets the requirements of subparagraph (B) or (C), the plan shall make determinations based on the most current data available as to the holdings of city indebtedness and on the basis of the most recently available semiannual valuation of assets of the plan.

(2) METHOD OF VALUATION.—For purposes of this subsection—

(A) city indebtedness is to be valued by the plan at its face value, and

(B) all other assets are to be valued by the plan under methods determined by the Secretary to be consistent with the methods of valuing assets for purposes of section 412 of the Internal Revenue Code of 1954. 26 USC 412.

(b) STANDARDS.—

(1) OVERALL STANDARD.—The overall standard used by the Secretary under this Act in determining whether or not to disapprove an agreement for the acquisition of city indebtedness under section 1(c) shall be the extent to which the acquisition of city indebtedness under the agreement will, in the case of a city plan—

(A) maintain the ability of the city—

(i) to make future contributions to the plan or trust, and

(ii) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such plan or trust, and

(B) protect the sources of funds to provide retirement benefits for members and beneficiaries of the plan or trust.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In determining whether or not to disapprove such an agreement the Secretary shall take into account (among other factors) the terms of the obligations which are to be acquired under the agreement.

(3) FISCAL PARTICIPATION BY PRIVATE SOURCES OR PUBLIC CREDIT MARKETS.—The Secretary shall disapprove any such agreement unless he has received assurances to his satisfaction that there will be significant participation in the acquisition of city indebtedness by the State, an agency of the State, or private sources, or through public credit markets.

(c) REQUIREMENTS WITH RESPECT TO FISCAL CONDITION OF THE CITY.—

(1) SUBSTANTIAL PROGRESS TOWARD A BALANCED BUDGET BY 1982.—An acquisition of city indebtedness by a participating pension plan during any fiscal year beginning after June 30, 1979, does not meet the requirements of this section unless the Secretary has

determined for such fiscal year that the city is making substantial progress toward operating under expense budgets which do not show a deficit.

(2) PRINCIPLES TO BE APPLIED UNDER PARAGRAPH (1).—The Secretary shall make the determination required under paragraph (1) on the basis of—

(A) whether or not the requirements of paragraph (5) of section 103 of the New York City Loan Guarantee Act of 1978 (as such Act is in effect on the date of enactment of this Act) are being met, and

Ante, p. 461.

(B) the annual audited financial statements of the city prepared in accordance with generally accepted accounting principles (including principles applicable to municipal governments which provide for a clear division between operating outlays and revenues on the one hand and capital expenditures and revenues on the other hand) and in accordance with generally accepted auditing standards.

(d) PLANS HAVING NEGATIVE CASH FLOW.—

(1) IN GENERAL.—An acquisition of any city indebtedness by a city plan does not meet the requirements of this section if the plan would have a negative cash flow for the fiscal year of acquisition.

(2) SPECIAL RULES.—For purposes of paragraph (1)—

(A) cash flow shall be determined by the plan for each fiscal year, and also whenever the plan enters into an agreement which must be submitted to the Secretary under section 1(c) (including any amendment of, or waiver under, such an agreement),

(B) cash flow shall be determined in the same manner as provided in paragraph (3) of subsection (e), and

(C) the effect of completed and proposed acquisitions during the plan year on the cash flow shall be taken into account.

(e) REPORTS.—

(1) ANNUAL REPORT BY PLANS ON RECEIPTS, DISBURSEMENTS, HOLDINGS, AND CASH FLOW.—

(A) ANNUAL REPORT.—An acquisition of any city indebtedness by any participating city pension plan does not meet the requirements of this section unless, for each preceding plan year beginning after June 30, 1978, and ending more than 8 months and 15 days before the date of the acquisition, the plan has submitted an annual report which meets the requirements of paragraph (2) to the Secretary and to the appropriate committees of the Congress.

(B) PROJECTED CASH FLOW.—An acquisition of city indebtedness by any participating city pension plan for any plan year does not meet the requirements of this section unless the plan has submitted to the Secretary and to the appropriate committees of the Congress a statement showing the projected cash flow for the plan year.

(2) ANNUAL REPORT BY INDEPENDENT PUBLIC ACCOUNTANT.—An annual report does not meet the requirements of this paragraph unless it—

(A) includes an analysis of compliance by the plan throughout the fiscal year with the requirements of subparagraphs (A) and (B) of subsection (a)(1),

(B) is prepared in accordance with generally accepted accounting principles, and

(C) meets the requirements of paragraph (3) of section 103(a) of the Employee Retirement Income Security Act of 1974, as in effect on the date of enactment of this Act (without regard to the last 4 sentences of subparagraph (A) of that paragraph). 29 USC 1023.

(3) RULES FOR DETERMINING CASH FLOW.—For purposes of paragraph (1)(B), the cash flow—

(A) shall take into account contributions and other income (such as dividends and interest) on the one hand and the payment of benefits and expenses on the other hand, and

(B) shall not take into account items properly chargeable to capital account (such as the proceeds from the sale or redemption of assets), other than—

(i) payment of principal during the period a debt is outstanding,

(ii) payment of principal at maturity or redemption, and

(iii) proceeds from the sale of obligations having a maturity of one year or less at the time of sale.

(f) CITY MUST COMPLY WITH REQUIREMENTS OF SECTION 103(7) OF NEW YORK CITY LOAN GUARANTEE ACT OF 1978.—An acquisition of city indebtedness by a city pension plan for any plan year does not meet the requirements of this section unless, at the time of the acquisition, the Secretary has determined that the requirements of paragraph (7) of section 103 of the New York City Loan Guarantee Act of 1978, as in effect on the date of enactment of this Act, have been met. *Ante*, p. 461.

SEC. 3. NOTIFICATION OF PLANS AND CITY OF ACQUISITIONS WHICH FAIL TO MEET REQUIREMENTS OF THE ACT; REGULATIONS.

(a) NOTIFICATION OF PLANS AND CITY.—

(1) NOTICE OF FAILURE TO MEET REQUIREMENTS.—Whenever the Secretary determines that an acquisition of city indebtedness has not met one of the requirements of section 2, he shall notify the participating plan or plans involved.

(2) NOTICE OF POSSIBLE PROSPECTIVE FAILURE.—The Secretary shall notify each participating pension plan and the city whenever he finds, based on information available to the Secretary, that a future acquisition of city indebtedness will fail to meet the requirements of section 2 because of the requirement of subsection (a)(1)(A) or (c) of that section, and he shall notify the participating pension plan concerned and the city whenever it appears that a future acquisition of city indebtedness by that plan will fail to meet the requirements of section 2 for any other reason.

(b) REGULATIONS.—The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act. Regulations.

SEC. 4. DEFINITIONS AND SPECIAL RULES.

For purposes of this Act—

(1) PARTICIPATING PENSION PLAN.—The term "participating pension plan" means any city plan or State plan.

(2) CITY PLAN.—The term "city plan" means any of the following:

(A) the New York City employees' retirement system,

(B) the teachers' retirement system for the city of New York,

(C) the New York City Police Pension Fund, article 2,

(D) the New York City Fire Department Pension Fund, article 1-B, and

(E) the board of education retirement system for the city of New York.

(3) STATE PLAN.—The term "State plan" means any of the following:

(A) the New York State employees' retirement system,

(B) the New York State policemen's and firemen's retirement system, and

(C) the New York State teachers' retirement system.

(4) APPROPRIATE COMMITTEES OF THE CONGRESS.—The term "appropriate committees of the Congress" means the Committee on Ways and Means of the House of Representatives and the Finance Committee of the Senate.

(5) REFERENCES TO PLAN INCLUDE REFERENCES TO TRUST.—A reference to a plan includes a reference to any trust forming a part thereof.

(6) CITY INDEBTEDNESS.—The term "city indebtedness" means any city obligation or any State financing agency obligation.

(7) CITY OBLIGATION.—The term "city obligation" means any indebtedness for money borrowed by the city.

(8) STATE FINANCING AGENCY OBLIGATION.—The term "State financing agency obligation" means any indebtedness for money borrowed by the State financing agency.

(9) STATE FINANCING AGENCY.—The term "State financing agency" means any agency or instrumentality of the State of New York duly authorized by such State to act on behalf of or in the interest of the city, and no other subdivision of the State, with respect to the city's financial affairs.

(10) CITY.—The term "city" means the city of New York.

(11) FISCAL YEAR.—The term "fiscal year" means a 1-year period beginning on July 1 or, where the Secretary determines it to be appropriate, the plan year of a participating pension plan.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Treasury. Except as provided in section 3, no function, power, or duty of the Secretary under section 1, section 2, or this section may be delegated.

(13) ACQUISITION.—The term "acquisition" includes—

(A) a purchase or an exchange (whether pursuant to a rollover or otherwise), and

(B) to the extent provided in regulations prescribed by the Secretary, any modification in the terms of an obligation or in the rights of the holder of an obligation.

SEC. 5. RELATIONSHIP OF THIS ACT TO PUBLIC LAW 94-236.

Effective on the date of the enactment of this Act, the waiver of the requirements of sections 401(a) and 503(b) of the Internal Revenue Code of 1954 contained in subsection (a) of the first section of Public Law 94-236 shall not apply to acquisitions of city indebtedness on or after such date. Effective date. 26 USC 401. 26 USC 503. 90 Stat. 238.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1605 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 95-498
95th Congress

An Act

Oct. 21, 1978
[S. 2588]

To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands.

Indians.
Pueblo of Santa Ana, N. Mex.
Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half north half,
South half,
Section 3:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 4:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 5: All of that portion lying east of the west boundary of the right-of-way of New Mexico Highway 44,
Section 9:
East half west half,
East half,
Section 10: All,
Section 11: All,
Section 12: All,
Section 13: All,
Section 14: All,
Section 15: North half northwest quarter, southeast quarter northwest quarter, northeast quarter southwest quarter northwest quarter, north half northwest quarter southwest quarter northwest quarter, southeast quarter northwest quarter southwest quarter northwest quarter, north half northwest quarter southeast quarter southwest quarter northwest quarter, northeast quarter southeast quarter southwest quarter northwest quarter, northeast quarter, north half northeast quarter northwest quarter northeast quarter southwest quarter, north half northeast quarter northeast quarter southwest quarter, north half southwest quarter northeast quarter northeast quarter southwest quarter, southeast quarter northeast quarter northeast quarter southwest quarter, northeast quarter southeast quarter, north half northwest quarter southeast quarter, southeast quarter northwest quarter southeast quarter, northeast quarter southwest quarter northwest quarter southeast quarter, north half northwest quarter southwest quarter northwest quarter southeast quarter, north half southeast quarter

southwest quarter northwest quarter southeast quarter, northeast quarter northeast quarter southwest quarter southeast quarter, northeast quarter southeast quarter southeast quarter, north half northwest quarter southeast quarter southeast quarter, southeast quarter northwest quarter southeast quarter southeast quarter, north half southwest quarter northwest quarter southeast quarter southeast quarter, north half northeast quarter southwest quarter southeast quarter southeast quarter, north half southeast quarter southeast quarter southeast quarter, north half southeast quarter southeast quarter southeast quarter southeast quarter; excluding existing rights-of-way,

Section 23: Northeast quarter northwest quarter northwest quarter, northeast quarter northwest quarter northwest quarter northwest quarter, north half northwest quarter northwest quarter northwest quarter northwest quarter, north half northeast quarter southeast quarter northwest quarter northwest quarter, north half northeast quarter northwest quarter, southeast quarter northeast quarter northwest quarter, north half southwest quarter northeast quarter northwest quarter, southeast quarter southwest quarter northeast quarter northwest quarter, northeast quarter northeast quarter southeast quarter northwest quarter, north half northwest quarter northeast quarter southeast quarter northwest quarter, north half northeast quarter, southeast quarter northeast quarter, north half southwest quarter northeast quarter, north half southeast quarter southwest quarter northeast quarter, southeast quarter southeast quarter southwest quarter northeast quarter, north half southwest quarter southeast quarter southwest quarter northeast quarter, north half northeast quarter southwest quarter southwest quarter northeast quarter, northeast quarter northeast quarter southeast quarter, northeast quarter northwest quarter, northeast quarter southeast quarter, north half northwest quarter northwest quarter northeast quarter southeast quarter, north half southeast quarter northwest quarter northeast quarter southeast quarter, north half northeast quarter southeast quarter northeast quarter southeast quarter; excluding Rec. PP CL 10/10/62 and existing rights-of-way,

Section 24: North half, southeast quarter, northeast quarter southwest quarter, north half northwest quarter southwest quarter, southeast quarter northwest quarter southwest quarter, north half southwest quarter northwest quarter southwest quarter, southeast quarter southwest quarter northwest quarter southwest quarter, north half southwest quarter southwest quarter northwest quarter southwest quarter, north half northeast quarter southwest quarter southwest quarter, north half southeast quarter northeast quarter southwest quarter southwest quarter, north half southeast quarter southwest quarter, southeast quarter southeast quarter southwest quarter, northeast quarter southwest quarter southeast quarter southwest quarter; excluding existing rights-of-way,

Section 25: North half northeast quarter northeast quarter northeast quarter northwest quarter, northeast quarter northeast quarter, northeast quarter northwest quarter northeast quarter, north half northwest quarter northwest quarter northeast quarter, northeast quarter northwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northwest quarter northeast quarter, north half northeast quarter southwest quarter northwest quarter northeast quarter, north half southeast quarter northwest quarter northeast quarter, southeast quarter southeast quarter northwest quarter northeast quarter,

Township 13 North, Range 4 East

Section 3:
Lots 4, 5, 6,
West half northeast quarter,
Northwest quarter,
Section 4: All; including bed of Jemez River,
Section 5:
Lots 1, 2, 3, 4, 5,
Northwest quarter northwest quarter,
South half northwest quarter,
South half,
and bed of Jemez River,
Section 6:
Lots 1, 2, 3, 4,
East half west half,
East half,
and bed of Jemez River,
Section 7: All,
Section 8:
Lots 3, 4, 5,
North half,
Southwest quarter,
Northwest quarter southeast quarter,
Section 9:
Lots 5, 6, 7, 8 and bed of Jemez River lying north of the North boundary of the Angostura Grant,
Section 17:
Lots 10, 11, 12, 13,
Northwest quarter,
Section 18:
Lots 2, 3,
East half northwest quarter,
Northeast quarter,

Township 14 North, Range 3 East

Section 6: Bed of the Jemez River,

Township 14 North, Range 4 East

Section 17: All,
Section 18: East half east half,
Section 19: East half east half,
Section 20: All,
Section 21: West half,
Section 27: Southwest quarter southwest quarter,
Section 28:
Northwest quarter,
South half,
Section 29: All,
Section 30: East half east half,
Section 31:
East half northeast quarter,
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,

South half,
and bed of Jemez River,
Section 33: All,
Section 34:
South half northeast quarter,
Northwest quarter,
South half,
Section 35:
Lot 9,
West half southwest quarter,
containing 16,249.98 acres more or less.

(b)(1) The lands described in paragraph (2) of this subsection consisting of approximately 2240.14 acres shall continue to be subject to Public Land Order 873, entitled "An Order Withdrawing Public Lands for Use of the Department of the Army in Connection with the Jemez Canyon Dam and Reservoir Project", issued by the Secretary of the Interior on November 14, 1952, until such lands, or any portion thereof, are determined by the Secretary of the Army to be no longer needed for the purpose for which the lands were reserved under such order. The Secretary of the Army shall publish notice of any such determination in the Federal Register.

Publication in Federal Register.

(2) The lands described in subsection (a) of this section which are subject to Public Land Order 873 are the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half northeast quarter,
Southeast quarter northwest quarter,
Northeast quarter southwest quarter,
Section 5:
Lots 1, 2, 3, 4,
Northwest quarter northwest quarter,
South half northwest quarter,
Southwest quarter,
West half southeast quarter,
Lot 5, that part lying north of the east-west quarter section line,
Section 6:
Lots 1, 2, 3,
Northeast quarter,
East half northwest quarter,
Northeast quarter southwest quarter,
North half southeast quarter,
Southeast quarter southeast quarter,
Section 8:
Lots 3, 4, 5,
West half northeast quarter,
Northwest quarter,
North half southwest quarter,
Northwest quarter southeast quarter,
Section 17:
Lots 10 and 11,
Lot 12, that part lying east of the north-south quarter section line,

Township 14 North, Range 4 East

Section 31:

Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half.

Publication in Federal Register.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Santa Ana, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Those persons holding grazing permits from the United States Bureau of Land Management in the grazing unit known as the Bernalillo Community Allotment (Number 551), Sandoval County, New Mexico, as of the date of enactment of this Act are hereby granted the right to continue those grazing rights, subject to all otherwise applicable terms, conditions, rules, and regulations of the Bureau of Land Management governing such grazing rights, for a period of not to exceed ten years. Such grazing rights shall be administered by the Bureau of Land Management in accordance with applicable rules and regulations governing such rights on the Federal public domain, and may be canceled by the Bureau of Land Management in accordance with its regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Grazing fees shall be payable by the permittees to the Bureau of Land Management at prevailing rates, which fees shall be remitted by said Bureau to the Pueblo of Santa Ana within 30 days of receipt. Such grazing rights shall be nontransferable, except that they may be relinquished at any time to the Pueblo of Santa Ana. In the event of cancellation or relinquishment of said grazing rights as provided above, such rights shall not be renewed, nor shall any new permits be issued: *Provided, however*, That no grazing fees shall be payable by the said existing permittees for the first five years following enactment of this Act.

(c) Subject to subsections (a) and (b) of this section, any property held in trust under this Act for the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. (a) Any and all gross receipts derived from, or which relate to, the property declared to be held in trust by this Act which were

received by the United States subsequent to the acquisition by the United States of such property and prior to the date of the enactment of this Act (including State school lands referred to in section 7), from whatever source and for whatever purpose, shall, as of the date of enactment of this Act, be deposited to the credit of the Pueblo of Santa Ana and may be expended by such tribe for such beneficial programs as the tribal governing body may determine.

(b) All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease referred to in section 4(a) of this Act, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Santa Ana pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program. 42 USC 1305.

SEC. 7. (a) For the purpose of improving the land tenure pattern and consolidating Santa Ana Pueblo lands, the Secretary of the Interior is authorized and directed to acquire, by purchase or exchange, under such regulations as he may prescribe, all State school lands in township 13 north, range 3 east, sections 2 and 16; township 14 north, range 3 east, section 36; and township 14 north, range 4 east, section 32, State of New Mexico, containing 2004.05 acres, more or less; and interests therein, including improvements, mineral rights, and water rights. In exercising his authority to acquire such lands by exchange, the Secretary is authorized to utilize unappropriated public lands in the State of New Mexico. The properties so exchanged shall be of approximately equal value, and the Secretary may accept cash from or pay cash to the State of New Mexico in such an exchange in order to equalize the values of the properties exchanged.

(b) The Secretary may execute any title documents necessary to effect the exchanges authorized by this section. Title documents.

(c) Title to all lands acquired under the provisions of this section shall be taken in the name of the United States in trust for Santa Ana Pueblo.

SEC. 8. (a) Notwithstanding any other provision of this Act, during the 3 years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys, or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Santiyaku 'Kə Kura (Santiago's Corral);
(2) Santiyaku Ka' mə (Santiago's Home);
(3) Santiyaku 'Kaisru (Santiago's Field);
(4) 'Tsitsi Sruwii (Water Snake Head);

(5) Tuyuuna (Snake Head Shrine-Canjilon Hill);
(6) Shayeka Kauwatsesruma (Hunter Shrine);
(7) 'Kuyau 'Kapesru (Old Lady Sits Shrine);
(8) Huchaniitse (White House Shrine);
(9) Dyadyu Tsinautani (Bobcat Point);
(10) 'Kasreri 'Kumiyeisruma (Clown Point);
(11) Chapiyu 'Ka 'kuyanisru (Chapiyu's Trail);
(12) Shawiti 'tsuyu (Parrot Point);
(13) Hanə 'Kai (Sacred Clown Society Shrine);
(14) Yusrkuma (Corn Cob Shrine);

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use, and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1219, accompanying H.R. 3924 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1132 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 6, considered and passed Senate.
Oct. 3, 4, H.R. 3924 considered and passed House; passage vacated, and S. 2588, amended, passed in lieu.
Oct. 7, Senate concurred in House amendment.

Public Law 95-499
95th Congress

An Act

To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands.

Oct. 21, 1978
[S. 2358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia:

Indians.
Pueblo of Zia, N. Mex.
Lands in trust.

NEW MEXICO PRINCIPAL MERIDIAN

Township 14 North, Range 1 East

Section 3:
Lots 2, 3, 4,
Southwest quarter northeast quarter,
West half southeast quarter,
Southwest quarter,
Southeast quarter southeast quarter,
South half northwest quarter,

Township 15 North, Range 1 East

Section 10: Lot 4,
Section 11: South half south half,
Section 13:
Southeast quarter,
West half,
Section 14: All,
Section 15:
Lots 1, 2, 3, 4,
Southwest quarter,
West half southeast quarter,
Section 22: All,
Section 23:
West half northeast quarter,
Northeast quarter northeast quarter.
Southeast quarter,
West half,
Section 24: North half north half,
Section 26: North half northwest quarter,
Section 27: All,
Section 34:
Southwest quarter,
Northwest quarter,
Northeast quarter,
Containing 4,848.13 acres, more or less.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

Publication in Federal Register.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared

to be held in trust for the Pueblo of Zia, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provision of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a) of this section, the property declared to be held in trust by this Act for the benefit and use of the Pueblo of Zia shall hereafter be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease which relates to the property declared to be in trust by this Act received subsequent to the enactment of this Act shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Zia pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Title documents.

SEC. 7. (a) The Secretary may execute any title documents necessary to effect conveyances authorized by this Act.

(b) Title to all lands acquired under the provisions of this Act shall be taken in the name of the United States in trust for the Pueblo of Zia.

Roadway right-of-way.

SEC. 8. The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns:

(1) Access road through Zia Allotment: A road right-of-way 50 feet wide over that portion in southeast quarter section 13, north half section 24, southeast quarter section 23, north half section 26, and north half section 27, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at intersection of State Road 44, thence southwesterly 1,600 feet to a point of curve, thence westerly 2,100 feet to a point of curve, thence southerly 1,100 feet to a point of curve, thence southwesterly 2,400 feet to a point of curve, thence southerly 2,640 feet of a point of curve, thence southerly 8,500 feet to a point of curve near the west section line of section 27, road being 3.5 miles long (approx.). Distances to a curve are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, Sky Village N.E. Quadrangle, and San Ysidro Quadrangle.

The description was compiled from U.S.G.S. Quadrangle maps dated November 1960, and this is only a paper survey.

(2) Gypsum Mine Access Road: A road right-of-way 50 feet wide, over that portion in southeast quarter of section 13, northeast quarter section 24. west half section 13, and northeast quarter section 14, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at the intersection of Gypsum mine access road and access road through lands known as Zia Allotment being 500 feet southwesterly from State Road 44, thence northwesterly 6,500 feet near the east line of section 14. Distances to the termination of road are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, San Ysidro Quadrangle.

This description was compiled from U.S.G.S. Quadrangle map dated November 1960, and this is only a paper survey.

Paleontological resources, access, notice and consultation.

SEC. 9. (a) Notwithstanding any other provision of this Act, during the 3 years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys, or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Tiam (Eagle Peak, Eagle Rock, Eagle Point);
(2) Hu-nah-'kah-'kah-Warish (Cherry Spring);
(3) Pah-Pah (Grandma);
(4) Ku-Mah-Yah-Wish (Mudhead);
(5) Punaya;
(6) Grash-Yeh-Tey-Sham (White Points).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefits, use, and study of the resources, consistent with tribal law and practices.

39-194 O—80—pt 2——26 : QL3

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1220, accompanying H.R. 10240 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1131 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 6, considered and passed Senate.
Oct. 3, H.R. 10240 considered and passed House; passage vacated, and S. 2358, amended, passed in lieu.
Oct. 7, Senate concurred in House amendments.

Public Law 95-500
95th Congress

An Act

To make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes.

Oct. 21, 1978
[H.R. 8755]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart J of part 4 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended— Machine parts, duty suspension,

(1) by striking out "pulleys, pillow blocks, and shaft couplings;" in the superior heading to items 680.45 through 680.54 and inserting in lieu thereof "pulleys and shaft couplings; pillow blocks; flange, take-up cartridge, and hanger units;";

(2) by redesignating items 680.52 and 680.54 as items 680.55 and 680.56, respectively; and

(3) by striking out item 680.50 and inserting in lieu thereof the following new items:

"	680.50	Pulleys and shaft couplings, and parts thereof	9.5% ad val.	45% ad val.
		Pillow blocks and parts thereof:		
	680.51	Ball or roller bearing type	9.5% ad val.	45%ad val.
	680.52	Other types	9.5% ad val.	45% ad val.
		Flange, take-up, cartridge, and hanger units, and parts thereof:		
	680.53	Ball or roller bearing type	9.5% ad val.	45% ad val.
	680.54	Other types	9.5% ad val.	45% ad val. ".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act. Effective date. 19 USC 1202 note.

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item: 19 USC 1202 app.

"	912.06	Yankee Dryer Cylinders (provided for in item 668.06, part 4D, schedule 6)	Free	No change	On or before 12/31/81 ".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act. Effective date. 19 USC 1202 app. note.

SEC. 3. (a) Subpart A of part 6 of Schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 740.10 the following new item: Jewelry, duty suspension.

"	740.20	Necklaces, valued not over 30 cents per dozen, composed wholly of plastic shapes mounted on fiber string	Free	Free	".

Effective date.
19 USC 1202 note.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1356 (Comm. on Ways and Means).
SENATE REPORT No. 95-1241 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendments.

Public Law 95-501
95th Congress

An Act

To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

Oct. 21, 1978
[S. 3447]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Act of 1978".

Agricultural Trade Act of 1978.
7 USC 1761 note.

TITLE I—INTERMEDIATE CREDIT

SEC. 101. Section 4 of the Food for Peace Act of 1966 is amended to read as follows:

7 USC 1707a.

"SEC. 4. (a) Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

Export sales.

"(b) (1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation.

"(2) No export sale may be financed under this subsection unless the Secretary of Agriculture determines that the sale will—

"(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

"(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

"(3) Consistent with the provisions of paragraph (2) of this subsection, intermediate credit financing under this subsection may be made available for the following uses:

"(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

"(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

"(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities to finance all or part of such facilities); and

"(D) to meet credit competition for agricultural export sales.

"(4) Intermediate credit financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.

Terms of credit.

"(5) The terms of credit for export sales financed under this subsection shall include the following terms:

"(A) Repayment shall be in dollars with interest at a rate equal, as nearly as practicable, to the rate charged by the Commodity Credit Corporation for financing under the Corporation's short-term export credit sales program.

"(B) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

"(6) The Secretary shall, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of agricultural commodities purchased with financing provided under this subsection.

Review.

"(7)(A) Agreements to finance export sales of agricultural commodities entered into under this subsection, except agreements to finance export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such proposed agreement, together with a determination by the President that such financing is not adverse to the interests of United States producers of agricultural commodities, is transmitted by the Secretary to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

Presidential determination. Transmittal to congressional committees.

"(8) The provisions of the cargo preference laws shall not apply to export sales financed under this subsection.

"(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"Agricultural commodity."

"(c) The term 'agricultural commodity' as used in this section includes any agricultural commodity or product thereof.".

TITLE II—COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES; CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES

7 USC 1707b.

SEC. 201. (a) To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture may provide Commodity Credit Corporation financing to exporters of such commodities who wish to provide deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 202 of this title, financing under this section shall be available only with respect to sales to those nations that are

eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must provide such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Financing under this section shall not be provided by the Corporation until the applicant's export sales plan has been approved by the Corporation and the applicant has established to the satisfaction of the Corporation that exports have been made in accordance with the approved plan.

(c) Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Corporation. Repayment in dollars.

(d) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale. Performance guarantee.

(e) Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies. Review.

(f) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 202. Notwithstanding any other provision of law, in order to expand and develop markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic of China under (1) the short-term export credit sales program conducted by the Corporation, and (2) the deferred payment sales program for exporters established under section 201 of this title. 7 USC 1707c.

DEFINITION

SEC. 203. The term "agricultural commodity" as used in this title includes any agricultural commodity or product thereof. 7 USC 1707d.

TITLE III—AGRICULTURAL COUNSELORS

SEC. 301. Title VI of the Act of August 28, 1954 (68 Stat. 908–910, as amended; 7 U.S.C. 1761–1768), is amended by—

(1) amending the title designation to read as follows:

"TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) inserting immediately before section 601 the subtitle designation as follows:

"Subtitle A—General Provisions; Agricultural Counselors and Agricultural Attachés";

7 USC 1761. (3) in section 601, striking out "agricultural products" wherever that phrase appears therein and inserting in lieu thereof "agricultural commodities", and striking out "said products" and inserting in lieu thereof "such commodities";

7 USC 1762, 1764, 1765. (4) in sections 602(a), 602(e), 604, and 605, striking out "this title" wherever that phrase appears therein and inserting in lieu thereof "this subtitle";

7 USC 1762. (5) amending section 602(b) to read as follows:

"(b) Officers or employees assigned or appointed to posts abroad under this subtitle shall have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privileges as those of other counselors or attachés in United States embassies. An Agricultural Counselor shall be appointed in any nation—

Agricultural Counselor.

"(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such nation assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

"(2) in which—

"(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

"(B) competition with other nations for existing and potential agricultural markets is extremely intense.

Not less than ten Agricultural Counselors shall be appointed within three years after the date of enactment of the Agricultural Trade Act of 1978."; and

Ante, p. 1685.

7 USC 1764. (6) adding at the end of section 604 a new subsection (c) as follows:

Availability of Federal agency services, personnel, and facilities.

"(c) Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subtitle in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.".

TITLE IV—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 401. Title VI of the Act of August 28, 1954, as amended by title III of this Act, is further amended by—

(1) adding immediately after section 605 a new subtitle B as follows:

"Subtitle B—United States Agricultural Trade Offices

Agricultural Trade Offices, establishment. 7 USC 1765a.

"SEC. 605A. (a) For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

"(b) each United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who by reason of training, experience, and attainments is qualified to carry out the pur-

poses of this subtitle. Such Officer shall be appointed by the Secretary of Agriculture. Appointment.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subtitle A of this title to the nation in which such Officer is to serve. 5 USC 5101 *et seq.* 5332 note. *Ante*, p. 1688.

"(d) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché or other senior representative of the Secretary of Agriculture in each nation in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of the United States diplomatic mission fully and currently informed with respect to all activities and operations of such Office. Transmittal of information.

"(e) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

"(f) To carry out the functions of United States Agricultural Trade Offices, the Secretary of Agriculture may appoint such other personnel as the Secretary determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

"(g) No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

"(h) Upon the request of the Secretary of Agriculture, the Secretary of State shall request for Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary. Diplomatic privileges and immunities.

"SEC. 605B. The functions of each United States Agricultural Trade Office shall be to— Functions. 7 USC 1765b.

"(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

"(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

"(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

"(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(7) provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954, the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

7 USC 1691 note.

"(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Secretary of Agriculture on the efficacy of cooperator programs;

Publication.

"(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

"(10) perform such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, determines to be necessary and proper for achieving the purposes of this subtitle.

Consultation.

7 USC 1765c.

"SEC. 605C. Each United States Agricultural Trade Office shall carry out its functions under section 605B in the nation where the United States Agricultural Trade Office is located and in such other nations as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

7 USC 1765d.

"SEC. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

22 USC 292.

7 USC 1765e.

"SEC. 605E. United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities.

7 USC 1765f.

"SEC. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

7 USC 1765g.

"SEC. 605G. The provisions of section 604(a) of this title shall apply with respect to personnel appointed and assigned under this subtitle.";

7 USC 1764.

7 USC 1766.

(2) redesignating section 606 as section 606A and inserting immediately after new section 605G, as added by this section, the subtitle designation and new section 606 as follows:

Supra.

"Subtitle C—Representation Allowances, Regulations, General Provisions, and Authorization for Appropriations

7 USC 1765h.

"SEC. 606. Any Agricultural Trade Officer and the senior representative of the Secretary of Agriculture assigned to a nation under subtitle A of this title may, under regulations prescribed by the Secretary

of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer or senior representative can effectively use such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the nation where such Agricultural Trade Officer or senior representative is assigned.";

(3) redesignating sections 602(d), 602(f), and 603 as sections 606B, 606C, and 606D, respectively, and inserting the redesignated sections immediately after section 606A, as redesignated by paragraph (2) of this section; 7 USC 1762, 1763, 1766a, 1766b, 1766c.

(4) in section 606C, as redesignated by paragraph (3) of this section, striking out "subsection" wherever that word appears therein and inserting in lieu thereof "section"; *Supra.*

(5) redesignating section 602(e) as 602(d); and 7 USC 1762.

(6) adding at the end thereof a new section 609 as follows:

"SEC. 609. The term 'agricultural commodity' as used in this title includes any agricultural commodity or product thereof.". "Agricultural commodity." 7 USC 1769.

TITLE V—REORGANIZATION

SEC. 501. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture. 7 USC 2211a.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (69) as follows:

"(69) Under Secretary of Agriculture for International Affairs and Commodity Programs.".

(c) The designation of "Assistant Secretary of Agriculture for International Affairs and Commodity Programs" shall not be used after the date of enactment of this Act. 7 USC 2211a note.

TITLE VI—GENERAL PROVISIONS AND REPORTS

IMPLEMENTATION OF THIS ACT; REGULATIONS

SEC. 601. (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs. 7 USC 1761 note.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

ANNUAL REPORT ON EXPORT PROMOTION

SEC. 602. The Secretary of Agriculture shall submit to Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities. Submittal to Congress. 7 USC 1765b-1.

INTERAGENCY TASK FORCE ON EXPORT SALES REPORTING

7 USC 612c-3 note.

7 USC 612c-3. Legislative recommedations to congressional committees.

SEC. 603. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

REPORT ON TITLE IV OF THE TRADE ACT OF 1974

Submittal to Congress. 19 USC 2431 note. 19 USC 2431.

SEC. 604. Within six months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report detailing the effect on United States agriculture of title IV of the Trade Act of 1974, including a recommendation as to whether the provisions of such title should be repealed or amended.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1338, Pt. I (Comm. on Agriculture) and No. 95-1338, Pt. II (Comm. on International Relations) both parts accompanying H.R. 10584; and No. 95-1755 (Comm. of Conference).

SENATE REPORTS: No. 95-1142 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1315 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 8, considered and passed Senate.

Sept. 25, H.R. 10584 considered and passed House; passage vacated and S. 3447, amended, passed in lieu.

Oct. 11, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 14, No. 43:

Oct. 21, Presidential statement.

Public Law 95-502
95th Congress

An Act

To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes.

Oct. 21, 1978
[H.R. 8533]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

TITLE I—REPLACEMENT OF LOCKS AND DAM 26; UPPER MISSISSIPPI RIVER SYSTEM COMPREHENSIVE MASTER MANAGEMENT PLAN

SEC. 101. (a) The Upper Mississippi River Basin Commission (referred to in this section as the "Commission") shall prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. The Commission shall publish a preliminary plan not later than January 1, 1981. The Commission shall hold public hearings on the preliminary plan in each State which would be affected by the plan, shall review all comments presented at such hearings or submitted in writing to the Commission, and, after making any revisions in the plan it decides are necessary, submit to Congress a final master plan not later than January 1, 1982. All decisions of the Commission related to the master plan shall be made by a two-thirds majority vote of the Commission.

42 USC 1962b-3 note.

Preliminary plan.
Final plan, submittal to Congress.

(b) The Commission shall provide for public participation in the development, revision, and implementation of said plan and shall encourage and assist such participation. The Commission shall, within 150 days after the date of enactment of this Act, publish guidelines in the Federal Register for public participation in the development, revision, and implementation of the plan. The final master plan shall not be implemented without the express approval of the plan by an Act of Congress enacted after the date of enactment of this Act. After such approval, no change may be made in the master plan except as may be provided by an Act of Congress enacted after the date of enactment of the Act approving the master plan. No person shall engage in any activity which violates any provision of the plan or which is inconsistent (as determined under regulations promulgated by the Commission) with the plan.

Publication in Federal Register.

(c) The Commission, in developing the plan, shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include with the proposed master plan any legislative proposals which may be necessary to carry out such recommendations and achieve such objectives.

(d) For the purposes of developing the plan, the Commission shall conduct such studies as it deems necessary to carry out its responsibilities under this section, utilizing, to the fullest extent possible,

the resources and results of the Upper Mississippi River resources management (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission may request appropriate Federal, State, or local agencies to prepare such studies. Any Federal agency to which such a request is submitted may conduct any such study for the purpose of this section.

90 Stat. 2924.

Studies.

(e) Studies conducted pursuant to this section shall include, but not be limited to, the following:

(1) The Secretary of the Interior and the Secretary of the Army, working through the Commission, shall undertake a study to determine the carrying capacity of the Upper Mississippi River System, and the long- and short-term systematic ecological impacts of (A) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (B) present operation and maintenance programs, (C) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (D) a specific analysis of the immediate and systematic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation of any adverse impact on, and the enhancement of, such resources.

(2) The Commission shall undertake studies to determine—

(A) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy,

(B) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and

(C) transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System.

The Commission is directed to immediately initiate a specific evaluation of the economic need for a second lock at Alton, Illinois, and the direct and indirect systematic effects and needs for such a second lock at Alton, Illinois.

(3) The Commission shall undertake a program of studies, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. The program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) The development by the Commission of a computerized analytical inventory and system analysis for the Upper Mississippi River System to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(f) Any Secretary responsible for conducting a study under subsection (e) of this section, and other studies conducted under this section, shall produce one or more draft reports containing study conclusions and appropriate appendix materials and shall present the reports to the Commission for approval and inclusion in the master plan process.

(g) To carry out the provisions of this section, there are authorized to be appropriated to the Commission, through the United States Water Resources Council, $12,000,000. The Commission is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized by this section. Appropriation authorization.

(h) For purposes of this section, the Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois, the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(i) No replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress except as provided in section 102 and except for necessary operating and maintenance activities.

(j) The lock and dam authorized pursuant to section 102 shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois, and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife protection purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act and undertaken independently of the navigation feature of the project. 16 USC 460*l*–12 note.

(c) The project depth of the channel above Cairo, Illinois, on the Mississippi River shall not exceed 9 feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by an Act of Congress enacted after the date of enactment of this Act.

Inland Waterways Revenue Act of 1978.

TITLE II—INLAND WATERWAYS REVENUE ACT OF 1978

Sec. 201. Short title.
Sec. 202. Imposition of tax.
Sec. 203. Establishment of Inland Waterways Trust Fund.
Sec. 204. Trust Fund available for expenditures for navigation construction and rehabilitation projects on inland waterways.
Sec. 205. Study with respect to inland waterway user taxes and charges.
Sec. 206. Inland and intracoastal waterways of the United States.

26 USC 4042 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Inland Waterways Revenue Act of 1978".

SEC. 202. IMPOSITION OF TAX.

(a) IN GENERAL.—Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

26 USC 4041.

26 USC 4042.

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial waterway transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be determined from the following table:

"If the use occurs—	The tax is—
"After September 30, 1980 and before October 1, 1981	4 cents a gallon
"After September 30, 1981 and before October 1, 1983	6 cents a gallon
"After September 30, 1983 and before October 1, 1985	8 cents a gallon
"After September 30, 1985	10 cents a gallon

"(c) EXEMPTIONS.—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d) (1) shall not apply with respect to use by a State or political subdivision thereof.

"(4) USE IN MOVING LASH AND SEABEE OCEAN-GOING BARGES.—The tax imposed by subsection (a) shall not apply with respect to use for movement by tug of exclusively LASH (Lighter-aboard-ship) and SEABEE ocean-going barges released by their ocean-going carriers solely to pick up or deliver international cargoes.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATERWAY TRANSPORTATION.—The term 'commercial waterway transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United

States' means any inland or intracoastal waterway of the United States which is described in section 206 of the Inland Waterways Revenue Act of 1978. *Ante*, p. 1696.

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter.".

(b) TECHNICAL AMENDMENT.—Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32". 26 USC 4293. 26 USC 4041.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1980. 26 USC 4042 note.

SEC. 203. ESTABLISHMENT OF INLAND WATERWAYS TRUST FUND. 33 USC 1801.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Inland Waterways Trust Fund" (hereinafter in this title referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways). *Ante*, p. 1696.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made. Report to Congress.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the

United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST; PROCEEDS FROM SALES AND REDEMPTIONS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

33 USC 1802.

SEC. 204. TRUST FUND AVAILABLE FOR EXPENDITURES FOR NAVIGATION CONSTRUCTION AND REHABILITATION PROJECTS ON INLAND WATERWAYS.

(a) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways of the United States described in section 206 of this Act. No amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure for which the amount is appropriated explicitly provides that the appropriation is to be made out of the Trust Fund.

(b) EXPENDITURES MUST BE OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

33 USC 1803.

SEC. 205. STUDY WITH RESPECT TO INLAND WATERWAY USER TAXES AND CHARGES.

(a) STUDY DIRECTED.—The Secretary of Transportation and the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, shall—

(1) make a full and complete study with respect to inland waterway user taxes and charges, and

(2) make findings and policy recommendations with respect thereto.

Such study shall include (but shall not be limited to) a consideration of the matters listed in subsections (b), (c), (d), (e), and (f) of this section.

(b) CONSIDERATIONS RELATING TO THE TAXING MECHANISM.—

(1) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of inland waterway transportation from the users of the facilities for which such expenditures are made.

(2) The various forms of inland waterway user taxes and charges which could be established.

(3) The various methods of collecting inland waterway user taxes and charges, and the administrative costs of such taxes and charges.

(4) The classes and categories of users and other persons on whom inland waterway user taxes and charges should be imposed.

(5) The waterways of the United States (including the Great Lakes, deep draft channels, and coastal ports) which should be included in any system of user taxes and charges, together with the economic effects of such taxes and charges.

(6) The use of revenues derived from inland waterway user taxes and charges, including consideration of changes in, or alternatives to, the Trust Fund mechanism.

(c) CONSIDERATIONS RELATING TO ECONOMIC EFFECTS.—The economic effects of waterway user taxes and charges on—

(1) CARRIERS AND USERS.—On—

(A) carriers and shippers using the inland waterways, and

(B) users (including ultimate consumers) of commodities which are transported on the inland waterways.

(2) REGIONS, ETC.—On—

(A) existing investment in industrial plants, agricultural interests, and commercial enterprises, and on related employment, in regions of the country served by inland water transportation directly or in combination with other modes, and

(B) future economic growth prospects in such regions, including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economies and their development, including consistency with Federal policies as set forth in other legislation.

(3) SMALL BUSINESS AND INDUSTRIAL CONCENTRATION AND COMPETITION.—On—

(A) small business enterprise, and

(B) industrial concentration and competition, both within the transportation industry and in any line of commerce (within the meaning of the antitrust laws).

(4) COMPETITORS.—On the freight rates charged by other modes of transportation and the extent of short-term and long-term diversion of traffic from the inland waterways to such other modes. In considering such diversion of traffic, there shall also be considered the effects of such diversion on—

(A) the development of alternative sources of supply and on alternative modes of transportation and alternative routing to market,

(B) the comparative safety of the handling and transportation of hazardous materials, and

(C) the comparative energy efficiency of the modes and routes of the transportation involved.

(5) PRICES.—On prices of commodities shipped by inland waterways and by competing modes, including the costs of energy materials and the effects on electric power rates.

(6) BALANCE OF PAYMENTS.—On the balance of payments of the United States based on our international trade.

(d) CONSIDERATIONS RELATING TO ECONOMIC FEASIBILITY OF WATERWAY IMPROVEMENT PROJECTS; LEVEL OF BENEFITS FROM WATERWAY EXPENDITURES.—

(1) The effects of inland waterway user taxes and charges on the economic feasibility of inland waterway improvement projects.

(2) The comparative levels of benefits received from Federal expenditures on inland waterways for—

(A) commercial uses, and

(B) other uses, including (but not limited to) recreation, reclamation, water supply, low-flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation uses.

(e) CONSIDERATIONS RELATING TO FEDERAL ASSISTANCE.—

(1) The extent of past, present, and expected future Federal assistance to the several modes of freight transportation. Such consideration shall include an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes in terms of adequacy, efficiency, and economy of service, safety, technological progress, and energy conservation. The Federal assistance considered under this paragraph shall include all forms of such assistance, such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants, and provision of right-of-way operation, maintenance, and improvement.

(2) The competitive effects of past, present, and expected future Federal expenditures on inland waterways on competitive modes of transportation.

(3) The need for Federal assistance to agricultural, industrial, and other interests affected by inland waterway user taxes and charges.

(f) CONSIDERATIONS RELATING TO POLICY AND FUTURE DEVELOPMENT.—The effects of inland waterway user taxes and charges on—

(1) The achievement of the objectives of the National Transportation Policy as set forth in the preamble to the Transportation Act of 1940.

49 USC prec. 1.

(2) The expansion and improvement of the inland waterways determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94-587) or estimated to be necessary under paragraph (3).

33 USC 540 note.

(3) The requirements of the Nation through the year 2000 for transportation service, the portion thereof which should be provided by inland waterway carriers, and an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirements.

(g) INLAND WATERWAY USER TAXES AND CHARGES DEFINED.—For purposes of this section, the term "inland waterway user taxes and charges" means taxes imposed on the use of the inland and intracoastal waterways of the United States and all alternatives to such taxes.

Transmittal to Congress.

(h) REPORT.—Not later than September 30, 1981, the Secretary of Transportation shall transmit to Congress a final report of the study required by this section, together with his findings and recommendations (including necessary legislation) and the findings and recommendations of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated from time to time to the Secretary of Transportation such sums, not to exceed $8,000,000 in the aggregate, as may be necessary to carry out the study required by this section.

33 USC 1804.

SEC. 206. INLAND AND INTRACOASTAL WATERWAYS OF THE UNITED STATES.

Ante, 1696.

For purposes of section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) and for purposes of section 204 of this Act, the following

inland and intracoastal waterways of the United States are described in this section:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattachoochee and Flint Rivers at RM 107.8. Chattachoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374–411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

TITLE III—PROCEEDS FROM BINGO GAMES

26 USC 513.

SEC. 301. (a) Section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN BINGO GAMES.—

Definitions.

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting bingo games.

"(2) BINGO GAME DEFINED.—For purposes of paragraph (1), the term 'bingo game' means any game of bingo—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

"(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

26 USC 513 note.

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

26 USC 527.

SEC. 302. (a) Paragraph (3) of section 527(c) of the Internal Revenue Code of 1954 (defining exempt function income) is amended by striking out "or" at the end of subparagraph (B), by adding "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),".

Supra.

(b)(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974, except that notwithstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill by an organization described in section 527(e)(1) of the Internal Revenue Code of 1954 in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301 (e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431(f)) in connection with any election held before January 1, 1979. 26 USC 527 note. 26 USC 527.

(2) Such amounts as described in (1) above shall not be considered as security or collateral for any loan by any State or national bank or any other person or organization.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1608 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 10, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:
Oct. 21, Presidential statement.

Public Law 95-503
95th Congress

An Act

Oct. 24, 1978
[S. 2411]

To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district.

Courts.
Transportation expenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 315 of title 18, United States Code, is amended by adding at the end thereof the following new section:

18 USC 4285.

"§ 4285. Persons released pending further judicial proceedings

18 USC 3141 *et seq.*

"Any judge or magistrate of the United States, when ordering a person released under chapter 207 on a condition of his subsequent appearance before that court, any division of that court, or any court of the United States in another judicial district in which criminal proceedings are pending, may, when the interests of justice would be served thereby and the United States judge or magistrate is satisfied, after appropriate inquiry, that the defendant is financially unable to provide the necessary transportation to appear before the required court on his own, direct the United States marshal to arrange for that person's means of noncustodial transportation or furnish the fare for such transportation to the place where his appearance is required, and in addition may direct the United States marshal to furnish that person with an amount of money for subsistence expenses to his destination, not to exced the amount authorized as a per diem allowance for travel under section 5702(a) of title 5, United States Code. When so ordered, such expenses shall be paid by the marshal out of funds authorized by the Attorney General for such expenses.".

SEC. 2. The section analysis of chapter 315 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4285. Persons released pending further judicial proceedings.".

Effective date.
18 USC 4285 note.

SEC. 3. The amendments made by this Act shall take effect on October 1, 1978.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1653 (Comm. on the Judiciary).
SENATE REPORT No. 95-760 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 27, considered and passed Senate.
Oct. 10, considered and passed House.

Public Law 95-504
95th Congress

An Act

To amend the Federal Aviation Act of 1958, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

Oct. 24, 1978
[S. 2493]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airline Deregulation Act of 1978.

SHORT TITLE

SECTION 1. This Act may be cited as the "Airline Deregulation Act of 1978".

49 USC 1301 note.

DEFINITIONS

SEC. 2. (a) Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by inserting after paragraph (13) the following new paragraphs:

"(14) 'Charter air carrier' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

"(15) 'Charter air transportation' means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.";

(2) by inserting after paragraph (32) the following new paragraph:

"(33) 'Predatory' means any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act (15 U.S.C. 12).";

(3) by inserting after paragraph (35) the following new paragraph:

"(36) 'State agency' means that department, agency, officer, or other entity of a State government which has been designated according to State law as—

"(A) the recipient of any notice required under title IV of this Act to be given to a State agency; or

"(B) the representative of the State in any matter about which the Board is required, under such title IV, to consult with or consider the views of a State agency."; and

(4) by striking out paragraphs (36) and (37).

(b) Section 101 of such Act is amended by renumbering the paragraphs of such section, including all references thereto, as paragraphs (1) through (41), respectively.

DECLARATION OF POLICY

SEC. 3. (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"FACTORS FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

Post, p. 1709.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.".

(b) Section 102 of such Act is amended by adding at the end thereof the following new subsection: 49 USC 1302.

"FACTORS FOR FOREIGN AIR TRANSPORTATION

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"SEC. 102. Declaration of Policy: The Board."

is amended by striking out

"(a) General factors for consideration.
"(b) Factors for all-cargo air service."

and inserting in lieu thereof

"(a) Factors for interstate and overseas air transportation.
"(b) Factors for all-cargo air service.
"(c) Factors for foreign air transportation.".

FEDERAL PREEMPTION

SEC. 4. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"PREEMPTION

49 USC 1305. "SEC. 105. (a)(1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any 49 USC 1371. air carrier having authority under title IV of this Act to provide interstate air transportation.

"(2) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the 49 USC 1371. Board under section 401 of this Act, the provisions of paragraph (1) of this subsection shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

"PROPRIETARY POWERS AND RIGHTS

"(b)(1) Nothing in subsection (a) of this section shall be construed to limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States as the owner or operator of an airport served by any air carrier certificated by the Board to exercise its proprietary powers and rights.

"(2) Any aircraft operated between points in the same State (other than the State of Hawaii) which in the course of such operation crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States, shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"EXISTING STATE AUTHORITY

"(c) When any intrastate air carrier which on August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under title IV of this Act, until modified, suspended, amended, or terminated as provided under such title.

"DEFINITION

"(d) For purposes of this section, the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any territory or possession of the United States.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 105. Federal preemption.
"(a) Preemption.
"(b) Proprietary powers and rights.
"(c) Existing State authority.
"(d) Definition.".

REPORT ON SUBSIDY COST-SHARING, STUDY OF LEVEL OF AIR SAFETY, AND REPORT ON AIR CARRIER MARKETING OF TOURS

SEC. 5. (a) Title I of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is further amended by adding at the end thereof the following new sections:

"REPORT ON SUBSIDY COST-SHARING

"SEC. 106. Not later than January 1, 1980, the Board and the Secretary of Transportation, shall, separately or jointly, submit a comprehensive report to the Congress on the feasibility and appropriateness of devising formulas by which States and their political subdivisions could share part of the costs being incurred by the United States under sections 406 and 419 of this Act. Such report shall include any recommendations of the Board and the Secretary for the implementation of such cost-sharing formulas. 49 USC 1306. 49 USC 1376. *Post*, p. 1732.

"SAFETY STUDY

"POLICY

"SEC. 107. (a) The Congress intends that the implementation of the Airline Deregulation Act of 1978 result in no diminution of the high standard of safety in air transportation attained in the United States at the time of the enactment of such Act. 49 USC 1307.

"REPORT

"(b) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall prepare and submit to the Congress and the Board a comprehensive annual report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the preceding calendar year, or will affect, in the succeeding calendar year, the level of air safety. Each such report shall, at a minimum, contain an analysis of each of the following: *Ante*, p. 1705.

"(1) All relevant data on accidents and incidents occurring during the calendar year covered by such report in air transportation and on violations of safety regulations issued by the Secretary of Transportation occurring during such calendar year.

"(2) Current and anticipated personnel requirements of the Administrator with respect to enforcement of air safety regulations.

"(3) Effects on current levels of air safety of changes or proposals for changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

"(4) The adequacy of air safety regulations taking into consideration changes in air carrier operating practices and procedures which occurred during the calendar year covered by such report.

Based on such report, the Secretary shall take those steps necessary to ensure that the high standard of safety in air transportation referred to in subsection (a) of this section is maintained in all aspects of air transportation in the United States.

"RECOMMENDATIONS

"(c) Not later than January 31, 1980, and each January 31 thereafter, the Secretary of Transportation shall submit to the Congress and the Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing necessary to carry out such surveillance. The Secretary of Transportation's recommendations shall include proposals for any legislation needed to implement such recommendations.

"REGULATIONS AND INSPECTION PROCEDURES

Review and report to congressional committees.

"(d) Not later than July 1, 1979, the Secretary of Transportation shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provisions of title IV of this Act, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate such safety regulations and establish such inspection procedures as the Administrator deems necessary to maintain the highest standard of safe, reliable air transportation in the United States.

49 USC 1371.

"REPORT ON AIR CARRIER MARKETING OF TOURS

49 USC 1308.

"SEC. 108. Not later than May 1, 1979, the Board shall prepare and submit a report to the Congress which sets forth the recommendations of the Board on whether this Act and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public. The report shall evaluate the effects on the following groups of allowing air carriers to sell tours:

"(1) The traveling public.
"(2) The independent tour operator industry.
"(3) The travel agent industry.
"(4) The different classes of air carriers.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by adding at the end thereof

"Sec. 106. Report on subsidy cost-sharing.
"Sec. 107. Safety study.
"(a) Policy.
"(b) Report.
"(c) Recommendations.
"(d) Regulations and inspection procedure.
"Sec. 108. Report on air carrier marketing of tours.".

APPLICATION FOR CERTIFICATE

SEC. 6. Section 401(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(b)) is amended—

(1) by striking out "and shall be so verified"; and

(2) by inserting ", and upon any community affected" immediately before the period.

ROUTE APPLICATIONS

SEC. 7. (a) Section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(c)) is amended to read as follows:

"ROUTE APPLICATIONS

"(c)(1) Upon the filing of any application pursuant to subsection (b) of this section, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. The Board shall— Public notice.

"(A) set such application for a public hearing;

"(B) begin to make a determination with respect to such application under the simplified procedures established by the Board in regulations pursuant to subsection (p); or

"(C) dismiss such application on the merits;

not later than ninety days after the date the application is filed with the Board. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of the certificate requested by such application. Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures, shall be deemed a final order subject to judicial review in accordance with the provisions of section 1006 of this Act. 49 USC 1486.

"(2) If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection, an initial or recommended decision shall be issued not later than one hundred and fifty days after the date of such determination by the Board. Not later than ninety days after the initial or recommended decision is issued, the Board shall make its final order with respect to such application. If the Board does not act within such ninety-day period— Final order.

"(A) in the case of an application for a certificate to engage in interstate or overseas air transportation, the initial or recommended decision shall become the final decision of the Board and shall be subject to judicial review in accordance with the provisions of section 1006 of this Act; and

"(B) in the case of an application for a certificate to engage in foreign air transportation, the initial or recommended decision shall be transmitted to the President pursuant to section 801 of this Act. 49 USC 1461.

"(3) Not later than the one-hundred-eightieth day after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section, the Board shall issue its final order with respect to such application.

"(4) If an applicant fails to meet the procedural schedule adopted by the Board in a particular proceeding, the applicable period prescribed in paragraph (2) or (3) of this subsection may be extended by the Board for a period equal to the period of delay caused by the applicant. In addition to any extension authorized by the preceding sentence, in extraordinary circumstances, the Board may, by order delay an initial or recommended decision for not to exceed thirty days beyond the final date on which the decision is required to be made.".

(b) The amendments made by subsection (a) of this section shall 49 USC 1371 note.

apply to any application filed under section 401(b) of the Federal Aviation Act of 1958 on or after the one-hundred-eightieth day after the date of enactment of this Act.

49 USC 1371.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(c) Notice of application."

and inserting in lieu thereof

"(c) Route applications."

ISSUANCE OF CERTIFICATE

SEC. 8. Paragraphs (1), (2), and (3) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1)-(3)) are amended to read as follows:

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation—

"(A) in the case of interstate or overseas air transportation, is consistent with the public convenience and necessity; and

"(B) in the case of foreign air transportation, is required by the public convenience and necessity;

otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods—

"(A) in the case of an application for interstate or overseas air transportation, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof—

"(A) in the case of an application for interstate or overseas air transportation, for such periods, as is consistent with the public convenience and necessity; and

"(B) in the case of an application for foreign air transportation, for such periods, as may be required by the public convenience and necessity;

if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

THROUGH SERVICE AND JOINT FARES

SEC. 9. Paragraph (4) of section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(4)) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency is authorized—

"(i) to establish services for persons and property which includes transportation by such citizen over its routes in such State and transportation by an air carrier or a foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, or services for such through services. 49 USC 1382.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in the State approved by the appropriate State agency, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or 49 USC 1373.

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.". 49 USC 1482.

UNUSED AUTHORITY

SEC. 10. (a) Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraphs (B) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

39-194 O—80—pt 2——28 QL3

"(B) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such season) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by no more than one other air carrier, then the Board shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

Final order.

"(C) With respect to any application which is submitted pursuant to subparagraph (A) or (B) of this paragraph, except as provided in subparagraph (G), the Board shall issue a final order granting such certificate within fifteen days of the date of such application.

"(D) Except as provided in subparagraphs (E) and (G)(i) of this paragraph, if an air carrier is authorized by its certificate to provide round trip service nonstop each way between any two points in the forty-eight contiguous States or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week for at least thirteen weeks during any twenty-six-week period (other than such a period during which service was interrupted by a labor dispute which lasted more than six weeks) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least thirteen weeks during such twenty-six-week period, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such twenty-six-week period, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(E) Except as provided in subparagraph (G)(ii) of this paragraph, if an air carrier is authorized to provide seasonal round trip service nonstop each way between any two points in the forty-eight contiguous States in interstate air transportation or between any two points in overseas air transportation and if such air carrier fails to provide such service pursuant to published flight schedules at a minimum of five round trips per week during half of the weeks during such season (other than such a season during which service was interrupted by a labor dispute which lasted more than 25 per centum of such sea-

son) the last day of which ends on or after the date of enactment of this paragraph and if such service, at a minimum of five round trips per week, has been provided between such points for at least half of the weeks during such season, pursuant to published flight schedules, by two or more other air carriers, then the Board, subject to subparagraph (F) of this paragraph, shall issue a certificate to the first applicant who, within thirty days after the last day of such season, submits an application which certifies that its aircraft meet all requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce and that it is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to this Act.

"(F)(i) Except as provided in subparagraph (G) of this paragraph, with respect to any application which is submitted pursuant to subparagraph (D) or (E) of this paragraph, the Board shall issue a final order granting such certificate within sixty days of the date of such application, unless the Board finds that the issuance of such certificate is inconsistent with the public convenience and necessity. Prior to issuing such final order, the Board shall afford adequate notice and opportunity for interested persons to file appropriate written evidence and argument, but the Board need not hold oral evidentiary hearings. Notice.

"(ii) For purposes of clause (i) of this subparagraph, there shall be a rebuttable presumption that any transportation covered by an application for a certificate submitted pursuant to subparagraph (D) or (E) of this paragraph is consistent with the public convenience and necessity.

"(G)(i) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (A) or (D) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within thirty days of such notice and to provide a minimum of five round trips per week for thirteen consecutive weeks between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during such thirteen-week period based upon such failure, unless such air carrier fails to provide such service during such thirteen-week period. Notice.

"(ii) If, after the failure of any air carrier to provide the minimum level of service between any pair of points for the period of time specified in subparagraph (B) or (E) of this paragraph and before the Board receives an application from any applicant for a certificate under such subparagraph to provide air transportation between such points, the Board receives notice from such air carrier that it intends to commence service within fifteen days of the first day of the next season and to provide a minimum of five round trips per week for the first half of such season between such points and the Board has not previously received notice from such air carrier with respect to such points, the Board shall not approve such application for a certificate to provide service between such points during the first half of such period based upon such failure, unless such air carrier fails to provide such service during the first half of such period.

"(H) (i) Whenever the Board issues a certificate pursuant to subparagraph (A) or (D) of this paragraph, the air carrier receiving such certificate shall commence service pursuant to such certificate within forty-five days of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

Revocation of certificate.

"(ii) Whenever the Board issues a certificate pursuant to subparagraph (B) or (E) of this paragraph to provide seasonal service, the air carrier receiving such certificate shall commence service pursuant to such certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance. If such air carrier fails to commence service within such period, the Board shall revoke such certificate.

Revocation of certificate.

"(I) Not more than one certificate shall be issued under this paragraph for round trip nonstop service between two points in interstate air transportation based upon the failure of the same air carrier to provide such service between such points.

"(J) Whenever the Board issues a certificate pursuant to subparagraph (A) of this paragraph based upon the failure of any air carrier to provide the round trip service described in such subparagraph, the Board shall suspend the authority of such air carrier to provide such service, and suspend the authority of any other air carrier which failed to provide such service during the same twenty-six-week period for twenty-six weeks after the date of issuance of such certificate pursuant to subparagraph (A), or until such time within such twenty-six weeks as the air carrier to which a certificate is issued under such subparagraph fails to provide such service at a minimum of five round trips per week for at least thirteen weeks, whichever first occurs, except that the Board shall not suspend the authority of such air carriers under this subparagraph if the Board finds that such suspension is not necessary to encourage continued service between such points by the air carrier which received a certificate under subparagraph (A).".

(b) Section 401(f) of such Act is amended by striking out "hereinafter provided" and inserting in lieu thereof "provided in this section".

FILL-UP RIGHTS

SEC. 11. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(6) Any air carrier holding a valid certificate to engage in foreign air transportation is authorized, on any scheduled flight in foreign air transportation, to transport persons, property, and mail between points in the United States between which it is authorized to operate during such flight. The authority described in the preceding sentence shall be limited to one round-trip flight per day between any such pair of points, unless the Board authorizes more than one round-trip flight per day between any such pair of points.".

AUTOMATIC MARKET ENTRY PROGRAM

SEC. 12. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(7) (A) After the first business day of each of the calendar years 1979, 1980, and 1981 and before the thirtieth day of such calendar year—

"(i) any air carrier which (I) has operated during the preceding calendar year in accordance with a certificate issued by the Board under this section which has been in force during such entire preceding calendar year, and (II) has provided air transportation of persons during such calendar year; and

"(ii) any intrastate air carrier which has a valid certificate or license issued by a State regulatory authority to engage in intrastate air transportation and which has operated more than one hundred million available seat-miles in intrastate air transportation in the preceding calendar year;

may apply to the Board for a certificate under this subparagraph to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application from an applicant under this subparagraph, the Board shall issue a certificate to such applicant for the nonstop service specified in such application, unless within such sixty-day period the Board determines that the applicant is not fit, willing, and able to provide such nonstop service and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued under this Act.

"(B) Not later than the one-hundred-twentieth day of calendar year 1979, 1980, or 1981, any air carrier which submitted an application to the Board in accordance with subparagraph (A) of this paragraph in such calendar year and—

"(i) which did not receive a certificate to provide service between the pair of points set forth in the application because of a determination by the Board under such subparagraph (A); or

"(ii) which received a certificate to provide service between such pair of points, but was not the only air carrier to receive a certificate under such subparagraph (A) during such calendar year to provide nonstop service between such pair of points;

may reapply to the Board for a certificate to engage in nonstop service between any one pair of points in interstate or overseas air transportation (other than the pair of points specified in the first application submitted to the Board by such air carrier in such calendar year and other than a pair of points either point of which is in the State of Hawaii) in addition to any pair of points authorized by any existing certificate or license held by such air carrier or intrastate air carrier, except that no air carrier may apply to engage in nonstop service between such pair of points if any air carrier has filed written notice to the Board pursuant to subparagraph (C) of this paragraph with respect to such pair of points. Not later than the sixtieth day after the date on which the Board receives an application under this subparagraph, the Board shall issue a certificate to the applicant for such nonstop service, unless within such sixty-day period the Board makes a determination with respect to the issuance of such certificate in accordance with the second sentence of subparagraph (A) of this paragraph. If the Board issues a certificate to an applicant under this subparagraph, it shall revoke any authority in any certificate which it granted to such applicant in the same calendar year under subparagraph (A) of this paragraph.

Written notice.
Ante, p. 1712.

"(C)(i) Subject to clause (ii) of this subparagraph, any air carrier which is authorized pursuant to paragraph (1) or (2) of this subsection to engage in nonstop service between any pair of points in interstate or overseas air transportation on the first business day of calendar year 1979, 1980, or 1981 and which wants to preclude any other air carrier from obtaining authority under subparagraph (A) or (B) of this paragraph to engage in nonstop service between such pair of points during such calendar year may, on such day, file written notice to the Board which sets forth such pair of points. Upon receipt of any written notice under the preceding sentence, the Board shall make such notice available to the public.

Public availability.

"(ii) No air carrier may file a written notice under clause (i) of this subparagraph during any calendar year with respect to more than one pair of points in interstate or overseas air transportation.

Program modification.

"(D)(i) The Board shall, on an emergency basis, by rule, modify the program established by this paragraph, if the Board finds that—

"(I) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

"(II) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm or reduction; and

"(III) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modification proposed by the Board under this subparagraph shall modify such program only to the minimum extent necessary to rectify the harm or reduction identified by the Board. Any emergency modification of such program may be limited to any pair of points.

"(ii) The findings of fact by the Board in any proceeding held pursuant to this subparagraph, if supported by substantial evidence, shall be conclusive. No objection to a modification of the program proposed by the Board under this subparagraph shall be considered by a court unless such objection shall have been submitted to the Board, of if it was not so submitted, unless there were reasonable grounds for failure to do so.

Study of procedure.

"(E) The Board shall conduct a study of the procedure for certification of air carriers and intrastate air carriers set forth in subparagraphs (A) and (B) of this paragraph to evaluate—

"(i) whether such procedure is consistent with the criteria set forth in section 102 of this Act; and

49 USC 1302.

"(ii) the relative effectiveness of such procedure as compared with other procedures for certification set forth in this Act, including but not limited to, the procedures set forth in paragraphs (5) and (6) of this subsection and in subsection (p) of this section.

Not later than December 31, 1980, the Board shall complete such study and report the results of such study to the Congress.".

EXPERIMENTAL CERTIFICATES

SEC. 13. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(8) The Board may grant an application under subsection (d) (1), (2), or (3) of this section (whether the application be for permanent

Ante, p. 1712.

or temporary authority) for only a temporary period of time whenever the Board determines that a test period is desirable in order to determine if projected services, efficiencies, methods, rates, fares, charges, or other projected results will in fact materialize and remain for a sustained period of time, or to assess the impact of the new services on the national air route structure, or otherwise to evaluate the proposed new services. In any case where the Board has issued a certificate under any one of such subsections on the basis that the air carrier holding such certificate will provide innovative or low-priced air transportation under such certificate, the Board, upon petition, or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority in accordance with the procedures prescribed in section 401(g) of this title, on the grounds that such air carrier has not provided, or is not providing, such air transportation.". 49 USC 1371.

DETERMINATIONS FOR ISSUANCE OF CERTIFICATES

SEC. 14. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is further amended by adding at the end thereof the following new paragraph:

"(9)(A) In any determination as to whether or not any applicant is fit, willing, and able to perform properly the air transportation specified in the application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection and to conform to the provisions of this Act, the applicant shall have the burden of showing that it is so fit, willing, and able. *Ante*, p. 1712.

"(B) In any determination as to whether the air transportation specified in any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

"(C) Transportation covered by any application for a certificate described in paragraph (1)(A), (2)(A), or (3)(A) of this subsection shall, for the purposes of such paragraphs, be deemed to be consistent with the public convenience and necessity, unless the Board finds based upon a preponderance of the evidence that such transportation is not consistent with the public convenience and necessity.".

TERMS AND CONDITIONS OF CERTIFICATES

SEC. 15. (a) Paragraph (3) of section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(3)) is amended by striking out "supplemental air transportation" and inserting in lieu thereof "foreign charter air transportation".

(b) Paragraph (4) of section 401(e) of such Act is amended by striking out the semicolon and all that follows down through the period and inserting in lieu thereof a period.

(c) Paragraph (6) of section 401(e) of such Act is amended by striking out "supplemental air carrier" and inserting in lieu thereof "charter air carrier".

REMOVAL OF RESTRICTIONS

SEC. 16. Section 401(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)) is further amended by adding at the end thereof the following new paragraph:

"(7) (A) On and after the date of enactment of this paragraph, the Board shall not attach a closed-door restriction to any certificate issued under this section. Any closed-door restriction attached to any certificate issued before such date shall, on and after such date, have no force or effect. This subparagraph shall not apply to (i) a closed-door restriction applicable to air transportation between two points both of which are in the State of Hawaii, or (ii) a closed-door restriction in effect on such date which resulted from a sale, exchange, or transfer by any air carrier of its authority to provide air transportation to another air carrier.

"(B) Upon application of any air carrier seeking removal or modification of a term, condition, or limitation attached to a certificate issued under this section to engage in interstate, overseas, or foreign air transportation, the Board shall, within sixty days after the filing of such application, set such application for oral evidentiary hearings on the record or begin to consider such application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section for purposes of eliminating or modifying any such term, condition, or limitation which it finds is inconsistent with the criteria set forth in section 102 of this Act. Applications under this paragraph shall not be subject to dismissal pursuant to section 401(c)(1) of this Act.

49 USC 1302.

Ante, p. 1711.

"(C) For purposes of this paragraph, the term 'closed-door restriction' means any condition attached to a certificate to provide interstate or overseas air transportation issued to any air carrier under this section which prohibits such air carrier from providing local passenger service between any pair of points between which it is authorized to operate pursuant to such certificate.".

"Closed-door restriction."

EFFECTIVE DATE AND DURATION OF CERTIFICATE

SEC. 17. Section 401(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(f)) is amended by striking out "ceased:" and all that follows down through the period and inserting in lieu thereof "ceased.".

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

SEC. 18. The first sentence of section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended by inserting "or pursuant to the simplified procedures under subsection (p) of this section" after "notice and hearings".

TERMINATIONS, REDUCTIONS, AND SUSPENSIONS OF SERVICE

SEC. 19. (a) Section 401(j) of the Federal Aviation Act of 1958 is amended to read as follows:

"TERMINATIONS, REDUCTIONS, AND SUSPENSIONS OF SERVICE

"(j)(1) No air carrier holding a certificate issued under this section shall—

"(A) terminate or suspend all air transportation which it is providing to a point under such certificate; or

"(B) reduce any such air transportation below that which the Board has determined to be essential air transportation for such point;

unless such air carrier has first given the Board, any community affected, and the State agency of the State in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation. The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest. Notice.

"(2) If an air carrier holding a certificate issued pursuant to section 401 of this Act proposes to terminate or suspend nonstop or single-plane air transportation between two points being provided by such air carrier under such certificate, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points, at least sixty days before such proposed termination or suspension, such air carrier shall file with the Board and serve upon each community to be directly affected notice of such termination or suspension.". 49 USC 1371.

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by striking out

"(j) Application for abandonment."

and inserting in lieu thereof

"(j) Terminations, reductions, and suspensions of service.".

ADDITIONAL POWERS AND DUTIES OF BOARD WITH RESPECT TO CHARTER AIR CARRIERS

SEC. 20. (a) The center heading for section 401(n) of the Federal Aviation Act of 1958 is amended by striking out "SUPPLEMENTAL" and inserting in lieu thereof "CHARTER". 49 USC 1371.

(b) Paragraphs (1) through (4) of section 401(n) of such Act are amended to read as follows:

"(n)(1) No air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate or overseas charter air transportation with passengers being transported in scheduled interstate or overseas air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.

"(2) No rule, regulation, or order issued by the Board shall restrict the marketability, flexibility, accessibility, or variety of charter trips provided under a certificate issued under this section except to the extent required by the public interest, and shall in no event be more restrictive than those regulations regarding charter air transportation in effect on October 1, 1978.

"(3) Notwithstanding any other provision of this title, no certificate issued under this section shall authorize the holder thereof to provide charter air transportation between two points within the State of Alaska unless, and then only to the extent to which, the Board, in issuing or amending such certificate, may authorize after determining that such charter air transportation is required by the public convenience and necessity. This subsection shall not apply to a certificate issued under this section to a person who, before July 1, 1977, maintained its principal place of business within the State of Alaska and conducted air transport operations between points within the State of Alaska with aircraft having a certificated gross takeoff weight of more than 40,000 pounds.

"(4) No certificate issued under this section shall permit a charter air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.".

49 USC 1371.

(c) Paragraph (5) of section 401(n) of such Act is amended—

(1) in the first sentence, by striking out "a supplemental air carrier to comply with the provisions of paragraph (1), (3), or (4) of this subsection" and inserting in lieu thereof "a charter air carrier to comply with the provisions of subsection (q) or (r) of this section"; and

(2) in the last sentence, by striking out "paragraphs (1), (3), and (4) of this subsection" and inserting in lieu thereof "subsections (q) and (r) of this section".

(d)(1) Section 401 of such Act is amended by adding at the end thereof the following new subsections:

"INSURANCE AND LIABILITY

"(q)(1) No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

"(2) In order to protect travelers and shippers by aircraft operated by certificated air carriers, the Board may require any such air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

"CONTINUING REQUIREMENT

"(r) The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able.".

Notice and hearing.

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificates of public convenience and necessity."

is amended—

(A) by striking out

"(n) Additional powers and duties of Board with respect to supplemental air carriers."

and inserting in lieu thereof

"(n) Additional powers and duties of Board with respect to charter air carriers.";

and

(B) by adding at the end thereof

"(q) Insurance and liability.
"(r) Continuing requirement.".

PROCEDURES FOR PROCESSING APPLICATIONS

SEC. 21. (a) (1) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR CERTIFICATES

"(p) (1) The Board shall promulgate rules establishing simplified procedures for— Rules.

"(A) the disposition of applications for a certificate to engage in air transportation pursuant to subsection (d) (1), (2), or (3) of this section; and *Ante*, p. 1712.

"(B) the alteration, amendment, modification, suspension, or transfer of all or any part of any certificate pursuant to subsection (f), (g), or (h) of this section. 49 USC 1371.

Such rules shall provide for adequate notice and an opportunity for any interested person to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings. Such rules may provide that such written evidence and argument shall be filed by such person as part of a protest or memorandum filed with respect to such application under subsection (c) of this section.

"(2) The Board may use such simplified procedures in any case if the Board determines that the use of such simplified procedures is in the public interest. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such simplified procedures, and in deciding cases in which such procedures are employed.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 401. Certificate of public convenience and necessity."

is amended by inserting at the end thereof

"(p) Procedures for processing applications for certificates.".

(b) (1) Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMITS

Rules.

"(h) The Board shall promulgate rules establishing simplified procedures for—

"(1) the disposition of applications for a permit to engage in foreign air transportation pursuant to this section; and

"(2) the alteration, amendment, modification, suspension, or transfer of all or any part of any permit pursuant to subsection (f) of this section.

Notice.

Such rules shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 402. Permits to foreign air carriers."

is amended by inserting at the end thereof

"(h) Procedures for processing applications for permits.".

NOTICE OF TARIFF CHANGES

SEC. 22. Section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)) is amended to read as follows:

"NOTICE OF TARIFF CHANGES

"(c)(1) Except as provided in paragraph (2) of this subsection, no change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier until thirty days after notice of the proposed change has been filed, posted, and published in accordance with subsection (a) of this section, except the Board may establish an alternative notice requirement, of not less than twenty-five days, to allow an air carrier to match the fares or charges specified in another air carrier's proposed tariff. Any notice specified under this subsection shall plainly state the change proposed to be made and the time such change will take effect.

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) of this Act, or specified by the Board under section 1002(d)(7) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after sixty days' notice filed in accordance with regulations prescribed by the Board.

"(3) In exercising its power to suspend tariffs under sections 1002(g) and 1002(j) of this Act, the Board shall file and deliver a statement in writing of its reasons for such suspension, as required under section 1002(g), at least thirty days before the date on which the affected tariff would otherwise go into effect.".

49 USC 1482.

RATES OF CARRIAGE FOR PERSONS AND PROPERTY

SEC. 23. Section 404(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)(1)) is amended by inserting "authorized to engage in scheduled air transportation by certificate or by exemption under section 416(b)(3) of this title" immediately before the first semicolon.

49 USC 1386.

MAIL AND COMPENSATION

SEC. 24. (a)(1) Clause (3) of the second sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended to read as follows: "(3) the need of each such air carrier (other than a charter air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and—

"(A) during the period beginning on the date of enactment of this clause and ending on January 1, 1983, both dates inclusive, together with all other revenue of the air carrier from the service for which the compensation is being paid; and

"(B) after January 1, 1983, together with all other revenue of the air carrier;

to enable such air carrier under honest, economical, and efficient management, to provide (except for modifications with respect to an individual point determined after January 1, 1983, to be required by the public interest, after giving interested parties an opportunity for an evidentiary hearing with respect to air transportation for such individual point) air transportation of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense.".

(2) Section 406(b) of the Federal Aviation Act of 1958 is amended by inserting after the second sentence the following new sentences: "Notwithstanding any other provision of this section, rates of compensation paid to any carrier under this section for service performed between the date of enactment of this sentence and January 1, 1983, shall be based on the subsidy need of such carrier with respect to service performed to points for which such carrier was entitled to receive compensation for serving during calendar year 1977. In the case of any local service carrier, such subsidy need shall be based on the adjusted eligible need of such carrier determined in a matter consistent with the provisions of Local Service Class Subsidy Rate VIII, with technical adjustments, and in the case of any other carrier receiving compensation during the twelve months ended June 30, 1978, such subsidy need shall be determined pursuant to the method in effect during the twelve months ended June 30, 1978. Any air carrier receiving compensation from the Board pursuant to this section which, before January 1, 1986, terminates service to a point for which such compensation is paid shall not, if such service is resumed by such air carrier, be eligible for compensation from the Board under this section for such service. Nothing in this subsection shall be construed as prohibiting any air carrier specified in the preceding sentence from applying for and receiving compensation for such service under section 419 of this title.".

(b) Subsection (c) of such section 406 (49 U.S.C. 1376(c)) is amended by adding at the end thereof the following new sentence: "The Board shall make no payments under this section for any services performed after January 1, 1986.".

LOCAL SERVICE AIR CARRIER COMPENSATION

SEC. 25. (a) The last sentence of section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended as follows:

(1) By striking out "the year 1966" and inserting in lieu thereof "the years 1964, 1965, and 1966".

(2) By striking out "Rate III–A" and inserting in lieu thereof "Rates III and III–A".

(3) By striking out "order E–23850 (44 CAB 637 et seq.)" and inserting in lieu thereof "orders E–21311 and E–23850 (41 CAB 138 et seq. and 44 CAB 637 et seq.)".

49 USC 1376 note.

(b) Section 12(b) of Public Law 95–163, Ninety-fifth Congress, approved November 9, 1977, is amended by striking out "the year 1966" and inserting in lieu thereof "the year 1964, 1965, or 1966".

MERGERS AND CONTROL

SEC. 26. (a) Section 408 of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended as follows:

(1) Subsection (a) of such section 408 (49 U.S.C. 1378(a)) is amended to read as follows:

"ACTS PROHIBITED

"SEC. 408. (a) Except as provided in subsection (b) of this section, it shall be unlawful—

"(1) for two or more air carriers, or for any air carrier and any other common carrier or any person substantially engaged in the business of aeronautics, to consolidate or merge their properties, or a substantial portion thereof, into one person for the ownership, management, or operation of the properties previously in separate ownerships;

"(2) for any air carrier, any person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics, to purchase, lease, or contract to operate all or a substantial portion of the properties of any air carrier;

"(3) for any air carrier or person controlling an air carrier to purchase, lease, or contract to operate all or a substantial portion of the properties of any person substantially engaged in the business of aeronautics otherwise than as an air carrier;

"(4) for any foreign air carrier or person controlling a foreign air carrier to acquire control in any manner whatsoever of any citizen of the United States substantially engaged in the business of aeronautics;

"(5) for any air carrier or person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics to acquire control of any air carrier in any manner whatsoever;

"(6) for any air carrier or person controlling a certificated air carrier to acquire control, in any manner whatsoever, of any person substantially engaged in the business of aeronautics other than as an air carrier; or

"(7) for any person to continue to maintain any relationship established in violation of any of the foregoing paragraphs of this subsection.".

(2) Subsection (b) of such section 408 (49 U.S.C. 1378(b)) is amended to read as follows:

"POWER OF BOARD

"(b)(1) In any case in which one or more of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section is an air carrier

holding a valid certificate issued by the Board under section 401(d) of this section to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, the person seeking approval of such transaction shall present an application to the Board, and, at the same time, a copy to the Attorney General and the Secretary of Transportation, and thereupon the Board shall notify the persons involved in the transaction and other persons known to have a substantial interest in the proceeding, of the manner in which the Board will proceed in disposing of such application. Unless, after a hearing, the Board finds that the transaction will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall, by order, approve such transaction, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe, except the Board shall not approve such transaction— *Ante*, p. 1712.

"(A) if it would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of air transportation in any region of the United States; or Monopolization.

"(B) the effect of which in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation conveniences and needs of the public, and unless it finds that such significant transportation conveniences and needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects. Competition.

The party challenging the transaction shall bear the burden of proving the anticompetitive effects of such transaction, and the proponents of the transaction shall bear the burden of proving that it meets the significant transportation conveniences and needs of the public and that such conveniences and needs may not be satisfied by a less anticompetitive alternative.

"(2) In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, and determines that neither the Attorney General, nor the Secretary, nor any other person disclosing a substantial interest in the transaction then currently is requesting a hearing, the Board, no sooner than 30 days after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General and the Secretary not later than the day following the date of such publication), may determine that the public interest does not require a hearing and, in accordance with the standards set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection, by order, approve or disapprove such transaction. Notice. Publication in Federal Register.

"(3)(A) In any case in which none of the parties to a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section. is an air carrier holding a valid certificate issued by the Board under section 401(d) of this title to engage in interstate or overseas air transportation, a foreign air carrier, or a person controlling, controlled by, or under common control with, such an air carrier or a foreign air carrier, any person seeking

approval of such transaction shall file with the Board not later than the forty-fifth day before the effective date of such transaction, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within forty-five days after the date of such filing, require such person to file an application for approval pursuant to the requirements of paragraph (1) of this subsection if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by any license which is a part of such transaction and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board issued pursuant to this Act. Subject to subparagraph (B) of this paragraph, if the Board fails to require such person to file an application pursuant to such paragraph (1) within such forty-five days, the proposed transaction shall not be subject to subsection (a) of this section.

Application filing.

"(B) If the Board determines that any transaction is not subject to subsection (a) of this section as a result of the last sentence of subparagraph (A) of this paragraph and such transaction received such statutory exemption due to any fraud, misrepresentation, or omission of relevant and material facts, the Board may, pursuant to rules which it is authorized to prescribe, make such transaction subject to subsection (a) of this section.".

49 USC 1378.

(b) Section 408(c) of such Act is amended by inserting "any person controlling such air carrier," after "air carrier," the first place it appears in such subsection.

INTERLOCKS

SEC. 27. (a) Section 409 of the Federal Aviation Act of 1958 (49 U.S.C. 1379) is amended by striking out the center heading of such section and the center heading for subsection (a) of such section and inserting in lieu thereof the following section center heading:

"INTERLOCKING RELATIONSHIPS".

(b) Section 409 of the Federal Aviation Act of 1958 is also amended by striking out "SEC. 409. (a)" and inserting in lieu thereof "SEC. 409.".

(c) Section 409 (as amended by subsections (a) and (b) of this section) is amended as follows:

(1) Paragraphs (1), (2), and (3) are each amended by striking out "is engaged in any phase of" and inserting in lieu thereof "is substantially engaged in the business of".

(2) Paragraphs (4), (5), and (6) are each amended by striking out "engaged in any phase of" and inserting in lieu thereof "substantially engaged in the business of".

Repeal.

(d) Section 409(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1379(b)) is hereby repealed.

(e) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 409. Prohibited interests.
"(a) Interlocking relationships.
"(b) Profit from transfer of securities."

and inserting in lieu thereof

"Sec. 409. Interlocking relationships.".

AGREEMENTS

SEC. 28. (a) Section 412(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended—

(1) by inserting in the subsection center heading "AFFECTING FOREIGN AIR TRANSPORTATION" immediately after "AGREEMENTS"; and

(2) by inserting "foreign" immediately after "affecting".

(b) Section 412(b) of such Act is amended by inserting "affecting foreign air transportation" immediately after "agreement" each place it appears in such section.

(c) Section 412 of such Act is further amended by adding at the end thereof the following new subsections:

"FILING AND APPROVAL OF AGREEMENTS AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION

"(c)(1) Any air carrier may file with the Board a true copy, or, if oral, a true and complete memorandum, of any contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise), or a request for authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation and in force on the effective date of this subsection, or thereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier.

"(2)(A) The Board shall by order disapprove any contract, agreement, or request filed pursuant to paragraph (1) of this subsection, whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of this Act, and shall by order approve any contract, agreement, or request, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act, except that—

"(i) the Board may not approve or, after periodic review, continue its approval of any such contract, agreement, or request, or any modification or cancellation thereof, which substantially reduces or eliminates competition, unless it finds that the contract, agreement, or request is necessary to meet a serious transportation need or to secure important public benefits and it does not find that such need can be met or such benefits can be secured by reasonably available alternative means having materially less anticompetitive effects;

"(ii) the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it; and

"(iii) the Board may not approve any such contract or agreement, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, that fixes rates, fares, or charges between or among air carriers (except for joint rates, fares, or charges).

"(B) In any proceeding before the Board involving the application of the standards set forth in subparagraph (A)(i) of this paragraph, the party opposing the proposed contract, agreement, or request shall have the burden of proving the reduction or elimination of competition, and the availability of alternative means having less anticompeti-

tive effects, and the party defending the proposed contract, agreement, or request shall have the burden of proving transportation need or public benefits.

"(C) The findings required by subparagraph (A)(i) of this paragraph, shall be included in any order of the Board approving or disapproving any contract or agreement, or any memorandum of any contract or agreement, or any modification or cancellation thereof, or any request.

"PROCEEDINGS UPON FILING

Written notice.

"(d) Upon the filing of any contract or agreement, or any modification or cancellation thereof, or any request for authority to discuss possible cooperative working arrangements, pursuant to subsection (a) or (c) of this section, the Board, in accordance with regulations which it prescribes, shall provide to the Attorney General and the Secretary of Transportation written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative or if requested by the Attorney General or such Secretary, hold a hearing, in accordance with regulations prescribed by the Board, to determine if a contract or agreement, or request for discussion authority, whether or not previously approved, is consistent with the provisions of this Act.".

Hearings.

(d) That portion of the table of contents which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended by striking out

"(a) Filing of agreements required.
"(b) Approval by Board."

and inserting in lieu thereof

"(a) Filing of agreements affecting foreign air transportation required.
"(b) Approval by Board.
"(c) Filing and approval of agreements affecting interstate or overseas air transportation.
"(d) Proceedings upon filing.".

MUTUAL AID AGREEMENTS

SEC. 29. (a) Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by adding at the end thereof the following new subsection:

"MUTUAL AID AGREEMENTS

"(e)(1) Notwithstanding any other provision of law, any mutual aid agreement between air carriers which was approved by the Board before the date of enactment of this subsection and which is in effect on such date of enactment shall be deemed disapproved and not in effect on and after such date of enactment.

"(2) No air carrier shall enter into any mutual aid agreement with any other air carrier, unless such air carrier files a true copy of such agreement with the Board and the Board approves such agreement pursuant to the provisions of this section. Notwithstanding subsection (c) of this section, the Board shall not approve any such agreement unless such agreement provides (A) that any air carrier will not receive payments for any period which exceed 60 per centum of the direct operating expenses during such period, (B) that benefits under the agreement are not payable for more than eight weeks during any labor strike, and that such benefits may not be for losses incurred

during the first thirty days of any labor strike, and (C) that any party to such agreement will agree to submit the issues causing any labor strike to binding arbitration pursuant to the Railway Labor Act if the striking employees request such binding arbitration. 45 USC 151.

"(3) For purposes of this subsection, the term—

"(A) 'mutual aid agreement' means any contract or agreement between air carriers which provides that any such air carrier will receive payments from the other air carriers which are parties to such contract or agreement for any period during which such air carrier is not engaging in air transportation, or is providing reduced levels of service in air transportation, due to a labor strike; and "Mutual aid agreement."

"(B) 'direct operating expenses' includes interest expenses but does not include depreciation or amortization expenses.". "Direct operating expenses."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended by inserting at the end thereof

"(e) Mutual aid agreements.".

ANTITRUST EXEMPTION

SEC. 30. (a) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST EXEMPTION

"SEC. 414. In any order made under section 408, 409, or 412 of this Act, the Board may, as part of such order, exempt any person affected by such order from the operations of the 'antitrust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and those transactions necessarily contemplated by such order, except that the Board may not exempt such person unless it determines that such exemption is required in the public interest.". 49 USC 1378, 1379, 1382.

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 414. Legal restraints."

and inserting in lieu thereof

"Sec. 414. Antitrust exemption.".

EXEMPTION AUTHORITY

SEC. 31. (a) Section 416(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(1)) is amended to read as follows:

"EXEMPTIONS

"(b)(1) Except as provided in paragraph (2) of this subsection, the Board, from time to time and to the extent necessary, may exempt from the requirements of this title or any provision thereof, or any rule,

regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that the exemption is consistent with the public interest.

49 USC 1386. (b) Section 416(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods as such relief may be in the public interest.".

COMMUTER EXEMPTION

SEC. 32. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)) is further amended by adding at the end thereof the following new paragraphs:

"(4) Subject to paragraph (5) of this subsection, any air carrier in air transportation which provides (A) passenger service solely with aircraft having a maximum passenger capacity of less than fifty-six passengers, or (B) cargo service in air transportation solely with aircraft having a maximum payload capacity of less than eighteen thousand pounds, shall be exempt from the requirements of subsection 49 USC 1371. (a) of section 401 of this title, and of such other sections of this Act as may be prescribed in regulations promulgated by the Board, if such air carrier conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires.

"(5) The exemption from section 401 of this title or any other requirement of this Act shall not apply to any air transportation by any air carrier between points both of which are in the State of Alaska, or one of which is in the State of Alaska and the other in Canada, unless such air carrier also holds authority to provide such air transportation from the State of Alaska.

"(6) Any air carrier operating within the State of Alaska pursuant to the exemption from section 401 of this title shall not be subject to any limitation, promulgated by the Board, on the number or location of points to be served by such air carrier, or any limitation on the frequency of service by such air carrier to points within such State, unless the Board, after a hearing, finds that the operation of such air carrier substantially impairs the ability of a certificated air carrier to provide the service authorized by its certificate, including but not limited to, the minimum service requirement for such State specified *Infra.* in section 419(c)(2) of this title.".

SMALL COMMUNITY AIR SERVICE

SEC. 33. (a) Title IV of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section.

"SMALL COMMUNITY AIR SERVICE

"GUARANTEED ESSENTIAL AIR TRANSPORTATION

"Eligible point." 49 USC 1389. "SEC. 419. (a)(1) For purposes of this subsection, the term 'eligible point' means any point in the United States to which, on the date of enactment of this section, any air carrier—

"(A) is providing service pursuant to a certificate issued to such carrier under section 401 of this title; or

"(B) is authorized pursuant to such certificate to provide such service, but such service is suspended on such date of enactment.

"(2)(A) With respect to each eligible point which on the date of enactment of this section is served by not more than one air carrier holding a certificate issued under section 401 of this title, not later than the last day of the one-year period beginning on such date of enactment, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation for such point. 49 USC 1371.

"(B) With respect to any eligible point which on the date of enactment of this section is served by more than one air carrier holding a certificate issued under section 401 of this title and which thereafter receives service by not more than one such air carrier, not later than the last day of the six-month period beginning on the date on which the Board receives notice that service to such point will be provided by not more than one such air carrier, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point.

"(C) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultations with any interested community and the State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point. Review.

"(3) No air carrier shall terminate, suspend, or reduce air transportation to any eligible point below the level of essential air transportation established by the Board under paragraph (2) unless such air carrier—

"(A) if such air carrier—

"(i) holds a certificate issued under section 401 of this title, or

"(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point,

has given the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

"(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (5) of this subsection for service to such eligible point, has given the Board, the appropriate State agency or agencies, and the communities affected at least thirty days notice prior to such termination, suspension, or reduction.

"(4) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

"(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation the Board shall, among other factors, specifically consider—

"(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the communities involved;

"(ii) the experience of the applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

"(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska; and

49 USC 1386.

Compensation rate, establishment.

"(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation.

"(5) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point.

Service extension.

Ante, p. 1720.

"(6) Notwithstanding section 401(j) of this title, if an air carrier has provided notice to the Board under paragraph (3) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of essential air transportation to such point, and if at the conclusion of the applicable period of notice the Board has not been able to find another air carrier to provide essential air transportation to such point, the Board shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide essential air transportation to such point, whichever first occurs. If at the end of such 30-day period the Board determines that no other air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis, either with or without compensation, then the Board shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue air transportation to such eligible point until an air carrier can be secured to provide essential air transportation to such eligible point on a continuing basis.

"(7)(A) If any air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection or under section 406 of this title for providing such air transportation to such point, is required by the Board to continue service to such point beyond the date on which such air carrier would, but for paragraph (6) of this subsection, be able to suspend, terminate, or reduce service to such point below the level of essential air transportation to such point, then after such date such air carrier shall continue to receive such compensation until the Board finds another air carrier to provide essential air transportation to such point.

49 USC 1376.

Losses, compensation.

49 USC 1371.

"(B) If the Board requires an air carrier which holds a certificate issued under section 401 of this title and which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 406 of this title to continue to provide essential air transportation to such point beyond the 90-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that the air carrier incurs in complying with this subparagraph after the last day of such 90-day period, except that the Board shall not make any pay-

ments under this subparagraph, to any trunk air carrier for service to such point after the last day of the one-year period beginning on the date on which any payment is made to such air carrier under this subparagraph for service to such point.

"(C) If the Board requires an air carrier which does not hold a certificate issued under section 401 of this title, but which is providing air transportation to any eligible point without compensation pursuant to paragraph (5) of this subsection or section 406 of this title to continue to provide essential air transportation to such point beyond the 30-day notice period after which, but for paragraph (6) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below essential air transportation for such point, then the Board shall compensate such air carrier for any losses that such air carrier incurs in complying with this paragraph after the last day of such 30-day period. 49 USC 1371. 49 USC 1376.

"(9) During any period for which the Board requires any air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Board shall continue to make every effort to secure an air carrier to provide at least essential air transportation to such eligible point, on a continuing basis.

"(10) Unless the Board has determined what is essential air transportation for any eligible point pursuant to paragraph (2) of this subsection, the Board shall, upon petition of any appropriate representative of such point, prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of essential air transportation, until the Board has completed such determination. Petition.

"(11) (A) After January 1, 1983, any air carrier may file an application with the Board seeking to have any compensation provided under section 406 of this title to the air carrier then serving an eligible point terminated in order to allow the applicant air carrier to provide air transportaton to that eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by the air carrier receiving subsidy under section 406, taking into consideration the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (5) of this subsection, if the applicant can show that termination of the compensation being paid under section 406, and that the provision of service by such applicant with compensation under this section, will result in a substantial— Application. Notice and hearing.

"(i) improvement in the air service being provided such eligible point; and

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to such eligible point.

"(B) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this section to the air carrier then serving an eligible point, and which has been serving such eligible point for at least two years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (4) of this subsection, if the applicant air carrier can show that termination of the compensation being provided to the air carrier Application. Notice and hearing.

then serving such eligible point, and the provision of essential air transportation for compensation under this section by the applicant air carrier will result in a substantial—

"(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(C) In disposing of each application filed under this subsection, the Board shall, in addition to considering the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (4), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

"OTHER AIR SERVICE

"Eligible point."

"(b) (1) For purposes of this subsection, the term 'eligible point' means—

"(A) any point in the United States which has been deleted from a certificate issued under section 401 of this title between July 1, 1968, and the date of enactment of this section, both dates inclusive, and which the Board designates pursuant to paragraph 2 of this subsection; and

49 USC 1371.

"(B) any other point in the State of Alaska or Hawaii designated by the Board under paragraph 2 of this subsection.

Eligible point designation, rules.

"(2) (A) Not later than January 1, 1980, after considering the views of State agencies and other interested parties, the Board shall, by rule, establish objective criteria for designating points as eligible points. In establishing or modifying such criteria, the Board shall consider, among other factors, the level of traffic generated by the point concerned, its future traffic generating potential, the cost to the Federal Government of providing essential air transportation to such point, the alternative means of transportation available to the residents of such point for access to the national transportation system and its principal communities of interest, and the degree of isolation of such point from the national air transportation system. The Board may, from time to time, by rule, modify the criteria established by it under this subparagraph.

Review.

"(B) Not later than January 1, 1980, the Board shall begin to review each point described in paragraph (1)(A) of this subsection to determine whether such point shall be designated as an eligible point under the criteria established under subparagraph (B) of this paragraph. The review and designation of each such point shall be completed before January 1, 1982.

"(C) On or after January 1, 1982, the Board, upon application by any interested party, may designate any point an eligible point under the criteria established under subparagraph (B) of this paragraph (i) if such point is in the State of Alaska or the State of Hawaii, and (ii) if such designation would not increase the total number of points receiving a subsidy under this section and section 406 of this title above the total number of points receiving a subsidy under such section 406 on July 1, 1968.

49 USC 1376.

Withdrawal.

"(3) The designation of any point by the Board under paragraph (2) of this subsection as an eligible point may be withdrawn if the point no longer meets the criteria for designation as an eligible point.

"(4)(A) With respect to any point which the Board designates as an eligible point pursuant to paragraph (2) of this subsection, not later than the last day of the six-month period beginning on the date on which the Board makes such designation, the Board, after considering the views of any interested community and the State agency of the State in which such community is located, shall determine what is essential air transportation to such point. Determination, consultation.

"(B) The Board shall periodically review the determination of what is essential air transportation to each eligible point, and may, based upon such review and consultations with any interested community and any State agency of the State in which such community is located, make appropriate adjustments as to what is essential air transportation to such point. Review.

"(5) Whenever the Board determines that essential air transportation will not be provided to any eligible point without compensation—

"(A) the Board shall provide notice that applications may be submitted by any air carrier which is willing to provide essential air transportation to such point for compensation under this subsection. In selecting an applicant to provide essential air transportation to such point for compensation, the Board shall, among other factors, specifically consider— Notice. Applicant selection.

"(i) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the communities involved;

"(ii) the experience of the applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

"(iii) notwithstanding the provisions of clause (ii), with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska; and 49 USC 1386.

"(B) the Board shall establish, in accordance with the guidelines promulgated under subsection (d) of this section, a rate of compensation to be paid for providing such essential air transportation. Compensation rate, establishment.

"(6) The Board shall make payments of compensation under this subsection at times and in a manner determined by the Board to be appropriate. The Board shall continue to pay compensation to any air carrier to provide essential air transportation to any eligible point only for so long as the Board determines it is necessary in order to maintain essential air transportation to such eligible point. Payments.

"(7) Prior to terminating, suspending, or reducing essential air transportation to any eligible point, an air carrier— Notice.

"(A) if such air carrier—

"(i) holds a certificate issued under section 401 of this title, or 49 USC 1371.

"(ii) does not hold such a certificate, but is receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board, the appropriate State agency or agencies, and the communities affected at least ninety days notice prior to such termination, suspension, or reduction; and

"(B) if such air carrier does not hold such a certificate and is not receiving compensation pursuant to paragraph (6) of this subsection for service to such eligible point, shall give the Board,

the appropriate State agency or agencies, and the communities affected such notice (not to exceed 30 days), as the Board shall by regulation prescribe.

Application.

"(8)(A) After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this subsection to the air carrier then serving an eligible point, and which has been serving such eligible point for at least 2 years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this subsection. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (5) of this subsection, if the applicant can show that termination of the compensation being provided to the air carrier then serving such eligible point, and that the provision of essential air transportation for compensation under this subsection by the applicant, will result in a substantial—

Notice and hearing.

"(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

"(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(B) In disposing of each application filed under this paragraph, the Board shall, in addition to considering the objectives specified in subparagraphs (A) (i) and (ii) of paragraph (5), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

"LEVEL OF SAFETY

"Commuter air carrier."

Ante, p. 1732.

"(c)(1) For purposes of this subsection the term 'commuter air carrier' means an air carrier exempt from any requirement of this Act under section 416(b)(3) of this title.

Compensation and service, conditions.

"(2) Notwithstanding section 416(b) of this title, the Board shall not provide any compensation under this section to any commuter air carrier to provide service to any eligible point, and the Board shall prohibit any commuter air carrier from providing service to any eligible point, unless the Board determines that such commuter air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (3) of this subsection.

Safety standard regulations.

"(3) Not later than the one-hundred-eightieth day after the date of enactment of this paragraph, the Administrator, by regulation, shall establish safety standards (A) for aircraft being used by commuter air carriers to provide any service described in paragraph (2) of this subsection, and (B) for all operations relating to such service. Such safety standards shall become effective not later than the last day of the eighteenth month which begins after such date of enactment and shall impose requirements upon such commuter air carriers to assure that the level of safety provided to persons traveling on such commuter

air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on air carriers which provide service pursuant to certificates issued under section 401 of this title. 49 USC 1371.

"GUIDELINES FOR COMPENSATION

"(d) The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point. Rule.

"INSURANCE

"(e) No air carrier shall receive any compensation under this section unless such air carrier complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Board which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"DEFINITION

"(f) For purposes of this section, the term 'essential air transportation' means scheduled air transportation of persons to a point provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, and— "Essential air transportation."

"(1) with respect to air transportation to any point (other than in the State of Alaska), in no case shall essential air transportation be specified as fewer than two daily round trips, 5 days per week, or the level of service provided by air carriers to such point based on the schedules of such air carriers in effect for calendar year 1977, whichever is less; and

"(2) with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected.

"DURATION OF PROGRAM

"(g) This section shall cease to be in effect after the last day of the ten-year period which begins on the date of enactment of this section.".

(b) That portion of the table of contents which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION

is amended by adding at the end thereof

"Sec. 419. Small community air service.
"(a) Guaranteed essential air transportation.
"(b) Other air service.
"(c) Level of safety.
"(d) Guidelines for compensation.
"(e) Insurance.
"(f) Definitions.
"(g) Duration of program.".

PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

SEC. 34. Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1461(a)) is amended to read as follows:

"THE PRESIDENT OF THE UNITED STATES

"SEC. 801. (a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.".

49 USC 1372.
Disapproval, issuance.
49 USC 1486.

ASSESSMENT OF CIVIL PENALTIES

SEC. 35. (a) Paragraph (1) of subsection (a) of section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(1)) is amended by inserting after the fourth sentence thereof the following new sentences: "The amount of any such civil penalty for any violation of any provision of title IV of this Act, or any rule, regulation, or order issued thereunder, or under section 1002(i) of this Act, or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1006 of this Act.".

Notice and hearing.
49 USC 1371.
49 USC 1482.

(b) Paragraph (2) of subsection (a) of such section 901 is amended to read as follows:

"(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of violations of title III, V, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, or by the National Transportation Safety Board in the case of violations of title VII of this Act, or any rule, regulation, or order issued thereunder, or by the Postmaster General in the case of regulations issued by him.

Compromise.
49 USC 1341, 1401, 1421, 1441.

The amount of such penalty when finally determined or fixed by order of the Board, or the amount agreed upon in compromise, may be deducted from any sums which the United States owes to the person charged.".

PROCEDURES FOR CIVIL PENALTIES

SEC. 36. (a) The first sentence of subsection (b) (1) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473(b) (1)) is amended by inserting "or assessed" immediately after "imposed".

(b) The second sentence of subsection (b) (1) of such section 903 is amended by inserting "with respect to proceedings involving penalties other than those assessed by the Board," immediately after "except that".

RATES

SEC. 37. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended—

(1) in paragraph (1), by inserting "or (4)" immediately after "paragraph (2)"; and

(2) by adding at the end thereof the following new paragraphs:

Unjust or unreasonable fares, findings.

"(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any air carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase of any fare within the limits specified in this subparagraph may be suspended, an increase in such fare, above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory; or

49 USC 1371.

"(B) with respect to any proposed decrease filed after the date of enactment of this paragraph, the proposed fare would not be more than 50 per centum lower than the standard industry fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare would be predatory.

In determining whether any fare for air transportation of persons is unjust or unreasonable on the basis that it is too high, the Board shall take into consideration reasonably estimated or foreseeable future costs and revenues for a reasonably limited future period during which the fare at issue would be in effect.

"(5) In any Board proceeding under paragraph (1) of this subsection with respect to interstate or overseas air transportation of persons, the party opposing any fare or charge on the basis that it is too low shall have the burden of proving that the fare or charge is too low.

"Standard industry fare level."

"(6)(A) For purposes of paragraph (4) of this section, 'standard industry fare level' means the fare level (as adjusted only in accordance with subparagraph (B) of this paragraph) in effect on July 1, 1977, for each interstate or overseas pair of points, for each class of

service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977.

Adjustments.

"(B) The Board shall, not less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for interstate and overseas transportation combined. In determining the standard, the Board shall make no adjustment to costs actually incurred.

Service classes, rules.

"(C) Not later than July 1, 1979, the Board shall issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which classes provide lower fare levels during off-peak periods, so as to expand the period of availability of such classes. The Board shall allow any air carrier to establish additional classes of service in accordance with the objectives of subsection (e) (5) of this section or as may be otherwise consistent with the public interest.

Rule.

"(7) The Board may by rule increase the percentage specified in paragraph (4) (B) of this subsection.

Complaint.

"(8) Whenever a complaint is filed with the Board by a civic party under this subsection alleging that any individual or joint fare or charge demanded, charged, collected, or received for interstate or overseas air transportation is or will be unjustly discriminatory, unduly preferential, unduly prejudicial, or predatory, the Board shall grant, deny, or dismiss such complaint within ninety days after such complaint is filed.".

49 USC 1482.

(b) Subsection (e) of such section 1002 is amended to read as follows:

"RULE OF RATEMAKING

"(e) In exercising and performing its power and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

49 USC 1302.

"(1) the criteria set forth in section 102 of this Act;

"(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) the effect of prices upon the movement of traffic;

"(4) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and

"(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.".

Uniform method.
49 USC 1482a.
49 USC 1371.

(c) (1) Whenever the Board pursuant to its authority under section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482) prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between air carriers holding certificates issued under section 401 of such Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers. Any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transporta-

Notice.

tion over its routes and transportation by such air carrier in air transportation shall provide at least ninety days notice to such air carrier and to the Board prior to modifying, suspending, or terminating such service, and if such commuter air carrier fails to provide such notice, any uniform method made applicable to the establishment of joint fares, and the divisions thereof, between air carriers and commuter air carriers in accordance with the preceding sentence shall not apply to such commuter air carrier.

(2) For purposes of this subsection— Definitions.

(A) the terms "air carrier" and "Board" have the meanings given such terms in the Federal Aviation Act of 1958; and 49 USC 1301 note.

(B) the term "commuter air carrier" means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trips per week between one pair of points, pursuant to flight schedules.

(3) Paragraph (1) of this subsection shall apply to any uniform method described in such paragraph which the Board prescribes on or after December 27, 1974.

TIME REQUIREMENTS

SEC. 38. (a) Title X of the Federal Aviation Act of 1958 (49 U.S.C. 1481 et seq.) is amended by adding at the end thereof the following new section:

"TIME REQUIREMENTS

"SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall— Final order or decision, issuance. 49 USC 1490. 49 USC 1378, 1379, 1382.

"(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

"(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.".

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE X—PROCEDURE"

is amended by adding at the end thereof

"Sec. 1010. Time requirements.".

WITHHOLDING OF INFORMATION

SEC. 39. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended to read as follows:

"WITHHOLDING OF INFORMATION

49 USC 1504. "SEC. 1104. Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act stating the grounds for such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if disclosure of such information would prejudice the formulation and presentation of positions of the United States in international negotiations and adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.".

SUNSET PROVISIONS

SEC. 40. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XVI—SUNSET PROVISIONS

"TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

"TERMINATION OF AUTHORITY

49 USC 1551. "SEC. 1601. (a)(1) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on December 31, 1981:

Ante, p. 1712. "(A) Sections 401(d) (1), (2), and (3) of this Act (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 401(d)(3) prohibits persons holding certificates under section 401 (d)(1) or (d)(2) from obtaining certificates to provide interstate or overseas charter air transportation of persons).

"(B) Section 401(d)(8) of this Act.

"(C) Section 401(e)(1) of this Act (insofar as such section permits the Board to specify terminal and intermediate points).

"(D) Section 401(j) of this Act (except with respect to essential air transportation).

"(E) Sections 401(n) (1) and (4) of this Act.

"(F) Section 404(a) of this Act (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).

49 USC 1375. "(G) Section 405(b) of this Act (insofar as such section requires the filing of any statement or schedule by any air carrier).

"(2) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1983:

"(A) Section 403 of this Act. 49 USC 1373.

"(B) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service). 49 USC 1374.

"(C) Section 407 (b) and (c) of this Act. 49 USC 1377.

"(D) Sections 1002 (d)(1) and (d)(2), (e), (g), (h), and (i) of this Act. *Ante*, p. 1741.

"(3) The authority of the Board under sections 408 and 409 of this Act (relating to interstate and overseas air transportation) and the authority of the Board under section 414 of this Act (relating to such sections 408 and 409) is transferred to the Department of Justice on January 1, 1983. 49 USC 1378, 1379. 49 USC 1384.

"(4) Title II of this Act shall cease to be in effect on January 1, 1985. 49 USC 1321.

"TRANSFER OF CERTAIN AUTHORITY

"(b)(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

"(A) The authority of the Board under sections 406 (b)(3) and (c) of this Act to provide compensation for air transportation to small communities and under section 419 of this Act is transferred to the Department of Transportation. *Ante*, p. 1725. *Ante*, p. 1732.

"(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

"(C) The authority of the Board under sections 408 and 409 of this Act (relating to foreign air transportation), the authority of the Board under section 412 of this Act, and the authority of the Board under section 414 of this Act (relating to such sections 408, 409, and 412) is transferred to the Department of Justice. 49 USC 1382.

"(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

"(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

"REPORT AND ASSESSMENT BY BOARD

"(c) Not later than January 1, 1984, the Board shall prepare and submit to the Congress a comprehensive review of the Board's implementation of the provisions of this Act during the preceding initial period of this Act's existence, and a comprehensive review of each of the Board's programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1983. Review, submittal to Congress.

39-194 O—80—pt. 2——30 QL3

"ELEMENTS OF BOARD CONSIDERATION

Review provisions.

"(d) The comprehensive review of the Board's implementation of this Act, prepared for submission under subsection (c), shall include—

"(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

"(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

"(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of his Act;

Ante, p. 1713.

"(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

49 USC 1382.

"(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

"(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

"(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service, and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

"(8) the Board's opinion as to whether the foregoing changes in combination, have improved or harmed this Nation's domestic air transportation system and the United States-flag foreign air transportation system.

Continuation, opinion and recommendations.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond January 1, 1985, and, if it is the Board's conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation's air transportation system beyond January 1, 1985. The Board's assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Airline Deregulation Act of 1978, together with the Board's opinion as to the benefits of each set of procedures.

49 USC 1461.

"ELEMENTS FOR EACH COMPREHENSIVE REVIEW

"(e) Each comprehensive review of the Board's programs under this Act, prepared for submission under subsection (c) of this section, shall include—

"(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;

"(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

"(3) an assessment of alternative methods of achieving the purposes of the program;

"(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

"(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

"(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;

"(7) a statement of the number and types of beneficiaries or persons or entities by the program;

"(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;

"(9) an assessment of the impact of the program on the Nation's health and safety;

"(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;

"(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

"(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and

"(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.".

(b) That portion of the table of contents contained in the first section of such Act is amended by inserting at the end thereof

"TITLE XVI—SUNSET PROVISIONS

"SEC. 1601. Termination of Civil Aeronautics Board and transfer of certain functions.
"(a) Termination of authority.
"(b) Transfer of certain authority.
"(c) Report and assessment by Board.
"(d) Elements for Board consideration.
"(e) Elements for each comprehensive review.".

AMENDMENTS TO THE AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

Air carrier airport designation.
49 USC 1729.

SEC. 41. (a) Section 29 of the Airport and Airway Development Act of 1970 is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof the following:

"(a) SERVICE BY INTRASTATE AIR CARRIER.—Notwithstanding"; and

(2) by inserting at the end thereof the following new subsection:

"(b) SUSPENDED OR DELETED SERVICE.—Notwithstanding any other provision of this title, any public airport which, on the date of enactment of the Airline Deregulation Act of 1978, is regularly served by an air carrier (other than a charter air carrier) certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 shall be deemed to be an air carrier airport (other than a commuter service airport) for the purposes of this title. This subsection shall cease to be in effect after September 30, 1980.".

49 USC 1371.

49 USC 1711.

(b) Paragraph (1) of section 11 of the Airport and Airway Development Act of 1970 is amended by striking out "(other than a supplemental air carrier)" and inserting in lieu thereof "(other than a charter air carrier)".

GOVERNMENT GUARANTEE OF EQUIPMENT LOANS

SEC. 42. (a)(1) The first sentence of the first section of the Act entitled "An Act to provide for Government guarantee of private loans of certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers, and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note) (hereinafter in this section referred to as the "Act"), is amended by inserting "and to promote the development of local, feeder, and short-haul charter air transportation of cargo" after "and short-haul air transportation".

(2) The second sentence of the first section of the Act is amended by inserting ", charter air carriers, commuter air carriers, and intrastate air carriers" immediately after "air carriers".

Definitions.
49 USC 1324 note.

(b) Section 2 of the Act is amended to read as follows:

"SEC. 2. As used in this Act—

"(1) 'aircraft purchase loan' means any loan, or commitment in connection therewith, made for the purchase of commercial transport aircraft, including spare parts normally associated therewith;

"(2) 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)(1));

"(3) 'charter air carrier' has the meaning given such term in section 101(14) of the Federal Aviation Act of 1958;

49 USC 1301.

"(4) 'charter air transportation' has the meaning given such term in section 101(15) of the Federal Aviation Act of 1958;

"(5) 'commuter air carrier' means any air carrier operating pursuant to section 416(b)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(3)) who operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;

"(6) 'intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage primarily in intrastate air transportation (as such term is defined in section 101(26) of the Federal Aviation Act of 1958); and 49 USC 1301.

"(7) 'Secretary' means the Secretary of Transportation.".

(c) Section 3 of the Act is amended to read as follows: Eligible lenders. 49 USC 1324 note.

"SEC. 3. The Secretary is authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to—

"(1) any air carrier whose certificate (A) authorizes such air carrier to provide local or feeder air service, (B) authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii, (C) authorizes operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and the forty-eight contiguous States, and between Alaska and adjacent Canadian territory), or (D) authorizes metropolitan helicopter service,

"(2) any charter air carrier for the purchase of any all-cargo nonconvertible aircraft,

"(3) any commuter air carrier, or

"(4) any intrastate air carrier.

Such guarantee shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary deems necessary and which are not inconsistent with the provisions of this Act.".

(d) Section 4 of the Act is amended to read as follows: Restrictions. 49 USC 1324 note.

"SEC. 4. (a) Subject to subsection (b) of this section, no guaranty shall be made—

"(1) extending to more than the unpaid interest and 90 percent of the unpaid principal of any loan;

"(2) on any loan or combination of loans for more than 90 percent of the purchase price of the aircraft, including spare parts, to be purchased therewith;

"(3) on any loan whose terms permit full repayment more than 15 years after the date thereof;

"(4) wherein the total face amount of such loan, and of any other loans to the same air carrier, charter air carrier, commuter air carrier, or intrastate air carrier or corporate predecessor of such air carrier, charter air carrier, commuter air carrier, or intrastate air carrier guaranteed and outstanding under the terms of this Act exceeds $100,000,000;

"(5) unless the Secretary finds that, without such guaranty, in the amount thereof, the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms;

"(6) unless the Secretary finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the air carrier, charter air carrier, commuter air carrier, or intrastate air carrier;

"(7) unless the Secretary finds that the prospective earning power—

"(A) of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (ii) reasonable protection to the United States; and

"(B) of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (i) reasonable assurances of the applicant's ability and intention to repay the loan within the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Secretary, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (ii) reasonable protection to the United States; and

"(8) on any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977.

"(b) No guaranty shall be made by the Secretary under subsection (a) of this section on any loan for the purchase of any all-cargo nonconvertible aircraft by any charter air carrier in an amount which, together with any other loans guaranteed and outstanding under this Act to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to $100,000,000 exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and non-hub airports during the twelve-month period preceding the date on which the application for such guaranty is made by such charter air carrier to the total amount of charter air transportation of such charter air carrier during such twelve-month period.".

Termination date.
49 USC 1324 note.
Ante, p. 1749.

(e) Section 8 of the Act is amended to read as follows:

"SEC. 8. The authority of the Secretary under section 3 of this Act shall terminate five years after the date of enactment of this section.".

EMPLOYEE PROTECTION PROGRAM

Payment by Labor Secretary.
49 USC 1552.

SEC. 43. (a). GENERAL RULE.—(1) The Secretary of Labor shall, subject to such amounts as are provided in appropriation Acts, make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who on account of a qualifying dislocation (A) has been deprived of employment, or (B) has been adversely affected with respect to his compensation.

Eligibility.

(2) No employee who is terminated for cause shall receive any assistance under this section.

(b) MONTHLY ASSISTANCE COMPUTATION.—(1) An eligible protected employee shall, subject to such amounts as are provided in appropriation Acts, receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by

the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall, by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee. Guideline rules, consultation.

(2) If an eligible protected employee is offered reasonably comparable employment and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have beeen entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e). Relocation.

(c) ASSISTANCE FOR RELOCATION.—If an eligible protected employee relocates in order to obtain other employment, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee shall, subject to such amounts as are provided in appropriation Acts, receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in cancelling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) DUTY TO HIRE PROTECTED EMPLOYEES.—(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this section shall have first right of hire, regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 401 of the Federal Aviation Act of 1958 prior to such date of enactment. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated (other than for cause), and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him. 49 USC 1371.

(2) The Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to Job list, establishment and publication.

assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection.

Reports and data, filing.

Negotiations.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) PERIOD OF MONTHLY ASSISTANCE PAYMENTS.—(1) Monthly assistance payments computed under subsection (b) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 72 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) for a protected employee who has been adversely affected relating to his compensation shall be paid for no longer than 72 months, so long as the total number of monthly assistance payments made under this section for any reason do not exceed 72.

(f) RULES AND REGULATIONS.—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) The rule containing the guidelines which is required to be promulgated pursuant to subsection (b) of this section and any other rules or regulations which the Secretary deems necessary to carry out this section shall be promulgated within six months after the date of enactment of this section.

(3) The Secretary shall not issue any rule or regulation as a final rule or regulation under this section until 30 legislative days after it has been submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Any rule or regulation issued by the Secretary under this section as a final rule or regulation shall be submitted to the Congress and shall become effective 60 legislative days after the date of such submission, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

Submittal to Congress.

(4) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

"Legislative day."

(g) AIRLINE EMPLOYEES PROTECTIVE ACCOUNT.—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There are authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the

Appropriation authorization.

administrative expenses of the Secretary related to carrying out the provisions of this section.

(h) DEFINITIONS.—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least 4 years by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the board of directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, occurring during the first 10 complete calendar years occurring after the date of enactment of the Airline Deregulation Act of 1978, the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978, as determined by the Civil Aeronautics Board. 49 USC 1371.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction by at least 7½ percent of the total number of full-time employees of an air carrier within a 12-month period. Any particular reduction of less than 7½ percent may be found by the Board to be part of a major contraction of an air carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed 7½ percent. In computing a 7½-percent reduction under this paragraph, the Board shall not include employees who are deprived of employment because of a strike or who are terminated for cause.

(i) TRANSFER OF AUTHORITY OF THE BOARD.—The authority of the Board under this section is transferred to the Department of Transportation on January 1, 1985.

(j) TERMINATION.—The provisions of this section shall terminate on the last day the Secretary is required to make a payment under this section.

LABOR DISPUTE

SEC. 44. Within ten days after the date of enactment of this section the President, pursuant to section 10 of the Railway Labor Act, shall create a board to investigate and report on the dispute between Wier Air Alaska, Incorporated, and the Air Line Pilots Association. Such board shall report its findings to the President within thirty days from the date of its creation. Emergency board. 45 USC 160.

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 45. Notwithstanding any other provisions of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, Review and approval by Congress. 49 USC 1341 note.

1973, until all such fees, charges, and prices are reviewed and approved by Congress.

CONTINUITY FOR CERTAIN CERTIFICATES

49 USC 1301 note.

SEC. 46. Any reference in any law, rule, regulation, or document of the United States to a supplemental air carrier or supplemental air transportation shall be deemed to be a reference to a charter air carrier or charter air transportation, respectively.

EXISTING DETERMINATIONS

49 USC 1301 note.

SEC. 47. All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions, which are vested in the Board, and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board, or by any court of competent jurisdiction, or by operation of law.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1211 and No. 95-1211 pt. 2, accompanying H.R. 12611 (Comm. on Public Works and Transportation) and No. 95-1779 (Comm. of Conference).

SENATE REPORT No. 95-631 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 19, considered and passed Senate.

Sept. 14, 21, H.R. 12611 considered and passed House; passage vacated and S. 2493, amended, passed in lieu.

Oct. 14, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 24, Presidential statement.

Public Law 95-505
95th Congress

An Act

To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel.

Oct. 24, 1978
[H.R. 11658]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 509 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1159), is amended by striking the words "fourteen knots" in the fourth sentence, and inserting in lieu thereof the words "ten knots".

Great Lakes vessels, financing.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1528 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 95-506
95th Congress

An Act

Oct. 24, 1978
[H.R. 13767]

To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies.

Federal Property and Administrative Services Act of 1949, amendment. Availability of the General Supply Fund. 40 USC 756.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 211(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491(d)) is amended to read as follows:

"(d)(1) The General Supply Fund provided for in section 109 shall be available for use by or under the direction and control of the Administrator for paying all elements of cost (including the purchase or rental price of motor vehicles and other related equipment and supplies) incident to the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems for the transportation of property or passengers, and to the furnishing of such motor vehicles and equipment and related services pursuant to subsection (b).

"(2) Payments by requisitioning agencies so served shall be at prices fixed by the Administrator at levels which will recover, so far as practicable, all such elements of cost, and may, in the Administrator's discretion, include increments for the estimated replacement cost of such motor vehicles, equipment, and supplies. Such increments may, notwithstanding section 109(e) of this Act, be retained as part of the capital of the General Supply Fund, but shall be available only for replacement of such motor vehicles, equipment, and supplies. The purchase price, plus such increments for the estimated replacement cost, of such motor vehicles and equipment shall be recovered only through charges for the cost of amortization. Such costs shall be determined in accordance with the accrual accounting method; and financial reports shall be prepared on the basis of such accounting.".

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1529 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 95-507
95th Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958.

Oct. 24, 1978
[H.R. 11318]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Act and Small Business Investment Act of 1958, amendment.

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

CHAPTER 1

Purchase and guarantee operations.
15 USC 683.

SEC. 101. Section 303(c)(1) of the Small Business Investment Act of 1958 is amended to read as follows:

"(1) shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation of redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (i) of this paragraph;

"(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(A) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(B) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(C) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

"The amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (A) or (C) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities. For the purposes of the subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint ventures for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.".

"Equity securities."

SEC. 102. The last sentence of section 308(b) of the Small Business Investment Act of 1958 is amended to read as follows: "Such com-

15 USC 687.

panies are authorized to invest funds not reasonably needed for their operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or in savings accounts of such institutions.".

Repeal.
15 USC 687i.

SEC. 103. The last sentence of section 317 of the Small Business Investment Act of 1958 is repealed.

15 USC 681.

SEC. 104. Section 301(d) of the Small Business Investment Act of 1958 is amended by inserting "or formed as a limited partnership," immediately after "statutes,".

Capital requirements for small business investment companies.
15 USC 682.

SEC. 105. Section 302(a) of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 302(a). The combined private paid-in capital and paid-in surplus of any company licensed pursuant to sections 301(c) and (d) of this Act shall not be less than $150,000: *Provided, however*, That the combined private paid-in capital and paid-in surplus of any company licensed on or after October 1, 1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.".

CHAPTER 2

15 USC 694a.

SEC. 110. Section 410(4) of the Small Business Investment Act of 1958 is amended by—

(1) deleting the word "or" after the phrase "conditions of the contract,"; and

(2) deleting the period after the phrase "fails to make prompt payment" and inserting in lieu thereof ", or (D) is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.".

Surety bond guarantees.
15 USC 694b.

SEC. 111. Section 411 of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety (the terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety) against loss, as hereinafter provided, as the result of a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary and coterminous therewith, by a principal on any contract up to $1,000,000, subject to the following conditions:

"(1) the person who would be the principal of the bond is a small business concern;

"(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section;

"(4) the Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required;

"(5) the contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost; and

"(6) the terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

"(b) Subject to the provisions of this section, in connection with the issuance by the Administration of a guarantee to a surety as provided by subsection (a), the Administration may agree to indemnify such surety against a loss sustained by such surety in avoiding or attempting to avoid a breach of the terms of a bond guaranteed by the Administration pursuant to subsection (a): *Provided, however*—

"(1) prior to making any payment under this subsection, the Administration shall first determine that a breach of the terms of such bond was imminent;

"(2) no payment by the Administration pursuant to this subsection shall exceed 10 per centum of the contract price unless the Administrator determines that a greater payment should be made as a result of a finding by the Administrator that the surety's loss sustained in avoiding or attempting to avoid such breach was necessary and reasonable; and Limitation.

"(3) no new agreements to indemnify shall be entered into pursuant to this subsection subsequent to two years after the date of its enactment.

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 per centum of the loss incurred and paid by the surety to or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract as the result of the breach; or (2) in a case to which subsection (b) applies, the amount determined under subsection (b). Limitation.

"(d) The Administration may establish and periodically review regulations for participating sureties which shall require such sureties to meet Administration standards for underwriting, claim practices, and loss ratios. Regulations.

"(e) Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of all liability if—

"(1) the surety obtained such guarantee or agreement, or applied for such reimbursement, by fraud or material misrepresentation, or

"(2) the total contract amount at the time of execution of the bond or bonds exceeds $1,000,000.

"(f) The Administration may, upon such terms and conditions as it may prescribe, adopt a procedure for reimbursing a surety for its paid losses billed each month, based upon prior monthly payments to such surety, with subsequent adjustments after such disbursement.

"(g) The Administration may at all reasonable times audit in the offices of a participating surety all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section. Audit.

"(h) The Administration shall administer this Part on a prudent and economically justifiable basis and establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration. Administration.

"(i) The provisions of section 402 shall apply in the administration of this section.". 15 USC 693.

Community injection funds. 15 USC 696.

SEC. 112. Section 502 of the Small Business Investment Act of 1958 is amended by adding at the end of paragraph (4) the following new sentence: "Community injection funds may be derived, in whole or in part, from—

"(A) State or local governments;

"(B) banks or other financial institutions;

"(C) foundations or other not-for-profit institutions; or

"(D) a small business concern (or its owners, stockholders, or affiliates) receiving assistance through bodies authorized under this title.".

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT

CHAPTER 1

15 USC 631.

SEC. 201. Section 2 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(e)(1) with respect to the Administration's business development programs the Congress finds—

"(A) that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy;

"(B) that many such persons are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

"(C) that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, and other minorities;

"(D) that it is in the national interest to expeditiously ameliorate the conditions of socially and economically disadvantaged groups;

"(E) that such conditions can be improved by providing the maximum practicable opportunity for the development of small business concerns owned by members of socially and economically disadvantaged groups;

"(F) that such development can be materially advanced through the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from such concerns; and

"(G) that such procurements also benefit the United States by encouraging the expansion of suppliers for such procurements, thereby encouraging competition among such suppliers and promoting economy in such procurements.

Post, p. 1761.

"(2) It is, therefore, the purpose of section 8(a) to—

"(A) foster business ownership by individuals who are both socially and economically disadvantaged;

"(B) promote the competitive viability of such firms by providing such available contract, financial, technical, and management assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from small business concerns

owned by socially and economically disadvantaged individuals.".

Procurement contracts.

SEC. 202. (a) Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended to read as follows:

"SEC. 8. (a)(1) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary or appropriate—

"(A) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. Whenever the Administration and such procurement officer fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator;

"(B) to enter into contracts with such agency, as shall be designated by the President within 60 days after the effective date of this paragraph, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency. In any case in which the Administration certifies to any officer of such agency having procurement powers that the Administration is competent and responsible to perform any specific procurement contract to be let by any such officer, such officer shall let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. If the Administration and such procurement officer fail to agree on such terms and conditions, either the Administration or such officer shall promptly notify, in writing, the head of such agency. The head of such agency shall have five days (exclusive of Saturdays, Sundays, and legal holidays) to establish the terms and conditions upon which such procurement contract may be let to the Administration, and shall communicate in writing to the Administration the terms and conditions so established. Within five days (exclusive of Saturdays, Sundays, and legal holidays) after the receipt of such written communication, the Administration shall decide whether to perform such procurement contract or withdraw its prior certification that the Administration is competent and responsible to perform such contract; and

"(C) to arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for construction work, services, or the manufacture, supply, assembly of such articles, equipment, supplies, materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts.

"No contract may be entered into under subparagraph (B) after September 30, 1980.

Performance bonds.

"(2) Notwithstanding subsections (a) and (c) of the first section of the Act entitled 'An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work,' approved August 24, 1935 (49 Stat. 793), no small business concern shall be required to provide any amount of any bond as a condition of receiving any subcontract under this subsection if the Administrator determines that such amount is inappropriate for such concern in performing such contract: *Provided*, That the Administrator shall exercise the authority granted by the paragraph only if—

"(A) the Administration takes such measures as it deems appropriate for the protection of persons furnishing materials and labor to a small business receiving any benefit pursuant to this paragraph;

"(B) the Administration assists, insofar as practicable, a small business receiving the benefits of this paragraph to develop, within a reasonable period of time, such financial and other capability as may be needed to obtain such bonds as the Administration may subsequently require for the successful completion of any program conducted under the authority of this subsection;

"(C) the Administration finds that such small business is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue such bond or bonds subject to the guarantee provisions of Title IV of the Small Business Investment Act of 1958; and

"(D) the small business is determined to be a start-up concern and such concern has not been participating in any program conducted under the authority of this subsection for a period exceeding one year.

"This paragraph shall not apply after September 30, 1980.

"(3) Any small business concern selected by the Administration to perform any Federal Government procurement contract to be let pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

"Socially and economically disadvantaged small business concern."

"(4) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern—

"(A) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.

Socially disadvantaged individuals.

"(5) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

Economically disadvantaged individuals.

"(6) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit

and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.

"(7) No small business concern shall be deemed eligible for any assistance pursuant to this subsection unless the Administration determines that with contract, financial, technical, and management support the small business concern will be able to perform contracts which may be awarded to such concern under paragraph (1)(C) and has reasonable prospects for success in competing in the private sector.

"(8) All determinations made pursuant to paragraphs (4), (5), (6) and (7), shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development. Determinations.

"(9) Within ninety days after the effective date of this paragraph, the Administration shall publish in the Federal Register rules setting forth those conditions or circumstances pursuant to which a firm previously deemed eligible by the Administration may be denied assistance under the provisions of this subsection: *Provided*, That no such firm shall be denied total participation in any program conducted under the authority of this subsection without first being afforded a hearing on the record in accordance with chapter 5 of title 5, United States Code. Publication in Federal Register.

"(10) The Administration shall develop and implement an outreach program to inform and recruit small business concerns to apply for eligibility for assistance under this subsection.

"(11) To the maximum extent practicable, construction subcontracts awarded by the Administration pursuant to this subsection shall be awarded within the county or State where the work is to be performed.

"(12) To the maximum extent practicable the Associate Administrator for Minority Small Business and Capital Ownership Development shall submit, no less frequently than annually, a yearly estimate of the dollar amounts and types of contracts required for the efficient use of any program conducted under the authority of this subsection, to each agency which may participate in such program.". Annual estimate.

(b) Not later than June 30, 1980, the General Accounting Office shall submit to the Congress a report which, with respect to provisions of paragraphs (1)(B) and (2) of section 8(a) of the Small Business Act, shall evaluate the implementation of such provisions and whether such implementation furthered the purposes under section 2(e) of the Small Business Act. Report to Congress. 15 USC 637 note. *Ante*, p. 1761. *Ante*, p. 1760.

SEC. 203. Section 2(c) of the Small Business Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph: 15 USC 631.

"(2)(A) With respect to the programs authorized by section 7(j) of this Act, the Congress finds— *Post*, p. 1764.

"(i) that ownership and control of productive capital is concentrated in the economy of the United States and certain groups, therefore, own and control little productive capital;

"(ii) that certain groups in the United States own and control little productive capital because they have limited opportunities for small business ownership;

"(iii) that the broadening of small business ownership among groups that presently own and control little productive capital is essential to provide for the well-being of this Nation by promoting their increased participation in the free enterprise system of the United States;

"(iv) that such development of business ownership among groups that presently own and control little productive capital will be greatly facilitated through the creation of a small business ownership development program, which shall provide services, including, but not limited to, financial, management, and technical assistance.

"(v) that the power to let sole source Federal contracts pursuant to section 8(a) of the Small Business Act can be an effective procurement assistance tool for development of business ownership among groups that own and control little productive capital; and

Ante, p. 1761.

"(vi) that the procurement authority under section 8(a) of the Small Business Act shall be used only as a tool for developing business ownership among groups that own and control little productive capital.

"(B) It is, therefore, the purpose of the programs authorized by section 7(j) of this Act to—

Infra.

"(i) foster business ownership by individuals in groups that own and control little productive capital; and

"(ii) promote the competitive viability of such firms by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.".

15 USC 636.

SEC. 204. Section 7(j) of the Small Business Act is amended to read as follows:

Technical and management assistance.

"(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), (7)(j)(10), and 8(a) of this Act;

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

"(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

Subcontract placement with businesses located in certain areas.

"(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small

businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of this Act. *Ante*, p. 1761. 15 USC 636.

"(A) An advisory committee composed of five high-level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President shall report annually to the President and to the Congress on the activities of the advisory committee. *Ante*, p. 1764. Advisory committee, establishment. Membership.

"(B) The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purpose of this paragraph and evaluate the success of these activities in achieving the purposes of this paragraph. The General Accounting Office shall report to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph. Report to Congress.

"(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract. Grants and contracts.

"(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections 7(i), 7(j), and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General. Program evaluation. Report to Congress.

"(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

"(10) There is established within the Administration a small business and capital ownership development program (hereinafter referred to as the 'Program') which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The management of the Program shall be vested in the Associate Administrator for Minority Small Small business and capital ownership development program, establishment.

Business and Capital Ownership Development who shall also manage all other services and activities authorized under sections 7(j) and 8(a) of this Act.

Ante, pp. 1764, 1761.

"(A) The Program shall—

"(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals;

"(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (I) loan packaging, (II) financial counseling, (III) accounting and bookkeeping assistance, (IV) marketing assistance, and (V) management assistance;

"(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

"(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

"(v) analyze and report the causes of success and failure of small business concerns participating in the Program; and

"(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (I) the preparation of application forms required to receive a surety bond, (II) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (III) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

15 USC 694a.

"(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless the Program is able to provide such small business concern with, but not limited to, such management, technical, and financial services as may be necessary to promote the competitive viability of the small business concern within a reasonable period of time.

Responsibilities.

"(11) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.".

15 USC 636.

SEC. 205. Section 7(k) of the Small Business Act is amended by striking the words "7(i) and 7(j)" and inserting in lieu thereof "7(i), 7(j), and 8(a)".

15 USC 633.

SEC. 206. Section 4(b) of the Small Business Act is amended by striking "Associate Administrator for Minority Small Business" where it appears therein and by substituting the following: "Associate Administrator for Minority Small Business and Capital Ownership Development".

SEC. 207. Nothing in this chapter is intended to duplicate or limit any programs or projects administered by the Department of Commerce. 15 USC 647 note.

CHAPTER 2

SEC. 211. Section 8(d) of the Small Business Act is amended to read as follows: Contract opportunities for certain small business concerns. 15 USC 637.

"(d)(1) It is the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"(2) The clause stated in paragraph (3) shall be included in all contracts let by any Federal agency except any contract which—

"(A) does not exceed $10,000;

"(B) including all subcontracts under such contracts will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

"(C) is for services which are personal in nature.

"(3) The clause required by paragraph (2) shall be as follows:

"'(A) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"'(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

"'(C) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern— Definitions. 15 USC 632.

"'(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"'(ii) whose management and daily business operations are controlled by one or more of such individuals.

"'The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

"'(D) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.'

"(4)(A) Each solicitation of an offer for a contract to be let by a Federal agency which is to be awarded pursuant to the negotiated method of procurement and which may exceed $1,000,000, in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, shall contain a clause notifying potential offering companies of the provisions of this subsection relating to contracts awarded pursuant to the negotiated method of procurement.

"(B) Before the award of any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded, or was let, pursuant to the negotiated method of procurement,

"(ii) is required to include the clause stated in paragraph (3),

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000 in the case of all other contracts, and

"(iv) which offers subcontracting possibilities,

the apparent successful offeror shall negotiate with the procurement authority a subcontracting plan which incorporates the information prescribed in paragraph (6). The subcontracting plan shall be included in and made a material part of the contract.

"(C) If, within the time limit prescribed in regulations of the Federal agency concerned, the apparent successful offeror fails to negotiate the subcontracting plan required by this paragraph, such offeror shall become ineligible to be awarded the contract. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract.

"(D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract.

Incentives for small business subcontracting.

"(E) Notwithstanding any other provision of law, every Federal agency, in order to encourage subcontracting opportunities for small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals as defined in paragraph (3) of this subsection, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract: *Provided*, That, this subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.

Subcontracting plans.

"(5)(A) Each solicitation of a bid for any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded pursuant to the formal advertising method of procurement,

"(ii) is required to contain the clause stated in paragraph (3) of this subsection,

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, and

"(iv) offers subcontracting possibilities,

shall contain a clause requiring any bidder who is selected to be awarded a contract to submit to the Federal agency concerned a sub-

contracting plan which incorporates the information prescribed in paragraph (6).

"(B) If, within the time limit prescribed in regulations of the Federal agency concerned, the bidder selected to be awarded the contract fails to submit the subcontracting plan required by this paragraph, such bidder shall become ineligible to be awarded the contract. Prior compliance of the bidder with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of such bidder for the award of the contract. The subcontracting plan of the bidder awarded the contract shall be included in and made a material part of the contract.

"(6) Each subcontracting plan required under paragraph (4) or (5) shall include—

"(A) percentage goals for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

"(B) the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

"(C) a description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

"(D) assurances that the offeror or bidder will include the clause required by paragraph (2) of this subsection in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000 in the case of a contract for the construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan similar to the plan required under paragraph (4) or (5);

"(E) assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

"(F) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

"(7) The provisions of paragraphs (4), (5), and (6) shall not apply to offerors or bidders who are small business concerns.

"(8) The failure of any contractor or subcontractor to comply in good faith with— Breach of contract.

"(A) the clause contained in paragraph (3) of this subsection, or

"(B) any plan required of such contractor pursuant to the authority of this subsection to be included in its contract or subcontract,

shall be a material breach of such contract or subcontract.

"(9) Nothing contained in this subsection shall be construed to supersede the requirements of Defense Manpower Policy Number 4A (32A CFR Chap. 1) or any successor policy.

"(10) In the case of contracts within the provisions of paragraphs (4), (5), and (6), the Administration is authorized to—

"(A) assist Federal agencies and businesses in complying with their responsibilities under the provisions of this subsection, including the formulation of subcontracting plans pursuant to paragraph (4);

Review.

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and

Subcontracting plans, compliance evaluation.

"(C) evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case contractors having multiple contracts, on an aggregate basis.

Report to congressional committees.

"(11) At the conclusion of each fiscal year, the Administration shall submit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts described in this subsection.".

CHAPTER 3

15 USC 644.

SEC. 221. Section 15 of the Small Business Act is amended by adding at the end of subsection (f) the following new subsections:

"(g) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, and by small business concerns owned and controlled by socially and economically disadvantaged individuals, in procurement contracts of such agency having values of $10,000 or more. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

Reports to Small Business Administration.

"(h) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section. The Administration shall submit to the Select Committee on Small Business of the Senate and

Submittal of information to congressional committees.

the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.

"(i) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of architectural and engineering services, research, development, test and evaluation, and each Federal agency is authorized to develop such set-asides to further the interests of small business in those areas.

Small purchase procedures.

"(j) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors.

Office of Small and Disadvantaged Business Utilization, establishment.

"(k) There is hereby established in each Federal agency having procurement powers an office to be known as the 'Office of Small and Disadvantaged Business Utilization'. The management of each such office shall be vested in an officer or employee of such agency who shall—

"(1) be known as the 'Director of Small and Disadvantaged Business Utilization' for such agency,

"(2) be appointed by the head of such agency,

"(3) be responsible only to, and report directly to, the head of such agency or to his deputy,

"(4) be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such agency,

15 USC 637, 644.

"(5) have supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act,

"(6) assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative—

"(A) who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity, and

"(B) whose principal duty shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act, and

"(7) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection.

"This subsection shall not apply to the Administration.".

Uniform Federal procurement regulations and procedures.
41 USC 405a.
41 USC 401 note.

SEC. 222. The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all Federal agencies. In formulating such regulations and procedures the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and

incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

Information availability. 15 USC 637b.

SEC. 223. (a) For any contract to be let by any Federal agency, such agency shall provide to any small business concern upon its request—

(1) a copy of bid sets and specifications with respect to such contract;

(2) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(3) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract or subcontract under such contract which—

(1) will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(2) is for services which are personal in nature.

Definitions. 15 USC 637c.

SEC. 224. (a) For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office; and

(3) the term "Government procurement contract" means any contract for the procurement of any goods or services by any Federal agency.

15 USC 632.

(b) Section 3 of the Small Business Act is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following new subsection:

"(b) For purposes of this Act, any reference to an agency or department of the United States, and the term 'Federal agency', shall have the meaning given the term 'agency' by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office.".

CHAPTER 4

15 USC 636.

SEC. 231. Section 7(a) of the Small Business Act is amended by inserting after the phrase "The Administration is empowered to make loans to enable small-business concerns" the phrase ", or small-business concerns 100 percent owned and controlled by an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act,".

25 USC 450b.

15 USC 644.

SEC. 232. Section 15(f) of the Small Business Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

Report to congressional committees.

SEC. 233. Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(l) (1) The President shall, not later than October 1, 1979, transmit to the Select Committee on Small Business and the Committee on Armed Services of the Senate and to the Committee on Small Business and the Committee on Armed Services of the House of Representatives a report on the labor surplus area procurement program under this section and the manpower policy described in subparagraph (D).

Such report, together with recommendations, shall include, but not be limited to—

"(A) an analysis of the effectiveness of such labor surplus area procurement program, including its effectiveness in creating jobs in the areas of high unemployment and the method by which labor markets are classified and designated as labor surplus areas;

"(B) its potential benefits to Federal, State and local governments, including tax benefits, reductions in Federal payments to labor surplus areas, and reductions in State unemployment costs where such information is available;

"(C) its potential costs, including its impact on the efficient utilization of Federal resources, its effect on the local economy of non-labor surplus areas, its impact on small business concerns not in labor surplus areas to the extent such information is available, and its impact on contract costs to the Federal Government; and

"(D) with respect to the implementation by the Department of Defense of Defense Manpower Policy Number 4A (32A CFR Chapter 1) or any successor policy, in addition to the matters required by subparagraphs (A), (B), and (C), information concerning the impact on such matters of the expenditure of any funds which were available for procurement and which were not obligated for expenditure on September 30, 1977.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-949 (Comm. on Small Business) and No. 95-1714 (Comm. of Conference).

SENATE REPORTS: No. 95-1070 (Select Comm. on Small Business) and No. 95-1140 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Mar. 20, considered and passed House.

Sept. 15, considered and passed Senate, amended.

Oct. 6, House agreed to conference report.

Oct. 10, Senate agreed to conference report.

Public Law 95-508
95th Congress

An Act

Oct. 24, 1978
[H.R. 12165]

To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes.

Metal articles, duty suspension. 19 USC 1202 app.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out the colon at the end of the superior heading to items 911.10, 911.11, and 911.12 and inserting in lieu thereof "or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content:"; and

(2) by striking out "6/30/78" in each of items 911.10, 911.11, and 911.12 and inserting in lieu thereof "6/30/81".

Effective date. 19 USC 1202 app. note.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

19 USC 1202 app. note.

(c) Upon request therefore filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after June 30, 1978, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a)(2) applied to such entry or withdrawal,

shall, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

19 USC 1202 app.

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

"	903.60	Mixtures of mashed or macerated hot red peppers and salt (provided for in item 141.77 or 141.81, part 8C, schedule 1).	Free	No change	On or before 6/30/81	".

Effective date. 19 USC 1202 app. note.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1361 (Comm. on Ways and Means).
SENATE REPORT No. 95-1243 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 12, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendments.

Public Law 95-509
95th Congress

An Act

To authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

Oct. 24, 1978
[H.R. 11686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979".

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979.

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this title referred to as the "Department") for fiscal year 1979 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy as follows:

(1) For Weapons Activities, $1,237,194,000;
(2) For Special Materials Production, $514,500,000;
(3) For Inertial Confinement Fusion, $104,000,000;
(4) For Naval Reactor Development, $265,600,000;
(5) For Defense Intelligence and Arms Control, $32,600,000;
(6) For Nuclear Materials Security and Safeguards, $45,089,000; and
(7) For Program Direction and Management Support Related to National Security Programs, $47,151,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for plant and capital equipment, including planning, construction, acquisition, or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For weapons activities:

Project 79-7-a Tonopah Test Range upgrade, Phase II, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, Los Alamos, New Mexico (A-E and long lead procurement only), $2,000,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 79-7-d, water cooling station upgrade, Lawrence Livermore Laboratory, Livermore, California, $2,300,000.

Project 79-7-e, production and assembly facilities, Pantex Plant, Amarillo, Texas, $10,000,000.

Project 79-7-f, stockpile quality evaluation facility, Y-12 Plant, Oak Ridge, Tennessee, $2,300,000.

Project 79-7-l, Systems R&D Lab, Sandia Laboratories, Albuquerque, New Mexico (A-E), $1,000,000.

Project 79-7-m, Weapons Materials Analytical Lab, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 79-7-n, utility systems restoration, Y-12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 79-7-o, universal pilot plant, high explosives, Pantex Plant, Amarillo, Texas, $3,500,000.

Project 79-7-p, facilities for new modern strategic bomb, various locations, $28,000,000.

(2) For special materials production:

Project 79-7-h, utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $10,500,000.

Project 79-7-i, transmission and distribution systems upgrading, Richland, Washington, $7,000,000.

Project 79-7-j, pollutant discharge elimination, Savannah River, South Carolina, $9,000,000.

(3) For defense waste management:

Project 79-7-k, waste management facilities, Savannah River, South Carolina, $25,000,000.

(4) For project 79-6, general plant projects—

(A) for weapons activities, $26,400,000;

(B) for special materials production, $15,250,000;

(C) for naval reactor development, $3,000,000; and

(D) for waste management, $5,950,000.

(5) For project 79-8, plant engineering and design—

(A) for special materials production, $1,500,000;

(B) for defense waste management, $12,000,000;

(C) for military application, $32,000,000; and

(D) for inertial confinement fusion, $1,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $86,400,000;

(B) for special materials production, $32,000,000;

(C) for waste management, $8,000,000;

(D) for inertial confinement fusion, $8,200,000;

(E) for naval reactor development, $22,000,000;

(F) for nuclear material security and safeguards, $3,000,000; and

(G) for program direction and management support, $300,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for national security projects previously authorized by law, as follows:

(1) For project 74-1-b, replacement ventilation air filter, F Chemical Separations Area, Savannah River, South Carolina, $2,100,000; for a total authorization of $7,300,000.

(2) For project 75-7-c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $1,000,000; for a total authorization of $11,500,000.

(3) For project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $50,000,000; for a total authorization of $65,000,000.

(4) For project 77–13–f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, $40,000,000; for a total authorization of $68,000,000.

(5) For project 77–13–g, safeguards and security upgrading, production facilities, multiple sites, $3,800,000; for a total authorization of $20,200,000.

(6) For project 78–4–a, a high energy laser facility (NOVA), Lawrence Livermore Laboratory, Livermore, California, $187,000,000; for a total authorization of $195,000,000.

(7) For project 78–16–c, high explosive flash radiography facility, Lawrence Livermore Laboratory, Livermore, California, $5,900,000; for a total authorization of $10,900,000.

(8) For project 78–16–d, weapons safeguards, various locations, $9,000,000; for a total authorization of $26,000,000.

(9) For project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,700,000; for a total authorization of $6,300,000.

(10) For project 78–16–i; laboratory support complex, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $14,000,000; for a total authorization of $16,000,000.

(11) For project 78–17–a, production component warehouse, Pantex Plant, Amarillo, Texas, $2,550,000; for a total authorization of $2,800,000.

(12) For project 78–17–c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, Livermore, California, $11,000,000; for a total authorization of $12,300,000.

(13) For project 78–17–d, steam plant improvements, Y–12 Plant, Oak Ridge, Tennessee, $7,000,000; for a total authorization of $10,000,000.

(14) For project 78–18–a, high level waste storage and waste management facilities, Richland, Washington, $9,000,000; for a total authorization of $27,000,000.

(13) For project 78–18–c, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $13,000,000; for a total authorization of $28,500,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMMING

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of Congress of notice given by the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written

39-194 O—80—pt. 2——32 : QL3

notice to the effect that such committee has no objection to the proposed action.

PROJECT COST VARIATION PROVISION

SEC. 202. (a) No project for which appropriations are authorized in section 102 (1), (2), or (3) may be started if the current estimated cost of such project exceeds by more than 25 percent the amount authorized for such project.

(b) At any time the current estimated cost of any such project under construction exceeds by more than 25 percent the total amount authorized by law for such project, the Secretary shall (1) promptly notify the appropriate committees of the Congress of such fact and include in the notification an explanation for the increased cost of the project and the revised current estimated cost figures for such project, and (2) not proceed with such project unless and until additional funds for such project are authorized by law.

(c) The provisions of this section shall not apply to any project which has a current estimated cost of less than $5,000,000.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 203. The Secretary is authorized to start any project set forth under section 102(4) only if—

(1) the then maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in such project does not exceed $300,000, except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy; and

(2) the total cost of all projects undertaken under such section does not exceed the estimated cost set forth in such section by more than 25 percent.

AVAILABILITY OF FUNDS

SEC. 204. Subject to the provisions of appropriations Acts, amounts appropriated pursuant to sections 101 and 102 of this Act for policy and management activities, for general plant projects, and for plant engineering and design are available for use, when necessary, in connection with all national security programs of the Department of Energy.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 205. The Secretary is authorized to perform construction design services for any construction project of the Department of Energy in support of national security programs which have been presented to, or requested of, the Congress in amounts not in excess of the amount specified in section 102(5). In any case in which the estimated design cost for any project is in excess of $300,000, the Secretary shall notify the appropriate Committees of Congress in writing of the estimated design cost for such project at least 30 days before any funds are obligated for design services for such project.

Notification to congressional committees.

ADJUSTMENTS FOR PAY INCREASES

SEC. 206. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

RESTRICTIONS ON THE B43 BOMB

SEC. 207. No funds authorized to be appropriated by this Act may be used for the testing, modernization, rebuilding, or replacement of any component of the B43 bomb, except that such funds may be used for quality and reliability testing of such bomb and for the replacement of limited-life components of such bomb.

FUTURE REQUESTS OF AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 208. The Secretary shall submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorizations for appropriations for all programs of the Department of Energy involving scientific research and development in support of the armed forces, military applications of nuclear energy, strategic and critical materials necessary for the common defense, and other programs which involve the common defense and security of the United States. Submittal to Congress. 42 USC 7271.

STUDY OF CAPITAL INVESTMENT REQUIREMENTS

SEC. 209. (a) The Secretary shall conduct a study of the status of all Government-owned, contractor-operated, plant, capital equipment, facilities, and utilities which support the United States nuclear weapons program and submit the results of such study to the Congress at the same time that the Department of Energy authorization request for fiscal year 1980 is submitted to the Congress. Submittal to Congress. 42 USC 7271 note.

(b) The Secretary shall include in such report—

(1) an analysis of the measures required to restore the nuclear weapons complex of the United States to a satisfactory condition, and

(2) a plan containing proposed schedules for carrying out and funding any restoration found to be necessary.

REQUIREMENT FOR MILITARY PERSONNEL DETAILED TO THE DEPARTMENT OF ENERGY TO BE INCLUDED IN AUTHORIZED END STRENGTHS

SEC. 210. Section 625(b) of the Department of Energy Organization Act (91 Stat. 598) is amended by striking out the second sentence. 42 USC 7235.

RESTRICTIONS ON SM-2 WARHEAD

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the development of a nuclear warhead for the SM-2 standard missile until an arms control impact statement for such warhead has been filed with the Congress.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1108 (Comm. on Armed Services).
SENATE REPORT No. 95-961 accompanying S. 2693 (Comm. on Armed Services) and (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 16, 17, considered and passed House.
Sept. 30, considered and passed Senate, amended, in lieu of S. 2693.
Oct. 11, House concurred in Senate amendment.

Public Law 95-510
95th Congress

An Act

Oct. 24, 1978
[H.R. 13418]

To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Act, amendment. Volunteer programs, establishment and operation.

SEC. 101. Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by striking subparagraph (1)(B) and inserting in lieu thereof the following subparagraphs:

"(B) To establish, conduct, and publicize, and to recruit, select, and train volunteers for (and to enter into contracts, grants, or cooperative agreements therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executive (ACE) for the purposes of section 8(b)(1)(A) of this Act; and to facilitate the implementation of such volunteer programs the Administration may maintain at its headquarters and pay the expenses of a team of volunteers subject to such conditions and limitations as the Administration deems appropriate: *Provided*, That any such payments made pursuant to this subparagraph shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(C) To allow any individual or group of persons participating with it in furtherance of the purposes of subparagraphs (A) and (B) to use the Administration's office facilities and related material and services as the Administration deems appropriate, including clerical and stenographic services:

"(i) such volunteers, while carrying out activities under section 8(b)(1) of this Act shall be deemed Federal employees for the purposes of the Federal tort claims provisions in title 28, United States Code; and for the purposes of subchapter I of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries) shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except that in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-11 employee;

5 USC 8101 *et seq.*

Volunteer reimbursement.

"(ii) the Administrator is authorized to reimburse such volunteers for all necessary out-of-pocket expenses incident to their provision of services under this Act, or in connection with attendance at meetings sponsored by the Administration, or for the cost of malpractice insurance, as the Administrator shall determine, in accordance with regulations which

he or she shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for individuals serving without pay; and

"(iii) such volunteers shall in no way provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

"(D) Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to section 8(b)(1) of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. 15 USC 637.

"(E) Notwithstanding any other provision of law and pursuant to regulations which the Administrator shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings arising directly out of the performance of activities pursuant to section 8(b)(1) of this Act, as amended (15 U.S.C. 637(b)(1)) to which volunteers have been made parties. Defense proceedings, expenses.

"(F) In carrying out its functions under section 8(b)(1) of this Act, the Administration is authorized to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise; and, further, to accept gratuitous services and facilities.".

SEC. 102. (a) Title III of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5031 et seq.), is hereby repealed. Repeals.

(b) Section 503 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5083), is hereby repealed.

SEC. 103. Section 5(c) of the Small Business Act (15 U.S.C. 634(c)), is amended by striking the last sentence and inserting in lieu thereof the following: "Any individual so employed may be compensated at a rate not in excess of the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and, while such individual is away from his or her home or regular place of business, he or she may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code.". Experts and consultants, compensation and expenses.

SEC. 104. Section 7(k)(4) of the Small Business Act (15 U.S.C. 636(k)(4)), is amended by striking out "$100 per diem" and inserting in lieu thereof "the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code".

Effective date.
15 USC 634 note.

SEC. 105. This Act shall be effective October 1, 1979.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1375 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 95-511
95th Congress

An Act

To authorize electronic surveillance to obtain foreign intelligence information.

Oct. 25, 1978
[S. 1566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

Foreign Intelligence Surveillance Act of 1978.
50 USC 1801 note.

TABLE OF CONTENTS

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 101. Definitions.
Sec. 102. Authorization for electronic surveillance for foreign intelligence purposes.
Sec. 103. Designation of judges.
Sec. 104. Application for an order.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Report of electronic surveillance.
Sec. 108. Congressional oversight.
Sec. 109. Penalties.
Sec. 110. Civil liability.
Sec. 111. Authorization during time of war.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title: 50 USC 1801.

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4);

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.

18 USC 2151 *et seq.*

(e) "Foreign intelligence information" means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about

to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102(a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

8 USC 1101.

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

50 USC 1802.

SEC. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a) (1), (2), or (3);

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

Report to congressional committees.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 108(a).

Report to congressional committees.

(3) The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 101(h)(4) and 104; or

(B) the certification is necessary to determine the legality of the surveillance under section 106(f).

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

Communication common carrier, duties.

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

Compensation.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdic-

Applications approval.

tion to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

DESIGNATION OF JUDGES

Court to hear applications and grant orders. 50 USC 1803.

SEC. 103. (a) The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).

Court of review.

(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

Record of proceedings.

(c) Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

Tenure.

(d) Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

APPLICATION FOR AN ORDER

50 USC 1804.

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

Approval of Attorney General.

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

Foreign power, information exclusion.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8),

and (11) of subsection (a), but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

50 USC 1805.

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimi-

zation procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

Approval.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

Extensions of an order.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 101(a) (5) or (6), or against a foreign power as defined in section 101(a)(4) that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

Review of circumstances of order or extension.

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

Emergency order.

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

Denial of application.

Review.

Testing of electronic equipment.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and

Termination.

(D) *Provided*, That the test may exceed ninety days only with the prior approval of the Attorney General;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

18 USC 2510 *et seq.*
47 USC 605.

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

Training of intelligence personnel, conditions.

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the certification or application.

Record retention requirement.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

50 USC 1806.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

Statement for disclosure.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or

derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this Act, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States

except a United States court of appeals and the Supreme Court.

(i) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

Disposal of contents.

(j) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

Postponement or suspension of notice, time limitation.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceding calendar year—

Report to Congress. 50 USC 1807.

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

Report to congressional committees. 50 USC 1808.

(b) On or before one year after the effective date of this Act and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this Act. Said reports shall include but not be limited to an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

Report of congressional committees to Congress.

PENALTIES

50 USC 1809.

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

50 USC 1810.

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

50 USC 1811.

SEC. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

18 USC 2511.

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or

oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States 18 USC 2518. that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, Disclosure of information, prohibition. or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof, shall render the carrier liable for the civil damages provided for in section 2520. No cause of action shall lie in 18 USC 2520. any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof 18 USC 2511. the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful 47 USC 605, 606. for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed. Repeal.

(d) Section 2518(1) is amended by inserting "under this 18 USC 2511. chapter" after "communication". 18 USC 2518.

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication".

18 USC 2518.

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

18 USC 2519.

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

50 USC 1801 note.

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the first judge pursuant to section 103 of this Act.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1283, Pt. I accompanying H.R. 7308 (Comm. on the Judiciary) and (Select Comm. on Intelligence) and No. 95-1720 (Comm. of Conference).

SENATE REPORTS: No. 95-604 and No. 95-604, Pt. II (Comm. on the Judiciary) and No. 95-701 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 20, considered and passed Senate.
Sept. 6, 7, considered and passed House, amended.
Sept. 12, Senate disagreed to House amendments.
Oct. 9, Senate agreed to conference report.
Oct. 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 25, Presidential statement.

Public Law 95-512
95th Congress

An Act

To provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes.

Oct. 25, 1978
[S. 3412]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comptroller General Annuity Adjustment Act of 1978".

Comptroller General Annuity Adjustment Act of 1978.
31 USC 1 note.

SEC. 2. Section 319 of the Budget and Accounting Act, 1921 (31 U.S.C. 43b) is amended—

(1) by striking out "3" wherever it appears in subsections (b) and (c) and inserting "4½";

(2) by striking out in subsection (e)(2) beginning with "one-half" through the word "lesser" and inserting the following: "(A) $1,548, or (B) $4,644 divided by the number of children, whichever is lesser";

(3) by inserting "(A)" immediately after "equal to" in subsection (e)(3) and by striking out in such subsection beginning with "survived," through the word "year" and inserting "survived, divided by the number of children, or (B) $1,860, or (C) $5,580, divided by the number of children, whichever is the lesser"; and

(4) by striking out "the last five years of such service" in subsection (n) and inserting "the three years of service in which his annual salary was greatest", and by striking out "37½" in such subsection and inserting "40".

SEC. 3. The Budget and Accounting Act, 1921, is amended by adding after section 319 the following new section:

"SEC. 320. (a) Except as provided in subsection (b), the annuities authorized by sections 303 and 319 of this Act shall be increased as follows:

31 USC 43c.
31 USC 43, 43b.

"(1) The Comptroller General shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the Consumer Price Index published for December of the preceding year over the Consumer Price Index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the Consumer Price Index published for June of such year over the Consumer Price Index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the Consumer Price Index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable under sections 303 and 319 of this Act commencing not later than such March 1 shall be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable under sections 303 and 319 of this Act commencing not later than such September 1 shall be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum.

31 USC 43, 43b.

"(3) The per centum increase authorized by the Comptroller General under this section shall not exceed the per centum increase as authorized from time to time by the Civil Service Commission under section 8340(b) of title 5, United States Code.

"(b) The annuity authorized by section 303 of this Act shall not, by reason of the application of subsection (a), exceed the annual rate of compensation of the Comptroller General.".

Annuity deductions.

SEC. 4. (a) The second paragraph of section 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 43) is amended by inserting between the third and fourth sentences the following new sentence: "There shall be deducted from the salary of any person appointed to the Office of the Comptroller General after the date of enactment of this sentence as a contribution to the annuity authorized by this paragraph (1) a sum equal to 3½ per centum of his salary, in the case of a Comptroller General who has elected survivor benefits under section 319, or (2) a sum equal to 8 per centum of his salary, in the case of a Comptroller General who has not elected such survivor benefits.".

(b) The third paragraph of such section is amended by—

(1) inserting after "that Act," in the first sentence "and no deduction from his salary shall be made under the preceding paragraph,"; and

(2) adding at the end thereof the following new sentence: "Any person who is appointed to the Office of Comptroller General after the date of enactment of this sentence and who makes such an election under this paragraph shall deposit with the General Accounting Office for covering into the general fund of the Treasury as miscellaneous receipts as a contribution to the annuity authorized under the preceding paragraph (1) a sum equal to 3½ per centum, in the case of a Comptroller General who has elected survivor benefits under section 319, or (2) 8 per centum, in the case of a Comptroller General who has not elected such benefits, of the salary received by him as Comptroller General prior to the date current deductions begin from his salary, plus interest thereon at the rate of 3 per centum per annum compounded on December 31 of each year.".

(c) Such section is amended by adding at the end thereof the following new paragraph: Lump-sum refund.

"Any Comptroller General who is separated from office prior to becoming eligible to receive an annuity under the second paragraph shall be entitled to a lump-sum refund of the total amount deducted from his salary in accordance with the provisions of such paragraph or deposited by him as a contribution to his annuity in accordance with the provisions of the preceding paragraph, plus interest thereon at the rate of 3 per centum per annum compounded on December 31 of each year. The lump-sum refund authorized by this paragraph shall be paid to the Comptroller General or to his survivors in the order of precedence of such survivors established in section 319(j) for survivor benefits.".

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1241, accompanying H.R. 12196 (Comm. on Government Operations).
SENATE REPORT No. 95-1267 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 25, H.R. 12196 considered and passed House.
Oct. 9, considered and passed Senate.
Oct. 11, considered and passed House, in lieu of H.R. 12196.

Public Law 95-513
95th Congress

Joint Resolution

Oct. 25, 1978
[H.J. Res. 1147]

Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week".

Whereas members of the Armed Forces of the United States who served in Southeast Asia during the Vietnam conflict performed such service under the most trying conditions because of the lack of domestic support for the conflict and because of the nature of the conflict itself;

Whereas the battlefield performance of America's soldiers, sailors, marines, and airmen during the Vietnam conflict was by all measures the equal of that of their counterparts in previous conflicts;

Whereas an adverse image has often been unfairly attached to the Vietnam veteran as an individual because of the controversial nature of the Vietnam conflict; and

Whereas the Nation has never fully expressed its gratitude to those who gave a substantial portion of their lives at their Government's request and in the name of the people of the United States to serve in such conflict: Now, therefore, be it

Vietnam Veterans Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested (1) to issue a proclamation designating the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week" and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities, and (2) to initiate and coordinate appropriate ceremonies and activities within the executive branch for the observance of such period.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct 10, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 95-514
95th Congress

An Act

To improve the range conditions of the public rangelands.

Oct. 25, 1978
[H.R. 10587]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Rangelands Improvement Act of 1978.
43 USC 1901 note.

SECTION 1. That this Act may be cited as the "Public Rangelands Improvement Act of 1978".

FINDINGS AND DECLARATION OF POLICY

43 USC 1901.

SEC. 2. (a) The Congress finds and declares that—

(1) vast segments of the public rangelands are producing less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits, and for that reason are in an unsatisfactory condition;

(2) such rangelands will remain in an unsatisfactory condition and some areas may decline further under present levels of, and funding for, management;

(3) unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification, and a resultant underproductivity for large acreages of the public lands; contribute significantly to unacceptable levels of siltation and salinity in major western watersheds including the Colorado River; negatively impact the quality and availability of scarce western water supplies; threaten important and frequently critical fish and wildlife habitat; prevent expansion of the forage resource and resulting benefits to livestock and wildlife production; increase surface runoff and flood danger; reduce the value of such lands for recreational and esthetic purposes; and may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes;

(4) the above-mentioned conditions can be addressed and corrected by an intensive public rangelands maintenance, management, and improvement program involving significant increases in levels of rangeland management and improvement funding for multiple-use values;

(5) to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production:

(6) the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.), continues to be successful in its goal of protecting wild free-roaming horses and burros from capture, branding, harrassment, and death, but that certain amendments are necessary thereto to avoid excessive costs in the administration of the Act, and to facilitate the humane adoprion or disposal of excess wild free-roaming horses and burros which because they exceed the carrying capacity of the range, pose a threat to their own habitat, fish, wildlife, recreation, water and soil conservation, domestic livestock grazing, and other rangeland values;

(b) The Congress therefore hereby establishes and reaffirms a national policy and commitment to:

(1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711);

(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process established pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712);

(3) charge a fee for public grazing use which is equitable and reflects the concerns addressed in paragraph (a)(5) above;

(4) continue the policy of protecting wild free-roaming horses and burros from capture, branding, harassment, or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and to other rangeland values;

(c) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation, and shall be construed as supplemental to and not in derogation of the purposes for which public rangelands are administered under other provisions of law.

Definitions.
43 USC 1902.

SEC. 3. As used in this Act—

(a) The terms "rangelands" or "public rangelands" means lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing or which the Secretary concerned determines may be suitable for domestic livestock grazing.

(b) The term "allotment management plan" is the same as defined in section 103(k) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1702(k)), except that as used in this Act such term applies to the sixteen contiguous Western States.

(c) The term "grazing permit and lease" means any document authorizing use of public lands or lands in national forests in the sixteen contiguous Western States for the purpose of grazing domestic livestock.

(d) The term "range condition" means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions, and amounts of vegetation in a plant community resemble that of the desired community for that site.

(e) The term "native vegetation" means those plant species, communities, or vegetative associations which are endemic to a given area and which would normally be identified with a healthy and productive range condition occurring as a result of the natural vegetative process of the area.

(f) The term "range improvement" means any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife. The term includes, but is not limited to,

structures, treatment projects, and use of mechanical means to accomplish the desired results.

(g) The term "court ordered environmental impact statement" means any environmental statements which are required to be prepared by the Secretary of the Interior pursuant to the final judgment or subsequent modification thereof as set forth on June 18, 1975, in the matter of Natural Resources Defense Council against Andrus.

(h) The term "Secretary" unless specifically designated otherwise, means the Secretary of the Interior.

(i) The term "sixteen contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

RANGELANDS INVENTORY AND MANAGEMENT

SEC. 4. (a) Following enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act (43 U.S.C. 1711), and by the Secretary of Agriculture in accordance with section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1603); shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public. 43 USC 1903. Public availability.

(b) The Secretary shall manage the public rangelands in accordance with the Taylor Grazing Act (43 U.S.C. 315–315(o)), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1782), and other applicable law consistent with the public rangelands improvement program pursuant to this Act. Except where the land use planning process required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) determines otherwise or the Secretary determines, and sets forth his reasons for this determination, that grazing uses should be discontinued (either temporarily or permanently) on certain lands, the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in sections 2 (a) and (b)(2) of this Act.

RANGE IMPROVEMENT FUNDING

SEC. 5. (a) In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of an additional $15,000,000 annually in fiscal years 1980 through 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for 1982; and for fiscal years 1987 through 1999 an amount not less than $5,000,000 annually more than the amount authorized for fiscal year 1986. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Appropriation authorization. 43 USC 1904.

43 USC 1748.

Secretary under the provisions of section 318 of the Federal Land Policy and Management Act, and in addition to the moneys which are available for range improvements under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751).

(b) Any amounts authorized by this section not appropriated in one or more fiscal years shall be available for appropriation in any subsequent years.

(c) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after careful and considered consultation and coordination, including public hearings and meetings where appropriate, with the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act (43 U.S.C. 1739), range user representatives, and other interested parties. To the maximum extent practicable, and where economically sound, the Secretary shall give priority to entering into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

Distribution, consultation and coordination.

(d) Prior to the use of any funds authorized by this section the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.

Environmental assessment record.

42 USC 4321 note.

GRAZING FEES

43 USC 1905.

SEC. 6. (a) For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: *Provided*, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

(b) The second sentence of section 401(b)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751(b)(1)) is hereby amended by adding the words "or $10,000,000 per annum, whichever is greater" after the words "50 per centum", and by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

GRAZING LEASES AND PERMITS

SEC. 7. (a) Section 402(b)(3) of the Federal Land Policy and Management Act (43 U.S.C. 1752) is amended by striking the period at the end of the proviso and adding ": *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.".

(b) Section 402(a) of the Federal Land Policy and Management Act is hereby amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

ALLOTMENT MANAGEMENT PLANS

SEC. 8. Sections 402 (d) and (e) (43 U.S.C. 1752 (d) and (e)) are hereby amended—

(a) by changing subsection (d) to read as follows:

"(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms 'court ordered environmental impact statement' and 'range condition' shall be defined as in the 'Public Rangelands Improvement Act of 1978.'". Consultation and cooperation. Definitions. *Ante*, p. 1803.

(b) by deleting in subsection (e) the words "Prior to October 1, 1988, or thereafter, in" and by inserting "In".

APPROPRIATIONS

SEC. 9. Notwithstanding any other provision of this Act, authority to enter into cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts. 43 USC 1906.

GRAZING ADVISORY BOARDS

SEC. 10. Section 403(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

NATIONAL GRASSLAND EXEMPTIONS

43 USC 1907.

SEC. 11. All National Grasslands are exempted from the provisions of this Act.

EXPERIMENTAL STEWARDSHIP PROGRAM

43 USC 1908.

SEC. 12. (a) The Secretaries of Interior and Agriculture are hereby authorized and directed to develop and implement, on an experimental basis on selected areas of the public rangelands which are representative of the broad spectrum of range conditions, trends, and forage values, a program which provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Such program shall explore innovative grazing management policies and systems which might provide incentives to improve range conditions. These may include, but need not be limited to—

(1) cooperative range management projects designed to foster a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangelands and with local private range users,

(2) the payment of up to 50 per centum of the amount due the Federal Government from grazing permittees in the form of range improvement work.

(3) such other incentives as he may deem appropriate.

Report to Congress.

(b) No later than December 31, 1985, the Secretaries shall report to the Congress the results of such experimental program, their evaluation of the fee established in section 6 of this Act and other grazing fee options, and their recommendations to implement a grazing fee schedule for the 1986 and subsequent grazing years.

ADVISORY COUNCILS

SEC. 13. The first line of section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) is amended by deleting "is authorized to" and inserting in lieu thereof "shall".

WILD HORSES AND BURROS

Inventory and determinations.

SEC. 14. (a) Subsections 3 (b), (c), and (d) of the Act of December 15, 1971 (85 Stat. 649; 16 U.S.C. 1333(b)(3)) are hereby amended to read as follows:

"(b)(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on

population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. Consultation.

"(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Range Lands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i–iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation: Overpopulation. 43 USC 1712.

"(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

"(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

"(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

"(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the Research study.

Submittal to Congress.

National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

Title, application.

"(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

"(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act—

"(1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c)(1) of this section; or

"(2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or

"(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

"(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or

"(5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.".

"Excess animals."

(b) A new subsection (f) is added to section 2 of the Act of December 15, 1971, as amended (16 U.S.C. 1332) to read as follows:

"(f) 'excess animals' means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area."

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1122 (Comm. on Interior and Insular Affairs) and No. 95-1737 (Comm. of Conference).

SENATE REPORT No. 95-1237 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 29, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 10, House agreed to conference report.

Oct. 11, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 27, Presidential statement.

Public Law 95-515
95th Congress

An Act

To regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

Oct. 25, 1978
[S. 1185]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Interstate Horseracing Act of 1978".

Interstate Horseracing Act of 1978.
15 USC 3001 note.

FINDINGS AND POLICY

15 USC 3001.

SEC. 2. (a) The Congress finds that—

(1) the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders;

(2) the Federal Government should prevent interference by one State with the gambling policies of another, and should act to protect identifiable national interests; and

(3) in the limited area of interstate off-track wagering on horseraces, there is a need for Federal action to ensure States will continue to cooperate with one another in the acceptance of legal interstate wagers.

(b) It is the policy of the Congress in this Act to regulate interstate commerce with respect to wagering on horseracing, in order to further the horseracing and legal off-track betting industries in the United States.

DEFINITIONS

15 USC 3002.

SEC. 3. For the purposes of this Act the term—

(1) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;

(2) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State;

(4) "on-track wager" means a wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place;

(5) "host State" means the State in which the horserace subject to the interstate wager takes place;

(6) "off-track State" means the State in which an interstate off-track wager is accepted;

(7) "off-track betting system" means any group which is in the business of accepting wagers on horseraces at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law;

(8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;

(9) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the horserace subject to the interstate wager;

(10) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;

(11) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate off-track betting in that State;

(12) "horsemen's group" means, with reference to the applicable host racing association, the group which represents the majority of owners and trainers racing there, for the races subject to the interstate off-track wager on any racing day;

(13) "parimutuel" means any system whereby wagers with respect to the outcome of a horserace are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "currently operating tracks" means racing associations conducting parimutuel horseracing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the horseracing which is the subject of the interstate off-track wager;

(15) "race meeting" means those scheduled days during the year a racing association is granted permission by the appropriate State racing commission to conduct horseracing;

(16) "racing day" means a full program of races at a specified racing association on a specified day;

(17) "special event" means the specific individual horserace which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(18) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(19) "year" means calendar year;

(20) "takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing wagers;

(21) "regular contractual process" means those negotiations by which the applicable horsemen's group and host racing association reach agreements on issues regarding the conduct of horseracing by the horsemen's group at that racing association;

(22) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is paid by the host racing association to the horsemen's group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system.

PROHIBITION

SEC. 4. No person may accept an interstate off-track wager except as provided in this Act. 15 USC 3003.

REGULATION

SEC. 5. (a) An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from— 15 USC 3004.

(1) the host racing association, except that—

(A) as a condition precedent to such consent, said racing association (except a not-for-profit racing association in a State where the distribution of off-track betting revenues in that State is set forth by law) must have a written agreement with the horsemen's group, under which said racing association may give such consent, setting forth the terms and conditions relating thereto; provided,

(B) that where the host racing association has a contract with a horsemen's group at the time of enactment of this Act which contains no provisions referring to interstate off-track betting, the terms and conditions of said then-existing contract shall be deemed to apply to the interstate off-track wagers and no additional written agreement need be entered into unless the parties to such then-existing contract agree otherwise. Where such provisions exist in such existing contract, such contract shall govern. Where written consents exist at the time of enactment of this Act between an off-track betting system and the host racing association providing for interstate off-track wagers, or such written consents are executed by these parties prior to the expiration of such then-existing contract, upon the expiration of such then-existing contract the written agreement of such horsemen's group shall thereafter be required as such condition precedent and as a part of the regular contractual process, and may not be withdrawn or varied except in the regular contractual process. Where no such written consent exists, and where such written agreement occurs at a racing association which has a regular contractual process with such horsemen's group, said agreement by the horsemen's group may not be withdrawn or varied except in the regular contractual process;

(2) the host racing commission;

(3) the off-track racing commission.

(b)(1) In addition to the requirement of subsection (a), any off-track betting office shall obtain the approval of—

(A) all currently operating tracks within 60 miles of such off-track betting office; and

(B) if there are no currently operating tracks within 60 miles then the closest currently operating track in an adjoining State.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any off-track betting office in a State with at least 250 days of on-track parimutuel horseracing a year, may accept interstate off-track wagers for a total of 60 racing days and 25 special events a year without the approval required by paragraph (1), if with respect to such 60 racing days, there is no racing of the same type at the same time of day being conducted within the off-track betting State within 60 miles of the off-track betting office accepting the wager, or such racing pro-

gram cannot be completed. Excluded from such 60 days and from the consent required by subsection (b)(1) may be dark days which occur during a regularly scheduled race meeting in said off-track betting State. In order to accept any interstate off-track wager under the terms of the preceding sentence the off-track betting office shall make identical offers to any racing association described in subparagraph (A) of subsection (b)(1). Nothing in this subparagraph shall be construed to reduce or eliminate the necessity of obtaining all the approvals required by subsection (a).

(c) No parimutuel off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for corresponding wagering pools of off-track wagers on races run within the off-track State except where such greater takeout is authorized by State law in the off-track State.

LIABILITY AND DAMAGES

15 USC 3005.

SEC. 6. Any person accepting any interstate off-track wager in violation of this Act shall be civilly liable for damages to the host State, the host racing association and the horsemen's group. Damages for each violation shall be based on the total of off-track wagers as follows:

(1) If the interstate off-track wager was of a type accepted at the host racing association, damages shall be in an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the horsemen's group, as if each such interstate off-track wager had been placed at the host racing association.

(2) If such interstate off-track wager was of a type not accepted at the host racing association, the amount of damages shall be determined at the rate of takeout prevailing at the off-track betting system for that type of wager and shall be distributed according to the same formulas as in paragraph (1) above.

CIVIL ACTION

15 USC 3006.

SEC. 7. (a) The host State, the host racing association, or the horsemen's group may commence a civil action against any person alleged to be in violation of this Act, for injunctive relief to restrain violations and for damages in accordance with section 6.

(b) In any civil action under this section, the host State, the host racing association and horsemen's group, if not a party, shall be permitted to intervene as a matter of right.

(c) A civil action may not be commenced pursuant to this section more than 3 years after the discovery of the alleged violation upon which such civil action is based.

(d) Nothing in this Act shall be construed to permit a State to be sued under this section other than in accordance with its applicable laws.

JURISDICTION AND VENUE

15 USC 3007.

SEC. 8. (a) Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any civil action under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) A civil action under this Act may be brought in any district court of the United States for a district located in the host State or the off-track State, and all process in any such civil action may be served in any judicial district of the United States.

(c) The jurisdiction of the district courts of the United States pursuant to this section shall be concurrent with that of any State court of competent jurisdiction located in the host State or the off-track State.

EFFECTIVE DATE; APPLICABILITY

SEC. 9. (a) The provisions of this Act shall take effect on the date of enactment of this Act, and, except as provided in subsection (b) of this section, shall apply to any interstate off-track wager accepted on or after such date of enactment. 15 USC 3001 note.

(b)(1) The provisions of this Act shall not apply to any interstate off-track wager which is accepted pursuant to a contract existing on May 1, 1978.

(2) The provisions of this Act shall not apply to any form of legal non-parimutuel off-track betting existing in a State on May 1, 1978.

(3) The provisions of subsection (b) of section 5 of this Act shall not apply to any parimutuel off-track betting system existing on May 1, 1978, in a State which does not conduct parimutuel horseracing on the date of enactment of this Act.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1733 (Comm. on Interstate and Foreign Commerce).
SENATE REPORTS: No. 95-554 (Comm. on Commerce, Science, and Transportation) and No. 95-1117 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 26, considered and passed Senate.
Oct. 10, H.R. 14089 considered and passed House; passage vacated, and S. 1185 passed in lieu.

Public Law 95-516
95th Congress

An Act

Oct. 25, 1978
[H.R. 10161]

For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters.

Eastern Telephone Supply and Manufacturing, Inc.
Natural graphite, duty suspension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations in section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or in any other provision of law, Eastern Telephone Supply and Manufacturing, Incorporated, of Newport, Rhode Island, may file, within sixty days after the date of enactment of this Act, a protest with the United States Customs Service concerning the overpayment of customs duties on goods purchased from Bell of Canada that entered the United States through Buffalo, New York, and Champlain, New York, during the period from February 1974, to December 1974, inclusive. The United States Customs Service shall accept such protest as if it were filed in a timely fashion and shall review such protest in accordance with the otherwise applicable provisions of law.

SEC. 2. SUSPENSION OF DUTY ON NATURAL GRAPHITE.

19 USC 1202 app.

(a) Item 909.01 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/78" and inserting in lieu thereof "6/30/81".

19 USC 1202 app. note.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1978.

19 USC 1202 app. note.

(c) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, the entry of any article—

(1) which was made on or after June 30, 1978, and before the date of enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) of this section applied to such entry

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930, or any other provisions of law, be liquidated or reliquidated as though such entry has been made on the date of enactment of this Act.

19 USC 1514.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1363 (Comm. on Ways and Means).
SENATE REPORT No. 95-1114 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 1, considered and passed House.
Aug. 23, considered and passed Senate, amended.
Oct. 10, House agreed to certain Senate amendments, disagreed to Senate amendment No. 2.
Oct. 12, Senate receded from amendment No. 2.

Public Law 95-517
95th Congress

An Act

To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II.

Oct. 25, 1978
[H.R. 11945]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Secretary of the Army is authorized to transfer to the Federal Republic of Germany, without compensation, title to, and custody of, ten paintings by the artist Claus Bergen depicting the German Navy that were seized from the German Government by the United States Army after World War II.

Naval paintings, return to Federal Republic of Germany.

SEC. 2. No funds of the United States may be expended in connection with any transportation or handling costs incident to the transfer authorized under the first section of this Act.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1575 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 95-518
95th Congress

An Act

Oct. 25, 1978
[H.R. 12112]

Designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw.

Gathright Dam and Lake Moomaw, Va. Designation. 33 USC 701j.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Gathright Lake, Jackson River, Virginia project, authorized by the Flood Control Act of 1946, approved July 24, 1946, shall hereafter be known and designated as Gathright Dam and Lake Moomaw, and any law, regulation, map, document, or record of the United States in which such lake is designated or referred to as Gathright Lake or is referred to by any other name, shall be held and considered to refer to such lake under and by the name of Gathright Dam and Lake Moomaw.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1094 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-1165 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 15, considered and passed House.
Sept. 6, considered and passed Senate, amended.
Oct. 15, House agreed to Senate amendments.

Public Law 95-519
95th Congress

An Act

To clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes.

Oct. 25, 1978
[S. 1626]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6301(2) of title 5, United States Code, is amended—

Federal employees. Certain legislative and judicial officers, leave status.

(1) by striking out "or" at the end of clause (xi);

(2) by striking out the period at the end of clause (xii) and inserting "; or" in lieu thereof; and

"(3) by adding at the end thereof the following new clause:

"(xiii) an officer in the legislative or judicial branch who is appointed by the President.".

SEC. 2. Sections 5551(b), 6302(e), and 6306(b) of title 5, United States Code, are each amended by striking out "section 6301(2)(x)-(xii)" each place it appears and inserting "section 6301(2)(x)-(xiii)" in lieu thereof.

SEC. 3. Section 8339(m) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 of this title under section 6301(2)(x)-(xiii) of this title, the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.".

Retirement, annuity computation. 5 USC 6301 *et seq.*

SEC. 4. (a) The amendments made by the first section and section 2 of this Act shall take effect beginning on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

Effective date. 5 USC 5551 note.

(b) The amendment made by section 3 of this Act shall apply only with respect to employees who retire or die on or after the date of the enactment of this Act.

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1496 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-403 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 9, considered and passed Senate.
Vol. 124 (1978): Sept. 18, considered and passed House, amended.
Oct. 10, Senate concurred in House amendments.

Public Law 95-520
95th Congress

An Act

Oct. 26, 1978
[H.R. 5029]

To amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Administration Programs Extension Act of 1978".

Veterans' Administration Programs Extension Act of 1978.

SEC. 2. Section 230(b) of title 38, United States Code, relating to the Veterans' Administration office in the Republic of the Philippines, is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981".

38 USC 101 note.

SEC. 3. (a) Section 624(c) of title 38, United States Code, relating to the veterans medical center in the Republic of the Philippines, is amended by striking out "Veterans Memorial Hospital" and inserting in lieu thereof "Veterans Memorial Medical Center".

38 USC 632.

(b) Section 632 of such title is amended—

(1) by striking out "Veterans Memorial Hospital" each place it appears in such section and inserting in lieu thereof in each such place "Veterans Memorial Medical Center";

(2) in the matter in subsection (a) preceding clause (1)—

(A) by striking out "a contract" and inserting in lieu thereof "contracts"; and

(B) by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981";

(3) by striking out "July 1, 1978" in subsection (b) and inserting in lieu thereof "October 1, 1981"; and

(4) by striking out "during the five years beginning July 1, 1973, and ending June 30, 1978—" in subsection (d) and inserting in lieu thereof "occurring during the period beginning July 1, 1973, and ending September 30, 1981—".

38 USC 4118 note.

SEC. 4. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669), relating to the expiration of authority to enter into special pay agreements, is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1981".

SEC. 5. Section 601(4)(C) of title 38, United States Code, relating to contract-care medical facilities, is amended by striking out "(v) hospital care" and all that follows through "December 31, 1978" and inserting in lieu thereof "(v) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall

expire on December 31, 1981, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services".

SEC. 6. (a) Section 2012(b) of title 38, United States Code, relating to veterans' employment emphasis under Federal contracts, is amended by inserting after "veterans" a comma and "or if any veteran who is entitled to disability compensation under the laws administered by the Veterans' Administration believes that any such contractor has discriminated against such veteran because such veteran is a handicapped individual within the meaning of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6))".

(b)(1) Subsection (b) of section 2014 of such title, relating to veterans readjustment appointments within the Federal Government, is amended to read as follows: 38 USC 2014.

"(b)(1) To further the policy stated in subsection (a) of this section, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that— Vietnam veterans. 5 USC 3302 note.

"(A) such an appointment may be made up to and including the level GS-7 or its equivalent;

"(B) a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment; and

"(C) a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran.

"(2) In this subsection, the term 'veteran of the Vietnam era' has the meaning given such term in section 2011(2)(A) of this title. "Veteran of the Vietnam era." 38 USC 2011.

"(3) No veterans readjustment appointment may be made under authority of this subsection after September 30, 1981.".

(2) Subsection (d) of such section is amended (A) by striking out "thereof" in the second sentence and inserting in lieu thereof "of this section", and (B) by adding at the end of such subsection the following new sentence: "Each report under the preceding sentence shall include in the specification of the use and extent of appointments made under subsection (b) of this section the following information (shown for all veterans and separately for veterans described in subsection (b)(1)(C) of this section and other veterans): Report.

"(1) The number of appointments made under such subsection since the last such report and the grade levels in which such appointments were made.

"(2) The number of individuals receiving appointments under such subsection whose appointments were converted to career conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

"(3) The number of such terminations since the last such report that were initiated by the department, agency, or instrumentality involved and the number of such terminations since the last such report that were initiated by the individual involved.

"(4) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.".

38 USC 2014.

(3) Subsection (f) of such section is amended by inserting "subsection (a) of" after "as used in".

SEC. 7. Section 5082 of title 38, United States Code, relating to authorizations of appropriations, is amended by adding at the end thereof the following new subsection:

Appropriation authorization.

"(c) There is authorized to be appropriated for fiscal year 1979 to carry out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, before May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator before May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts for which applications had been so approved have been obligated under such subchapter I.".

38 USC 5071.

38 USC 5071, 5091, 5096.

Report to Congress and President.

38 USC 601 note.

SEC. 8. (a) Not later than February 1, 1980, the Administrator of Veterans' Affairs shall submit a report to the Congress and to the President on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

Report.

(2) a detailed report on the hospital care and medical services furnished or to be furnished to such veterans during fiscal years 1975 through 1981, with information in such report shown with respect to the number of veterans treated or to be treated, the facilities at which such care and services are furnished or to be furnished, and the extent to which such care and services are furnished or are to be furnished for the treatment of veterans for service-connected disabilities of any degree and of veterans with service-connected disabilities rated at 50 per centum or more; and

(3) recommendations as to how the health-care needs of such veterans can best be addressed within the existing authority of the Administrator of Veterans' Affairs and what additional authority, if any, is necessary and desirable to meet such needs.

(b) In making recommendations under subsection (a)(3), the Administrator shall take into consideration—

(1) the state of the economy in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) alternative sources of health-care services that would be available to veterans in the Commonwealth of Puerto Rico and in the Virgin Islands if the health-care services furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(3) the desirability of equitable distribution of Veterans' Administration health-care resources; and

(4) the higher priority established by law for the care and treatment of service-connected disabilities.

Appropriation authorization.

SEC. 9. There is authorized to be appropriated for fiscal year 1979 the sum of $5,000,000 to enable the Administrator of Veterans' Affairs to implement the Veterans' and Survivors' Pension Improvement Act of 1978. Amounts appropriated pursuant to the preceding sentence shall remain available during the one-year period beginning on the date of the enactment of such Act and may be used to carry out a program of public information and advertising designed to advise fully all persons who may be affected by the provisions of such Act of the provisions of such Act, including the manner in which such Act may affect them and any rights they may have under such Act.

Approved October 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-111 (Comm. on Veterans' Affairs).
SENATE REPORT No. 95-825 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Apr. 4, considered and passed House.
Vol. 124 (1978): May 26, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendments with amendments.
Oct. 15, Senate concurred in House amendments.

Public Law 95-521
95th Congress

An Act

Oct. 26, 1978
[S. 555]

To establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act of 1978".

Ethics in Government Act of 1978.
2 USC 701 note.

TITLE I—LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

COVERAGE

Reports, filing.
2 USC 701.

SEC. 101. (a) Each Member in office on May 15 of a calendar year shall file on or before May 15 of that calendar year a report containing the information as described in section 102(a).

(b) Any individual who is an officer or employee of the legislative branch designated in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information as described in section 102(a).

(c) Within thirty days of assuming the position of an officer or employee designated in subsection (e), an individual other than an individual employed in the legislative branch upon assuming such position shall file a report containing the information as described in section 102(b) unless the individual has left another position designated in subsection (e) within thirty days prior to assuming his new position. This subsection shall take effect on January 1, 1979.

Effective date.

(d) Within thirty days of becoming a candidate in a calendar year for any election for the office of Member, or on or before May 15 of that calendar year, which ever is later, but in no event later than seven days prior to the election, and on or before May 15 of each successive year the individual continues to be a candidate, an individual shall file a report containing the information as described in section 102(b).

(e) The officers and employees referred to in subsections (b) and (c) are—

(1) each officer or employee of the legislative branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and

5 USC 5332 note.

(2) at least one principal assistant designated for purposes of this section by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule.

Legislative branch.

For the purposes of this title, the legislative branch includes the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Cost Accounting Standards Board, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of the Attending Physician, and the Office of Technology Assessment.

(f) Reasonable extensions of time for filing any report may be granted by the designated committee of the Senate with respect to those filing with the Secretary and by the designated committee of the House of Representatives with respect to those filing with the Clerk but in no event may the extension granted to a Member or candidate result in a required report being filed later than seven days prior to an election involving the Member or candidate. If the day on which a report is required to be filed falls on a weekend or holiday, the report may be filed on the next business day. Time extension.

(g) Notwithstanding the dates specified in subsection (d) of this section, an individual who is a candidate in calendar year 1978 shall file the report required by such subsection not later than November 1, 1978, except that a candidate for the Senate who has filed a report as of such date pursuant to the Rules of the Senate need not file the report required by subsection (d) of this section.

CONTENTS OF REPORTS

SEC. 102. (a) Each report filed pursuant to subsections (a) and (b) of section 101 shall include a full and complete statement with respect to the following: 2 USC 702.

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $100 or more in value.

(B) The source and type of income which consists of dividends, interest, rent, and capital gains, received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,
(ii) greater than $1,000 but not more than $2,500,
(iii) greater than $2,500 but not more than $5,000,
(iv) greater than $5,000 but not more than $15,000,
(v) greater than $15,000 but not more than $50,000,
(vi) greater than $50,000 but not more than $100,000, or
(vii) greater than $100,000.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph. A gift need not be so aggregated if in an unusual case, a publicly available request for a waiver is granted.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

Personal savings account.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse;

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions on or before the date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (c) and (d) of section 101 shall include a full and complete statement with respect to the information required by paragraphs (3), (4), (6), and (in the case of reports filed pursuant to subsection (c) of section 101) (7) of sub-

section (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the information required by paragraph (1) of subsection (a) for the year of filing and the preceding calendar year.

(c)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) are as follows:

(A) not more than $5,000;
(B) greater than $5,000 but not more than $15,000;
(C) greater than $15,000 but not more than $50,000;
(D) greater than $50,000 but not more than $100,000;
(E) greater than $100,000 but not more than $250,000; and
(F) greater than $250,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(d)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a)(1)(B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment or a brief description and the value of other gifts.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Certification.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a) and (b) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this section.

"Qualified blind trust."

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1)(B) of this section but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

Definitions.

For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78 of title 15, United States Code; and "supervising ethics office" means the designated committee of the House of Representatives for those who file their reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 18, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

Copy, filing with ethics office.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (c)(1) of this section.

Notification.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (c)(1) of this section.

Dissolution, notification and filing.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (c) of this subsection of each such asset.

Public availability.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 104, and the provisions of that section shall apply.

Copy, filing.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph

(3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection, or (ii) fail to file any document required by this subsection.

Civil action, penalty.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $1,000.

Qualified blind trust, considerations.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(C) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party and the category of value of each such asset at the time it was placed in the trust, and a list of assets previously placed in the trust by an interested party which have been sold are filed and made available to the public as provided under paragraph (5) of this subsection.

(f) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

2 USC 703.

SEC. 103. (a) The reports required by section 101 of Representatives, Delegates to Congress, the Resident Commissioner from Puerto Rico, officers and employees of the House, candidates seeking election to the House, and officers and employees of the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Government Printing Office, and the Library of Congress shall be filed with the Clerk.

(b) The reports required by section 101 of Senators, officers and employees of the Senate, candidates seeking election to the Senate, and

officers and employees of the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, and the Office of the Attending Physician shall be filed with the Secretary.

Copies.

(c) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the designated committee of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the designated committee of the Senate.

FEC assistance.

(e) In carrying out their responsibilities under this title, the Clerk and the Secretary shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

Reporting forms and rules and regulations, consultation.

(f) In order to carry out responsibilities under this title—

(1) the Clerk shall, after consultation with the designated committee of the House of Representatives, and

(2) the designated committee of the Senate shall

develop reporting forms and may promulgate rules and regulations.

ACCESSIBILITY OF REPORTS

Public inspection. 2 USC 704.

SEC. 104. (a) Except as provided in the second sentence of this subsection, within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Clerk to any person upon request.

(b) Except as provided in the second sentence of this subsection, within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Secretary to any person upon request.

Copy, fee.

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk

or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(d) and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member unless needed in an ongoing investigation.

(e)(1) It shall be unlawful for any person to obtain or use a report— Unlawful actions.

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Civil action, penalty.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The designated committee of the House of Representatives and the designated committee of the Senate shall establish procedures for the review of reports sent to them under section 103(d)(1) and section 103(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action. 2 USC 705.

(b) In order to carry out their responsibilities under this title the designated committee of the House of Representatives and the designated committee of the Senate, have power, within their respective jurisdictions, to render any advisory opinion interpreting this title, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom a public advisory opinion is rendered in accordance with this subsection, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of the advisory opinion, acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this title. Congressional committee advisory opinions.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 106. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails Civil action. 2 USC 706.

Penalty.

to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000. No action may be brought under this section against any individual with respect to a report filed by such individual in calendar year 1978 pursuant to section 101(d).

DEFINITIONS

2 USC 707.

SEC. 107. For the purposes of this title, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; net and gross income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by State and local governments, or political subdivisions thereof, by a foreign government within a foreign country, or by the United States Government.

(D) food and beverages consumed at banquets, receptions, or similar events;

(E) consumable products provided by home-State businesses to a Member's office for distribution; or

(F) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971;

2 USC 431 note.

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that

individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954; 26 USC 152.

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(9) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, to the Congress whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a));

(10) "Clerk" means the Clerk of the House of Representatives;

(11) "Secretary" means the Secretary of the Senate;

(12) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "election" means (A) a general, special, primary, or runoff election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(14) "officer or employee of the House" means any individual, other than a Member, whose compensation is disbursed by the Clerk;

(15) "officer or employee of the Senate" means an individual, other than a Senator or the Vice President, whose compensation is disbursed by the Secretary; and

(16) "designated committee of the House of Representatives and designated committee of the Senate" means the committee of the House or Senate, as the case may be, assigned responsibility for administering the reporting requirements of this title.

OTHER LAWS

SEC. 108. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of candidacy for Federal office or employment by the United States Government. 2 USC 708.

GENERAL ACCOUNTING OFFICE STUDY

2 USC 709.

SEC. 109. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

Report and legislative recommendations to House and Senate.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

Reports.
5 USC app.

SEC. 201. (a) Within thirty days of assuming the position of an officer or employee designated in subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position designated in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

(b) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual covered by section 301(b) or an individual nominated for appointment to a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(c) Within thirty days of becoming a candidate in a calendar year for nomination or election to the office of President or Vice President, as determined by the Federal Election Commission, or on or before May 15 of that calendar year, whichever is later, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b).

(d) Any individual who is an officer or employee designated in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar

year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).

(e) Any individual who occupies a position designated in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of that calendar year up to the date the individual left such office or position, unless such individual has accepted employment in another position designated in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS–16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS–16; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification; 5 USC 5332 note.

(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; and

(7) the Director of the Office of Government Ethics and each designated agency official.

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Director of the Office of Government Ethics established by title IV of this Act, but the total of such extensions shall not exceed ninety days. Time extensions. *Post*, p. 1862.

CONTENTS OF REPORTS

SEC. 202. (a) Each report filed pursuant to section 201(d) shall include a full and complete statement with respect to the following: 5 USC app.

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source

(other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $100 or more in value.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,
(ii) greater than $1,000 but not more than $2,500,
(iii) greater than $2,500 but not more than $5,000,
(iv) greater than $5,000 but not more than $15,000,
(v) greater than $15,000 but not more than $50,000,
(vi) greater than $50,000 but not more than $100,000, or
(vii) greater than $100,000.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph. A gift need not be so aggregated if, in an unusual case, a publicly available request for a waiver is granted.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) (A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

(i) the identity of each source of such compensation; and

(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the informa-

tion required by paragraph (1) of subsection (a) for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

(A) not more than $5,000;
(B) greater than $5,000 but not more than $15,000;
(C) greater than $15,000 but not more than $50,000;
(D) greater than $50,000 but not more than $100,000;
(E) greater than $100,000 but not more than $250,000; and
(F) greater than $250,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by subsection (a), (b), or (c) shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a)(1)(B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual,

the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment or a brief description and the value of other gifts.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this subsection.

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements: "Qualified blind trust."

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1)(B) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the

appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78 of title 15, United States Code; and "supervising ethics office" means the Office of Government Ethics. Definitions.

(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 18, United States Code, and any other conflict of interest statutes or regulations of the Federal Government. until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(B) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual appointed to office by the President, by and with the consent of the Senate, or the spouse, dependent child, or minor child of such a person, if—

(i) the Director of the Office of Government Ethics, in concurrence with the Attorney General, finds that—

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); and

(ii) the reporting individual (other than an individual who is in such an office at the time of enactment of this Act and has an existing trust which is a good faith attempt to create a blind trust)

has informed the Congressional committee considering his nomination at the time his financial disclosure statement is filed with the Committee of his intention to comply with this paragraph.

Copy, filing with ethics office.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d).

Notification.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d).

Dissolution, notification and filing.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

Public availability.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 205 and the provisions of that section shall apply.

Copy, filing.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection, (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

Civil action, penalty.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess

against such individual a civil penalty in any amount not to exceed $1,000.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(C) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party and the category of value of each such asset at the time it was placed in the trust, and a list of assets previously placed in the trust by an interested party which have been sold is filed and made available to the public as provided under paragraph (5) of this subsection.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

FILING OF REPORTS

SEC. 203. (a) Except as otherwise provided in this subsection, the reports required under this title shall be filed by the reporting individual with the designated agency official at the agency by which he is employed or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official. 5 USC app.

(b) The President and the Vice President shall file reports required under this title with the Director of the Office of Government Ethics.

(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency officials, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

(d) Reports required to be filed under this title by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

(e) Each individual identified in section 201(c) shall file the reports required by this title with the Federal Elections Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

Civil actions and penalties.
5 USC app.

SEC. 204. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $5,000.

(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual he has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, and the Civil Service Commission, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

5 USC app.

SEC. 205. (a) Each agency shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, together with a copy of the official position description of the Government office or position held by the reporting individual involved (if available) which shall be added to such report by such individual's designated agency official or by the Secretary concerned, except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest.

(b) Each agency shall, within fifteen days after any report is received by the agency under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. The agency may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

Unlawful use of reports.

(c)(1) It shall be unlawful for any person to obtain, or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Civil action.

(d) Any report filed with an agency, or transmitted to the Director of the Office of Government Ethics, pursuant to this title shall be retained by such agency or the Office of Government Ethics, or both, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this title shall be reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports transmitted to him under this title within sixty days after the date of transmittal. 5 USC app.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion under para-

graph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208 (b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have resulted or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this title. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstance or situation would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

ADDITIONAL REQUIREMENTS

Confidential reports. 5 USC app.

SEC. 207. (a) The President may require officers and employees in the executive branch (including the United States Postal Service and members of the uniformed services) not covered by this title to submit confidential reports in such form as is required by this title. Subsections

(a), (b), and (d) of section 205 shall not apply with respect to any such report.

(b) The Director of the Office of Government Ethics may by rule require disclosure in the reports filed pursuant to subsections (a) and (c) of section 202, of gifts received by a dependent child of a reporting individual if the information required to be disclosed does not exceed that which must be reported by a spouse of a reporting individual under this title.

(c) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(d) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, or regulation.

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities. 5 USC app.

DEFINITIONS

SEC. 209. For the purposes of this title, the term— 5 USC app.

(1) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; net and gross income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events; or

(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971. 2 USC 431 note.

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954; 26 USC 152.

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(9) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(10) "designated agency official" means an officer or employee who is designated to administer the provisions of this title within an agency.

OUTSIDE EARNED INCOME

SEC. 210. Except where the employee's agency or department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of grade 16 or above and who occupy nonjudicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary. 5 USC app. 5 USC 5332 note.

EFFECTIVE DATE

SEC. 211. The provisions made by this title shall take effect on January 1, 1979, and the reports filed under section 201(d) on May 15, 1979, shall include information for calendar year 1978. 5 USC app.

TITLE III—JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 301. (a) Within thirty days of assuming the position of a judicial employee, an individual shall file a report containing the information described in section 302(b). 28 USC app.

(b) Within five days of the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report containing the information described in section 302(b). Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 302(a) covering the preceding calendar year if the report required by subsection (c) of this subsection has not been filed and covering the portion of that calendar year up to the date the individual left such office or position, unless such individual has accepted employment in another position as a judicial officer or employee.

(e) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established pursuant to section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORTS

SEC. 302. (a) Each report filed pursuant to section 301(c) shall include a full and complete statement with respect to the following: 28 USC app.

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $100 or more in value.

(B) The source and type of income which consists of dividends, rent, interest, and capital gains received during the preceding calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within—

(i) not more than $1,000,

(ii) greater than $1,000 but not more than $2,500,

(iii) greater than $2,500 but not more than $5,000,

(iv) greater than $5,000 but not more than $15,000,

(v) greater than $15,000 but not more than $50,000,

(vi) greater than $50,000 but not more than $100,000, or
(vii) greater than $100,000.

(2) (A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph. A gift need not be so aggregated if, in an unusual case, a publicly available request for a waiver is granted.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transactions solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year as an officer, director, trustee, part-

ner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (a) and (b) of section 301 shall include a full and complete statement with respect to the information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the information required by paragraph (1) of subsection (a) for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this title, any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

(A) not more than $5,000;
(B) greater than $5,000 but not more than $15,000;
(C) greater than $15,000 but not more than $50,000;
(D) greater than $50,000 but not more than $100,000;
(E) greater than $100,000 but not more than $250,000; and
(F) greater than $250,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of

the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by subsection (a), (b), or (c) shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and, with respect to his spouse or dependent child, all information required to be reported in subsection (a)(1)(B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment or the value of other gifts.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this subsection with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual other than a judicial officer of the United States need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this section.

"Qualified blind trust."

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

Trust instrument.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

Notification.

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax

return required by law or to provide the information required by subsection (a)(1)(B) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

"Interested party."

For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 78 of title 15, United States Code; and "supervising ethics office" means the Judicial Ethics Committee.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purpose of section 208 of title 28, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d).

Notification.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d).

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 305 and the provisions of that section shall apply.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (vi) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C), of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000. Civil action. Penalty.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $1,000.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(C) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party and the category of value of each such asset at the time it was placed in the trust, and a list of assets previously placed in the trust by an interested party which

have been sold is filed and made available to the public as provided under paragraph (5) of this subsection.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

FILING OF REPORTS

Judicial Ethics Committee.
28 USC app.

SEC. 303. (a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for developing the forms for reporting the information required by this title and for receiving and making available, in accordance with the provisions of this title, the reports described in section 301.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee and shall file a copy of such report as a public document with the clerk of the court on which he sits or serves.

(c) In the performance of its functions under this title, the Committee, with the approval of the Judicial Conference of the United States, shall—

(1) develop the necessary forms and promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

Legislative recommendations to Congress and the President.

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

Regulation.

(d) The Committee shall, within one hundred and twenty days after the date of enactment of this Act, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

Civil action.
28 USC app.

SEC. 304. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report pursuant to section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section. 28 USC app.

(b) The Committee shall, within fifteen days after any report is received by the Committee under this title, permit inspection by or furnish a copy of such report to any person requesting such inspection or copy. The Committee may require the requesting person to pay a reasonable fee in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest. Inspection or copies of reports. Fees.

(c)(1) It shall be unlawful for any person to obtain or use a report— Unlawful uses of reports.

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Civil action. Penalty.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate unless needed in an ongoing investigation.

COMPLIANCE PROCEDURES

SEC. 306. (a) The Committee shall establish procedures for the review of reports filed with it under this title to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the Committee shall so inform the reporting individual and direct him to take all necessary corrective action. Reviews. 28 USC app.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

ADDITIONAL REQUIREMENTS

28 USC app.

SEC. 307. (a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) The Committee, with the approval of the Judicial Conference, may require disclosure, in the reports filed pursuant to subsections (a) and (c) of section 302, of gifts received by a dependent child of a reporting individual if the information required to be disclosed does not exceed that which must be reported by a spouse of a reporting individual under this title.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(d) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5, United States Code.

DEFINITIONS

28 USC app.

SEC. 308. For the purposes of this title, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; net and gross income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forebearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events; or

(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971. 2 USC 431.

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5; United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(9) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals; United States district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; courts of the District of Columbia and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(10) "judicial employee" means any employee of the judicial branch of the Government who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code.

EFFECTIVE DATE

SEC. 309. This title shall take effect on January 1, 1979, and the reports filed under section 301(c) on May 15, 1979, shall include information for calendar year 1978. 28 USC app.

TITLE IV—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

Establishment.
5 USC app.

SEC. 401. (a) There is established in the Office of Personnel Management an office to be known as the Office of Government Ethics.

(b) There shall be at the head of the Office of Government Ethics a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

5 USC app.

SEC. 402. (a) The Director shall provide, under the general supervision of the Office of Personnel Management, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of title 5, United States Code.

(b) The responsibilities of the Director shall include—

Rules and regulations.

(1) developing and recommending to the Office of Personnel Management, in consulation with the Attorney General, rules and regulations, to be promulgated by the President, or the Office of Personnel Management pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by title II of this Act;

Ante, p. 1836.
Rules and regulations.

(2) developing and recommending to the Office of Personnel Management, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Office of Personnel Management pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of title II of this Act by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to such title;

(4) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

Rules and regulations, interpretation.

(6) interpreting rules and regulations issued by the President or the Office of Personnel Management governing conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

Advisory opinion service.

(8) establishing a formal advisory opinion service whereby advisory opinions are rendered on matters of general applicability or on important matters of first impression after, to the extent practicable, providing interested parties with an opportunity to transmit written comments with respect to the request for such advisory opinion, and whereby such advisory opinions are com-

piled, published, and made available to agency ethics counselors and the public;

(9) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(10) requiring such reports from executive agencies as the Director deems necessary;

(11) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(12) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Office of Personnel Management and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(13) cooperating with the Attorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code; and

(14) providing information on and promoting understanding of ethical standards in executive agencies.

(c) In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by him, the Director shall consult when appropriate with the executive agencies affected and with the Attorney General.

(d) Pursuant to the Director's responsibilities under subsection (b)(1), the Director shall, within one hundred and twenty days after the date of enactment of this Act, develop and recommend to the Office of Personnel Management, and the Office of Personnel Management shall promulgate a regulation establishing a method for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title. Regulation.

ADMINISTRATIVE PROVISIONS

SEC. 403. Upon the request of the Director, each executive agency is directed to— 5 USC app.

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

SEC. 404. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest, and ethics in the executive branch, the Office of Personnel Management shall issue rules and regulations in accordance with chapter 5 of title 5, United States Code. Any person may seek judicial review of any such rule or regulation. Rules and regulations. 5 USC app. 5 USC 500 *et seq.*

AUTHORIZATION OF APPROPRIATIONS

SEC. 405. There are authorized to be appropriated to carry out the provisions of this title, and for no other purpose— 5 USC app.

(1) not to exceed $2,000,000 for the fiscal year ending September 30, 1979; and

(2) not to exceed $2,000,000 for each of the four fiscal years thereafter.

ANNUAL PAY

SEC. 406. Section 5316 of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(146) Director of the Office of Government Ethics.".

TITLE V—POST EMPLOYMENT CONFLICT OF INTEREST

SEC. 501. (a) Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) concerning any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in

which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to— Penalty.

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d) Subsection (c) of this section shall apply to a person employed—

"(1) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority; 5 USC 5301.

"(2) in a position for which the basic rate of pay is equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of title 5, United States Code, and who has significant decision-making or supervisory responsibility, as designated by the Director of the Office of Government Ethics, in consultation with the head of the department or agency concerned;

"(3) on active duty as a commissioned officer of a uniformed service assigned to a pay grade of O-7 or above as described in section 201 of title 37, United States Code; or

"(4) in a position designated by the Director of the Office of Government Ethics. Within twelve months from the date of enactment of this subsection, the Director of the Office of Government Ethics shall designate positions, which are not included under paragraph (2) of this subsection and which involve significant decision-making authority, or other duties which are substantially similar to those exercised by persons covered by paragraph (2) of this subsection. On an annual basis, the Director shall review the positions designated pursuant to this paragraph, making additions and deletions as are necessary to satisfy the purposes of subsection (c). Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in exercising his responsibilities under this paragraph. Departments and agencies, cooperation.

"(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory Rule.

agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

Consultation. Publication in Federal Register.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

Penalty.

"(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

"(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

Notice, hearing opportunity.

"(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except

the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.". Departments and agencies, consultation.

(b) The item relating to section 207 in the table or sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows: 18 USC 201.

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.".

APPLICABILITY

SEC. 502. The amendments made by section 501 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation. 18 USC 207 note.

EFFECTIVE DATE

SEC. 503. The amendments made by section 501 shall become effective on July 1, 1979. 18 USC 207 note.

TITLE VI—AMENDMENTS TO TITLE 28, UNITED STATES CODE

SPECIAL PROSECUTOR

SEC. 601. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter: 28 USC 581.

"Chapter 39.—SPECIAL PROSECUTOR

"Sec.
"591. Applicability of provisions of this chapter.
"592. Application for appointment of a special prosecutor.
"593. Duties of the division of the court.
"594. Authority and duties of a special prosecutor.
"595. Reporting and congressional oversight.
"596. Removal of a special prosecutor; termination of office.
"597. Relationship with Department of Justice.
"598. Termination of effect of chapter.

"§ 591. Applicability of provisions of this chapter 28 USC 591.

"(a) The Attorney General shall conduct an investigation pursuant to the provisions of this chapter whenever the Attorney General receives specific information that any of the persons described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense. Investigation.

"(b) The persons referred to in subsection (a) of this section are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President and compensated at a rate not less than the annual rate of basic pay provided for level IV of the Executive Schedule under section 5315 of title 5;

"(4) any individual working in the Department of Justice and compensated at a rate not less than the annual rate of basic pay provided for level III of the Executive Schedule under section 5314 of title 5, any Assistant Attorney General, the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(5) any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President; and

"(6) any officer of the principal national campaign committee seeking the election or reelection of the President.

28 USC 592.

"§ 592. Application for appointment of a special prosecutor

Preliminary investigation.

"(a) The Attorney General, upon receiving specific information that any of the persons described in section 591(b) of this title has engaged in conduct described in section 591(a) of this title, shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate.

Notification.

"(b)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall so notify the division of the court specified in section 593(a) of this title, and the division of the court shall have no power to appoint a special prosecutor.

"(2) Such notification shall be by memorandum containing a summary of the information received and a summary of the results of any preliminary investigation.

"(3) Such memorandum shall not be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court.

"(c)(1) If the Attorney General, upon completion of the preliminary investigation, finds that the matter warrants further investigation or prosecution, or if ninety days elapse from the receipt of the information without a determination by the Attorney General that the matter is so unsubstantiated as not to warrant further investigation or prosecution, then the Attorney General shall apply to the division of the court for the appointment of a special prosecutor.

"(2) If—

"(A) after the filing of a memorandum under subsection (b) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, and

"(B) the Attorney General determines, after such additional investigation as the Attorney General deems appropriate, that such information warrants further investigation or prosecution,

then the Attorney General shall, not later than ninety days after

receiving such additional information, apply to the division of the court for the appointment of a special prosecutor.

"(d)(1) Any application under this chapter shall contain sufficient information to assist the division of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(2) No application or any other documents, materials, or memorandums supplied to the division of the court under this chapter shall be revealed to any individual outside the division of the court or the Department of Justice without leave of the division of the court.

"(e) The Attorney General may ask a special prosecutor to accept referral of a matter that relates to a matter within that special prosecutor's prosecutorial jurisdiction.

"(f) The Attorney General's determination under subsection (c) of this section to apply to the division of the court for the appointment of a special prosecutor shall not be reviewable in any court.

"§ 593. Duties of the division of the court 28 USC 593.

"(a) The division of the court to which this chapter refers is the division established under section 49 of this title.

"(b) Upon receipt of an application under section 592(c) of this title, the division of the court shall appoint an appropriate special prosecutor and shall define that special prosecutor's prosecutorial jurisdiction. A special prosecutor's identity and prosecutorial jurisdiction shall be made public upon request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such special prosecutor would be in the best interests of justice. In any event the identity and prosecutorial jurisdiction of such prosecutor shall be made public when any indictment is returned or any criminal information is filed. Appointment.

"(c) The division of the court, upon request of the Attorney General which may be incorporated in an application under this chapter, may expand the prosecutorial jurisdiction of an existing special prosecutor, and such expansion may be in lieu of the appointment of an additional special prosecutor.

"(d) The division of the court may not appoint as a special prosecutor any person who holds or recently held any office of profit or trust under the United States.

"(e) If a vacancy in office arises by reason of the resignation or death of a special prosecutor, the division of the court may appoint a special prosecutor to complete the work of the special prosecutor whose resignation or death caused the vacancy. If a vacancy in office arises by reason of the removal of a special prosecutor, the division of the court may appoint an acting special prosecutor to serve until any judicial review of such removal is completed. Upon the completion of such judicial review, the division of the court shall take appropriate action. Vacancy.

"§ 594. Authority and duties of a special prosecutor 28 USC 594.

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that

specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such special prosecutor deems necessary;

"(3) appealing any decision of a court in any case or proceeding in which such special prosecutor participates in an official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1954, and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General; and

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case in the name of the United States.

Compensation.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5.

Employees, appointment.

"(c) For the purposes of carrying out the duties of the office of special prosecutor, a special prosecutor shall have power to appoint, fix the compensation, and assign the duties, of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS-18 of the General Schedule under section 5332 of title 5.

Compensation.

Assistance.

"(d) A special prosecutor may request assistance from the Department of Justice, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such special prosecutor's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such special prosecutor's duties.

"(e) A special prosecutor may ask the Attorney General or the division of the court to refer matters related to the special prosecutor's prosecutorial jurisdiction. A special prosecutor may accept referral

of a matter by the Attorney General, if the matter relates to a matter within such special prosecutor's prosecutorial jurisdiction as established by the division of the court. If such a referral is accepted, the special prosecutor shall notify the division of the court. Notification.

"(f) A special prosecutor shall, to the extent that such special prosecutor deems appropriate, comply with the written policies of the Department of Justice respecting enforcement of the criminal laws.

"§ 595. Reporting and congressional oversight 28 USC 595.

"(a) A special prosecutor appointed under this chapter may make public from time to time, and shall send to the Congress statements or reports on the activities of such special prosecutor. These statements and reports shall contain such information as such special prosecutor deems appropriate.

"(b)(1) In addition to any reports made under subsection (a) of this section, and before the termination of a special prosecutor's office under section 596(b) of this title, such special prosecutor shall submit to the division of the court a report under this subsection.

"(2) A report under this subsection shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. Report contents.

"(3) The division of the court may release to the Congress, the public, or to any appropriate person, such portions of a report made under this subsection as the division deems appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a report under this section available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such division be included as an appendix to such report.

"(c) A special prosecutor shall advise the House of Representatives of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(d) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction. Oversight jurisdiction.

"(e) A majority of majority party members or a majority of all nonmajority party members of the Committee on the Judiciary of either House of the Congress may request in writing that the Attorney General apply for the appointment of a special prosecutor. Not later than thirty days after the receipt of such a request, or not later than fifteen days after the completion of a preliminary investigation of the matter with respect to which the request is made, whichever is later, the Attorney General shall provide written notification of any action the Attorney General has taken in response to such request and, if no application Written notification.

has been made to the division of the court, why such application was not made. Such written notification shall be provided to the committee on which the persons making the request serve, and shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

28 USC 596.

"§ 596. Removal of a special prosecutor; termination of office

"(a)(1) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for extraordinary impropriety, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such special prosecutor's duties.

Report, submittal to congressional committees.

"(2) If a special prosecutor is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, delete or postpone publishing any or all of the report. The division of the court may release any or all of such report in the same manner as a report released under section 595(b)(3) of this title and under the same limitations as apply to the release of a report under that section.

Judicial review.

"(3) A special prosecutor so removed may obtain judicial review of the removal in a civil action commenced before the division of the court and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief. The division of the court shall cause such an action to be in every way expedited.

Notification.

"(b)(1) An office of special prosecutor shall terminate when (A) the special prosecutor notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor or accepted by such special prosecutor under section 594(e) of this title, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions and (B) the special prosecutor files a report in full compliance with section 595(b) of this title.

"(2) The division of the court, either on its own motion or upon suggestion of the Attorney General, may terminate an office of special prosecutor at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor or accepted by such special prosecutor under section 594(e) of this title, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of termination, the special prosecutor shall file the report required by section 595(b) of this title.

28 USC 597.

"§ 597. Relationship with Department of Justice

"(a) Whenever a matter is in the prosecutorial jurisdiction of a special prosecutor or has been accepted by a special prosecutor under section 594(e) of this title, the Department of Justice, the Attorney

General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d) of this title, and except insofar as such special prosecutor agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

"(b) Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which a special prosecutor participates in an official capacity or any appeal of such a case or proceeding.

"§ 598. Termination of effect of chapter 28 USC 598.

"This chapter shall cease to have effect five years after the date of the enactment of this chapter, except that this chapter shall continue in effect with respect to then pending matters before a special prosecutor that in the judgment of such special prosecutor require such continuation until that special prosecutor determines such matters have been completed.".

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor.".

(c) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors appointed under chapter 39 (relating to special prosecutor) of title 28 of the United States Code in the carrying out of functions under such chapter. Appropriation authorization. 28 USC 591 note.

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 602. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following:

"§ 49. Assignment of judges to division to appoint special prosecutors 28 USC 49.

"(a) Beginning with the two-year period commencing on the date of the enactment of this section, three judges or justices shall be assigned for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the division of the court for the purpose of appointing special prosecutors.

"(b) Except as provided under subsection (f) of this section, assignment to such division of the court shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on such division of the court, priority shall be given to senior circuit judges and retired justices. Priority.

"(d) The Chief Justice of the United States shall designate and assign three circuit court judges or justices, one of whom shall be a judge of the United States Court of Appeals for the District of Columbia, to such division of the court. Not more than one judge or justice or senior or retired judge or justice may be named to such division from a particular court.

"(e) Any vacancy in such division of the court shall be filled only for the remainder of the two-year period in which such vacancy Vacancy.

occurs and in the same manner as initial assignments to such division were made.

"(f) Except as otherwise provided in chapter 39 of this title, no member of such division of the court who participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding concerning a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.".

(b) The table of sections for chapter 3 of title 28 of the United States Code is amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors.".

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND ANNUAL REPORT OF ATTORNEY GENERAL

SEC. 603. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

28 USC 528.

"§ 528. Disqualification of officers and employees of the Department of Justice

Rules and regulations.

"The Attorney General shall promulgate rules and regulations which require the disqualification of any officer or employee of the Department of Justice, including a United States attorney or a member of such attorney's staff, from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

28 USC 529.

"§ 529. Annual report of Attorney General

Report to Congress.

"Beginning on June 1, 1979, and at the beginning of each regular session of Congress thereafter, the Attorney General shall report to Congress on the activities and operations of the Public Integrity Section or any other unit of the Department of Justice designated to supervise the investigation and prosecution of—

"(1) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, if such violation relates directly or indirectly to such individual's Federal Government position, employment, or compensation;

"(2) any violation of any Federal criminal law relating to lobbying, conflict of interest, campaigns, and election to public office committed by any person, except insofar as such violation relates to a matter involving discrimination or intimidation on grounds of race, color, religion, or national origin;

"(3) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a State or local government officer or employee, if such violation relates directly or indirectly to such individual's State or local government position, employment, or compensation; and

"(4) such other matters as the Attorney General may deem appropriate.

Such report shall include the number, type, and disposition of all investigations and prosecutions supervised by such Section or such unit, except that such report shall not disclose information which would interfere with any pending investigation or prosecution or which would improperly infringe upon the privacy rights of any individuals.".

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end of the following:

"528. Disqualification of officers and employees of the Department of Justice.
"529. Annual report of Attorney General.".

EFFECTIVE DATE

SEC. 604. Except as provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act. The provisions of chapter 39 of title 28 of the United States Code, as added by section 601 of this Act, shall not apply to specific information received by the Attorney General pursuant to section 591 of such title 28, if the Attorney General determines that— 28 USC 591 note.

(1) such specific information is directly related to a prosecution pending at the time such specific information is received by the Attorney General;

(2) such specific information is related to a matter which has been presented to a grand jury and is received by the Attorney General within one hundred and eighty days of the date of the enactment of this Act; or

(3) such specific information is related to an investigation that is pending at the time such specific information is received by the Attorney General, and such specific information is received by the Attorney General within ninety days of the date of the enactment of this Act.

TITLE VII—SENATE LEGAL COUNSEL

ESTABLISHMENT OF OFFICE OF SENATE LEGAL COUNSEL

SEC. 701. (a)(1) There is established, as an office of the Senate, the Office of Senate Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Senate Legal Counsel (hereinafter referred to as the "Counsel"); and there shall be a Deputy Senate Legal Counsel (hereinafter referred to as the "Deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who, during any absence, disability, or vacancy in the position of the Counsel, shall serve as Acting Senate Legal Counsel. 2 USC 288.

(2) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the Senate. Any appointment made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment. Counsel and Deputy Counsel, appointment.

(3)(A) Any appointment made under paragraph (2) shall become effective upon approval by resolution of the Senate. The Counsel Appointment, Senate approval.

and the Deputy Counsel shall each be appointed for a term of service which shall expire at the end of the Congress following the Congress during which the Counsel or Deputy Counsel, respectively, is appointed except that the Senate may, by resolution, remove either the Counsel or the Deputy Counsel prior to the termination of any term of service. The Counsel and the Deputy Counsel may be reappointed at the termination of any term of service.

Reappointment.

(B) The first Counsel and the first Deputy Counsel shall be appointed, approved, and begin service within ninety days after the effective date of this title, and thereafter the Counsel and Deputy Counsel shall be appointed, approved, and begin service within thirty days after the beginning of the session of the Congress immediately following the termination of a Counsel's or Deputy Counsel's term of service or within sixty days after a vacancy occurs in either position.

Compensation.

(4) The Counsel shall receive compensation at a rate equal to the annual rate of basic pay for level III of the Executive Schedule under section 5314 of title 5 of the United States Code. The Deputy Counsel shall receive compensation at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

Assistant Senate Legal Counsels, compensation.

(b)(1) The Counsel shall select and fix the compensation of such Assistant Senate Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel, within the limits of available funds, as may be necessary to carry out the provisions of this title and may prescribe the duties and responsibilities of such personnel. The compensation fixed for each Assistant Counsel shall not be in excess of a rate equal to the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5 of the United States Code. Any selection made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any individual selected as an Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during his term of service. The Counsel may remove any individual appointed under this paragraph.

Removal.

(2) For purposes of pay (other than the rate of pay of the Counsel and Deputy Counsel) and employment benefits, right, and privileges, all personnel of the Office shall be treated as employees of the Senate.

(c) In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(d) The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this title.

(e) The counsel may delegate authority for the performance of any function imposed by this title except any function imposed upon the Counsel under section 706(b) of this title.

Attorney-client relationship.

(f) The Counsel and other employees of the Office shall maintain the attorney-client relationship with respect to all communications between them and any Member, officer, or employee of the Senate.

ACCOUNTABILITY OF OFFICE

SEC. 702. (a) The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office. 2 USC 288a.

(b) For purposes of this title, the Joint Leadership Group shall consist of the following Members: Membership.

(1) The President pro tempore (or if he so designates, the Deputy President pro tempore) of the Senate.

(2) The majority and minority leaders of the Senate.

(3) The Chairman and ranking minority Member of the Committee on the Judiciary of the Senate.

(4) The Chairman and ranking minority Member of the committee of the Senate which has jurisdiction over the contingent fund of the Senate.

(c) The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate.

REQUIREMENTS FOR AUTHORIZING REPRESENTATION ACTIVITY

SEC. 703. (a) The Counsel shall defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate under section 704 only when directed to do so by two-thirds of the Members of the Joint Leadership Group or by the adoption of a resolution by the Senate. 2 USC 288b.

(b) The Counsel shall bring a civil action to enforce a subpena of the Senate or a committee or subcommittee of the Senate under section 705 only when directed to do so by the adoption of a resolution by the Senate. Civil action.

(c) The Counsel shall intervene or appear as amicus curiae under section 706 only when directed to do so by a resolution adopted by the Senate when such intervention or appearance is to be made in the name of the Senate or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate.

(d) The Counsel shall serve as the duly authorized representative in obtaining an order granting immunity under section 707 of—

(1) the Senate when directed to do so by an affirmative vote of a majority of the Members present of the Senate; or

(2) a committee or subcommittee of the Senate when directed to do so by an affirmative vote of two-thirds of the members of the full committee.

(e) The Office shall make no recommendation with respect to the consideration of a resolution under this section.

DEFENDING THE SENATE, A COMMITTEE, SUBCOMMITTEE, MEMBER, OFFICER, OR EMPLOYEE OF THE SENATE

SEC. 704. (a) Except as otherwise provided in subsection (b), when directed to do so pursuant to section 703(a), the Counsel shall— 2 USC 288c.

(1) defend the Senate, a committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof, in which the Senate, such committee, subcommittee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpena or order, taken by

the Senate, or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate in any proceeding with respect to any subpena or order directed to the Senate or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity.

(b) Representation of a Member, officer, or employee under subsection (a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA

2 USC 288d.

SEC. 705. (a) When directed to do so pursuant to section 703(b), the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1364 of title 28 of the United States Code, as added by subsection (f)(1) of this section), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpena or order issued by the Senate or a committee or a subcommittee of the Senate authorized to issue a subpena or order.

(b) Any directive to the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee of the Senate shall, for such committee or subcommittee, constitute authorization to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

(c) It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to subsection (a) in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

(d) The provisions of subsection (c) are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules (so far as relating to the procedure in the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(e) A report filed pursuant to subsection (c)(2) shall not be receivable in any court of law to the extent such report is in compliance with such subsection.

(f) (1) Chapter 35 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

"§ 1364. Senate actions

28 USC 1364.

Jurisdiction.

"(a) The United States District Court for the District of Columbia shall have original jurisdiction, without regard to the amount in controversy, over any civil action brought by the Senate or any authorized committee or subcommittee of the Senate to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpena or order issued by the Senate or committee or subcommittee of the Senate to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpena or order issued to an officer or employee of the Federal Government acting within his official capacity.

Application.

"(b) Upon application by the Senate or any authorized committee or subcommittee of the Senate, the district court shall issue an order to an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpena or order of the Senate or committee or subcommittee of the Senate requiring such entity or person to comply forthwith. Any refusal or failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the entity or person refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the entity or party refusing, or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpena or order of the Senate or any committee or subcommittee of the Senate or to review, modify, suspend, terminate, or set aside any such subpena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate upon adjournment sine die by the Senate at the end of a Congress if the Senate or the committee or subcommittee of the Senate which issued the subpena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

"(c) In any civil action or contempt proceeding brought pursuant to this section, the court shall assign the action or proceeding for hearing at the earliest practicable date and cause the action or proceeding in every way to be expedited. Any appeal or petition for review from any order or judgment in such action or proceeding shall be expedited in the same manner.

"(d) The Senate or any committee or subcommittee of the Senate commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as the Senate may designate.

"(e) A civil action commenced or prosecuted under this section, may not be authorized pursuant to the Standing Order of the Senate 'authorizing suits by Senate Committees' (S. Jour. 572, May 28, 1928).

"Committee." "(f) For the purposes of this section the term 'committee' includes standing, select, or special committees of the Senate established by law or resolution.".

(2) The table of sections of such chapter 85 is amended by adding at the end thereof the following new item:

"1364. Senate actions."

2 USC 288d. (g) Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) the Senate to hold any individual or entity in contempt of the Senate.

INTERVENTION OR APPEARANCE

2 USC 288e. SEC. 706. (a) When directed to do so pursuant to section 703(c), the Counsel shall intervene or appear as amicus curiae in the name of the Senate, or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate in any legal action or proceeding pending in any court of the United States or of a State or political subdivision thereof in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue. The Counsel shall be authorized to intervene only if standing to intervene exists under section 2 of article III of the Constitution of the United States.

USC prec. title 1. Notification. (b) The Counsel shall notify the Joint Leadership Group of any legal action or proceeding in which the Counsel is of the opinion that intervention or appearance as amicus curiae under subsection (a) is in the interest of the Senate. Such notification shall contain a description of the legal action or proceeding together with the reasons that the Counsel is of the opinion that intervention or appearance as amicus curiae is in the interest of the Senate. The Joint Leadership Group shall cause said notification to be published in the Congressional Record for the Senate.

Publication in Congressional Record.

(c) The Counsel shall limit any intervention or appearance as amicus curiae in an action or proceeding to issues relating to the powers and responsibilities of Congress.

IMMUNITY PROCEEDINGS

2 USC 288f. SEC. 707. When directed to do so pursuant to section 703(d), the Counsel shall serve as the duly authorized representative of the Senate or a committee or subcommittee of the Senate in requesting a United States district court to issue an order granting immunity pursuant to section 201(a) of the Organized Crime Control Act of 1970 (18 U.S.C. 6005).

ADVISORY AND OTHER FUNCTIONS

2 USC 288g. SEC. 708. (a) The Counsel shall advise, consult, and cooperate with—

(1) the United States Attorney for the District of Columbia

with respect to any criminal proceeding for contempt of Congress certified by the President pro tempore of the Senate pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(2) the committee of the Senate with the responsibility to identify any court proceeding or action which is of vital interest to the Senate;

(3) the Comptroller General, the General Accounting Office, the Office of Legislative Counsel of the Senate, and the Congressional Research Service, except that none of the responsibilities and authority assigned by this title to the Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the aforementioned;

(4) any Member, officer, or employee of the Senate not represented under section 704 with regard to obtaining private legal counsel for such Member, officer, or employee;

(5) the President pro tempore of the Senate, the Secretary of Senate, the Sergeant-at-Arms of the Senate, and the Parliamentarian of the Senate, regarding any subpena, order, or request for withdrawal of papers presented to the Senate which raises a question of the privileges of the Senate; and

(6) any committee or subcommittee of the Senate in promulgating and revising their rules and procedures for the use of congressional investigative powers and with respect to questions which may arise in the course of any investigation.

Legal research files, compilation and maintenance.

(b) The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate as may apply and the interests of the Senate.

(c) The Counsel shall perform such other duties consistent with the purposes and limitations of this title as the Senate may direct.

DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

2 USC 288h.

SEC. 709. In performing any function under this title, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of the Senate to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of the Senate to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of the Senate to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of the Senate or of Congress; and

(7) the constitutionality of Acts and joint resolutions of the Congress.

CONFLICT OR INCONSISTENCY

Notification.
2 USC 288i.

SEC. 710. (a) In the carrying out of the provisions of this title, the Counsel shall notify the Joint Leadership Group, and any party represented or person affected, of the existence and nature of any conflict or inconsistency between the representation of such party or person and the carrying out of any other provision of this title or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the members of the Joint Leadership Group shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. If such recommendation is made by a two-thirds vote, the Counsel shall take such steps as may be necessary to resolve the conflict or inconsistency as recommended. If not, the members of the Joint Leadership Group shall cause the notification of conflict or inconsistency and recommendation with respect to resolution thereof to be published in the Congressional Record of the Senate. If the Senate does not direct the Counsel within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

Publication in Congressional Record.

(c) For purposes of the computation of the fifteen day period in subsection (b)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which the Senate is not in session because of an adjournment of more than three days to a date certain are excluded.

Reimbursement.

(d) The Senate may by resolution authorize the reimbursement of any Member, officer, or employee of the Senate who is not represented by the Counsel for fees and costs, including attorneys' fees, reasonably incurred in obtaining representation. Such reimbursement shall be from funds appropriated to the contingent fund of the Senate.

PROCEDURE FOR CONSIDERATION OF RESOLUTIONS TO DIRECT THE COUNSEL

2 USC 288j.

SEC. 711. (a)(1) A resolution introduced pursuant to section 703 shall not be referred to a committee, except as otherwise required under section 705(c). Upon introduction, or upon being reported if required under section 705(c), whichever is later, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. A motion to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to.

(2) With respect to a resolution pursuant to section 703(a), the following rules apply:

(A) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and

controlled by, those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution shall be in order. No motion to recommit the resolution shall be in order, and it shall not be in order to reconsider the vote by which the resolution is agreed to.

(B) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(C) All appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to the resolution shall be decided without debate.

"Committee." (b) For purposes of this title, other than section 703, the term "committee" includes standing, select, and special committees of the Senate established by law or resolution.

(c) The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

2 USC 288k. SEC. 712. (a) Upon receipt of written notice that the Counsel has undertaken, pursuant to section 704(a) of this title, to perform any representational service with respect to any designated party in any action or proceeding pending or to be instituted, the Attorney General shall—

(1) be relieved of any responsibility with respect to such representational service;

(2) have no authority to perform such service in such action or proceeding except at the request or with the approval of the Senate; and

(3) transfer all materials relevant to the representation authorized under section 704(a) to the Counsel, except that nothing in this subsection shall limit any right of the Attorney General under existing law to intervene or appear as amicus curiae in such action or proceeding.

Notification. (b) The Attorney General shall notify the Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of an Act or joint resolution of Congress within such time as will enable the Senate to direct the Counsel to intervene as a party in such proceeding pursuant to section 706.

PROCEDURAL PROVISIONS

2 USC 288l. SEC. 713. (a) Permission to intervene as a party or to appear as amicus curiae under section 706 of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established

under section 2 of article III of the Constitution of the United States.

(b) The Counsel, the Deputy Counsel, or any designated Assistant Counsel or counsel specially retained by the Office shall be entitled, for the purpose of performing his functions under this title, to enter an appearance in any proceeding before any court of the United States or of a State or political subdivision thereof without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any such person to practice before the United States Supreme Court.

(c) Nothing in this title shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any civil or criminal action against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of a House of Congress, any office or agency of Congress, or any officer or employee of a House of Congress or any office or agency of Congress.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 714. (a) Section 3210 of title 39 of the United States Code, is amended—

(1) by striking out "and the Legislative Counsels of the House of Representatives and the Senate" in subsection (b)(1) and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Senate Legal Counsel"; and

(2) by striking out "or the Legislative Counsel of the House of Representatives or the Senate" in subsection (b)(2) and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Senate Legal Counsel".

(b) Section 3216 (a)(1)(A) of such title is amended by striking out "and the Legislative Counsels of the House of Representatives and the Senate" and inserting in lieu thereof "the Legislative Counsels of the House of Representatives and the Senate, and the Senate Legal Counsel".

(c) Section 3219 of such title is amended by striking out "or the Legislative Counsel of the House of Representatives or the Senate" and inserting in lieu thereof "the Legislative Counsel of the House of Representatives or the Senate, or the Senate Legal Counsel".

2 USC 118a.

(d) Section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes," approved March 3, 1875 (2 U.S.C. 118), shall not apply to officers of the Senate.

SEPARABILITY

2 USC 288 note.

SEC. 715. If any part of this title or any amendment made by this title, is held invalid, the remainder of the title and any amendment made by this title shall not be affected thereby. If any provision of any part of this title or of any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of other parts and of any amendment made by this title and their application to other persons or circumstances shall not be affected thereby.

CONTINGENT FUND

SEC. 716. The expenses of the Office shall be paid from the contingent fund of the Senate in accordance with the paragraph under the heading "UNDER LEGISLATIVE", relating to the contingent fund of the Senate, of the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Counsel. 2 USC 288m.

EFFECTIVE DATE

SEC. 717. This title shall take effect on January 3, 1979. 2 USC 288 note.

Approved October 26, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-800 accompanying H.R. 1 (Comm. on the Judiciary) and No. 95-1756 (Comm. of Conference).

SENATE REPORTS: No. 95-170 (Comm. on Governmental Affairs) and No. 95-273 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 123 (1977): June 27, considered and passed Senate.

Vol. 124 (1978): Sept. 20, 27, H.R. 1 considered and passed House; proceedings vacated and S. 555, amended, passed in lieu.

Oct. 7, Senate agreed to conference report.

Oct. 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 43 (1978): Oct. 26, Presidential statement.

Public Law 95-522
95th Congress

An Act

Oct. 27, 1978
[H.R. 13481]

To name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building".

Frederick G. Payne Building, Maine. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the post office and Federal building located at 151 Forest Avenue, Portland, Maine, shall hereafter be known as the "Frederick G. Payne Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Frederick G. Payne Building".

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1471 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-523
95th Congress

An Act

To translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government.

Oct. 27, 1978
[H.R. 50]

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act and the following table of contents may be cited as the "Full Employment and Balanced Growth Act of 1978".

Full Employment and Balanced Growth Act of 1978.
15 USC 3101 note.

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. General findings.
Sec. 3. Report.
Sec. 4. National Employment Conference.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

Sec. 101. Statement of purpose.
Sec. 102. Declaration of policy.
Sec. 103. Economic Report of the President and short-term economic goals and policies.
Sec. 104. Full employment and balanced growth; medium-term economic goals and policies.
Sec. 105. Provisions applicable to short-term and medium-term goals.
Sec. 106. National priority policies and programs required for full employment and balanced growth.
Sec. 107. The President's budget.
Sec. 108. Monetary policy.
Sec. 109. Overcoming inflation.
Sec. 110. Council of Economic Advisers.
Sec. 111. Advisory Board or Boards.

TITLE II—STRUCTURAL POLICIES AND PROGRAMS, INCLUDING TREATMENT OF RESOURCE RESTRAINTS

Sec. 201. Statement of purpose.
Sec. 202. Countercyclical employment policies.
Sec. 203. Coordination with State and local government and private sector economic activity.
Sec. 204. Regional and structural employment policies.
Sec. 205. Youth employment policies.
Sec. 206. Job training, counseling, and reservoirs of employment projects.
Sec. 207. Capital formation—private and public.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

Sec. 301. Statement of purpose.
Sec. 302. Committee review.
Sec. 303. Review of Economic Report as part of the Budget process.
Sec. 304. Modification of timetable for achieving unemployment goals.
Sec. 305. Exercise of rulemaking powers.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Nondiscrimination.
Sec. 402. Labor standards.

GENERAL FINDINGS

15 USC 3101.

SEC. 2. (a) The Congress finds that the Nation has suffered substantial unemployment and underemployment, idleness of other productive resources, high rates of inflation, and inadequate productivity growth, over prolonged periods of time, imposing numerous economic and social costs on the Nation. Such costs include the following:

(1) The Nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increases in economic well-being that would occur under conditions of genuine full employment, production, and real income, balanced growth, a balanced Federal budget, and the effective control of inflation.

(2) The output of goods and services is insufficient to meet pressing national priorities.

(3) Workers are deprived of the job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(4) Business and industry are deprived of the production, sales, capital flow, and productivity necessary to maintain adequate profits, undertake new investment, create jobs, compete internationally, and contribute to meeting society's economic needs. These problems are especially acute for smaller businesses. Variations in the business cycle and low-level operations of the economy are far more damaging to smaller businesses than to larger business concerns because smaller businesses have fewer available resources, and less access to resources, to withstand nationwide economic adversity. A decline in small business enterprises contributes to unemployment by reducing employment opportunities and contributes to inflation by reducing competition.

(5) Unemployment exposes many families to social, psychological, and physiological costs, including disruption of family life, loss of individual dignity and self-respect, and the aggravation of physical and psychological illnesses, alcoholism and drug abuse, crime, and social conflicts.

(6) Federal, State, and local government budgets are undermined by deficits due to shortfalls in tax revenues and in increases in expenditures for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, alcoholism and drug abuse, and physical and mental health.

(b) The Congress further finds that:

(1) High unemployment may contribute to inflation by diminishing labor training and skills, underutilizing capital resources, reducing the rate of productivity advance, increasing unit labor costs, and reducing the general supply of goods and services.

(2) Aggregate monetary and fiscal policies alone have been unable to achieve full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability, and therefore must be supplemented by other measures designed to serve these ends.

(3) Attainment of these objectives should be facilitated by setting explicit short-term and medium-term economic goals, and by improved coordination among the President, the Congress, and the Board of Governors of the Federal Reserve System.

(4) Increasing job opportunities and full employment would greatly contribute to the elimination of discrimination based upon sex, age, race, color, religion, national origin, handicap, or other improper factors.

(c) The Congress further finds that an effective policy to promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability should (1) be based on the development of explicit economic goals and policies involving the President, the Congress, and the Board of Governors of the Federal Reserve System, with maximum reliance on the resources and ingenuity of the private sector of the economy, (2) include programs specifically designed to reduce high unemployment due to recessions, and to reduce structural unemployment within regional areas and among particular labor force groups, and (3) give proper attention to the role of increased exports and improvement in the international competitiveness of agriculture, business, and industry in providing productive employment opportunities and achieving an improved trade balance.

(d) The Congress further finds that full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability are important national requirements and will promote the economic security and well-being of all citizens of the Nation.

(e) The Congress further finds that the United States is part of an interdependent world trading and monetary system and that attainment of the requirements specified in subsection (d) is dependent upon policies promoting a free and fair international trading system and a sound and stable international monetary system.

REPORT

SEC. 3. Not later than one year after the date of enactment of this Act, the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives each shall conduct a study and submit a report, including findings and recommendations, to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House, respectively, on the subject of establishing a full employment goal in connection with the provisions of this Act.

Full employment goal, study.
15 USC 3102.

NATIONAL EMPLOYMENT CONFERENCE

SEC. 4. (a) A national Employment Conference may be convened in the District of Columbia within a reasonable period of time after the date of enactment of the Full Employment and Balanced Growth Act of 1978. Responsibility for the organization and implementation of this conference shall rest with the President or the appropriate department or agency of the Federal Government, and the conference shall bring together leaders of small and larger business, labor, government, and all other interested parties.

Convening and organization.
15 USC 3103.

(b) The subject of the conference shall be employment, with particular attention to structural unemployment and the plight of disadvantaged youth. The conference shall also focus on issues such as

implementation of adequate and effective incentives for private sector employers to hire the hard-core unemployed. Special attention shall be given to the creation of jobs through the use of targeted employment tax credits, wage vouchers, and other incentives to private sector businesses.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

15 USC 1021 note.

SEC. 101. It is the purpose of this title—

(1) to declare the general policies of this Act;

(2) to provide an open process under which economic goals and policies are proposed, reviewed, and established;

(3) to provide for yearly review of national economic policies to ensure their consistency with these goals to the maximum extent possible; and

(4) to strengthen and supplement the purposes and policies of the Employment Act of 1946.

15 USC 1021 note.

DECLARATION OF POLICY

15 USC 1021.

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, and with the assistance and cooperation of both small and larger businesses, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability as provided in section 5(b) of this Act.

Post, p. 1895.

"(b) The Congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work.

"(c) The Congress further declares that inflation is a major national problem requiring improved government policies relating to food, energy, improved and coordinated fiscal and monetary management, the reform of outmoded rules and regulations of the Federal Government, the correction of structural defects in the economy that prevent or seriously impede competition in private markets, and other measures to reduce the rate of inflation.

"(d) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to improve the coordination and integration of the policies and programs of the Federal Government toward achievement of the objectives of such

Ante, p. 1887.

Act through better management, increased efficiency, and attention to long-range as well as short-range problems and to balancing the Federal budget.

"(e) The Congress further declares that, although it is the purpose under the Full Employment and Balanced Growth Act of 1978 to seek diligently and to encourage the voluntary cooperation of the private sector in helping to achieve the objectives of such Act, no provisions of such Act or this Act shall be used, with respect to any portion of the private sector of the economy, to provide for Federal Government control of production, employment, allocation of resources, or wages and prices, except to the extent authorized under other Federal laws. *Ante*, p. 1887.

"(f) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to maximize and place primary emphasis upon the expansion of private employment, and all programs and policies under such Act shall be in accord with such purpose. Toward this end, the effort to expand jobs to the full employment level shall be in this order of priority to the extent consistent with balanced growth—

"(1) expansion of conventional private jobs through improved use of general economic and structural policies, including measures to encourage private sector investment and capital formation;

"(2) expansion of private employment through Federal assistance in connection with the priority programs in such Act;

"(3) expansion of public employment other than through the provisions of section 206 of such Act; and *Post*, p. 1902.

"(4) when recommended by the President under section 206 of such Act and subject to the limitations in such section, the creation of employment through the methods set forth in such section.

"(g) The Congress further declares that trade deficits are a major national problem requiring a strong national export policy including improved Government policies relating to the promotion, facilitation, and financing of commercial and agricultural exports, Government policies designed to reduce foreign barriers to exports through international negotiation and agreement, Federal support for research, development, and diffusion of new technologies to promote innovation in agriculture, business, and industry, the elimination or modification of Government rules or regulations that burden or disadvantage exports and the national and international competitiveness of agriculture, business, and industry, the reexamination of antitrust laws and policies when necessary to enable agriculture, business, and industry to meet foreign competition in the United States and abroad, and the achievement of a free and fair international trading system and a sound and stable international monetary order.

"(h) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to achieve a balanced Federal budget consistent with the achievement of the medium-term goals specified in section 4. *Post*, p. 1893.

"(i) The Congress further declares that it is the continuing policy and responsibility of the Federal Government, in cooperation with State and local governments, to use all practical means consistent with other essential considerations of national policy to provide sufficient incentives to assure meeting the investment needs of private enterprise, including the needs of small and medium sized businesses, in order to increase the production of goods, the provision of services, employment, the opportunity for profit, the payment of taxes, and to

reduce and control inflation. To the extent it is reasonably possible to do so, private enterprise investments in depressed urban and rural areas should be promoted to reduce the high levels of unemployment that exist there.

"(j) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing labor force. Toward this end, it is the purpose of this Act to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities.".

Ante, p. 1887.

ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

SEC. 103. (a) The heading preceding section 3 and section 3(a) of the Employment Act of 1946 are amended to read as follows:

15 USC 1022.

"ECONOMIC REPORT OF THE PRESIDENT AND SHORT-TERM ECONOMIC GOALS AND POLICIES

Transmittal to Congress and States.

"SEC. 3. (a) The President shall transmit to the Congress during the first twenty days of each regular session, with copies transmitted to the Governor of each State and to other appropriate State and local officials, an economic report (hereinafter in this Act referred to as the 'Economic Report') together with the annual report of the Council of Economic Advisers submitted in accord with section 11(c) of this Act, setting forth—

"(1) the current and foreseeable trends in the levels of employment, unemployment, production, capital formation, real income, Federal budget outlays and receipts, productivity, international trade and payments, and prices, and a review and analysis of recent domestic and international developments affecting economic trends in the Nation;

"(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, a balanced Federal budget, adequate productivity growth, price stability, achievement of an improved trade balance, and proper attention to national priorities; and

"(B) annual numerical goals as specified in subparagraph (A) for the three successive calendar years, designated as medium term goals;

"(3) employment objectives for certain significant subgroups of the labor force, including youth, women, minorities, handicapped persons, veterans, and middle-aged and older persons; and

"(4) a program for carrying out the policy declared in section 2, together with such recommendations for legislation as the President may deem necessary or desirable.".

Ante, p. 1890.

(b) Section 3 of the Employment Act of 1946 is amended by adding the following: 15 USC 1022.

"(d) For the purposes of the Full Employment and Balanced Growth Act of 1978, the percentage rate of unemployment as a percentage of the civilian labor force as set forth by the Bureau of Labor Statistics in the Department of Labor as computed under the procedures in effect as of the date of enactment of this Act. *Ante*, p. 1887.

"(e) For the purpose of the Full Employment and Balanced Growth Act of 1978, the terms 'inflation', 'prices', and 'reasonable price stability' refer to the rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, United States Department of Labor." Definitions.

FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

SEC. 104. The Employment Act of 1946 is amended by redesignating sections 4 and 5 as sections 10 and 11, respectively, and by inserting a new section 4 as follows: 15 USC 1023, 1024.

"FULL EMPLOYMENT AND BALANCED GROWTH: MEDIUM-TERM ECONOMIC GOALS AND POLICIES

"SEC. 4. (a) In each Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall incorporate (as part of the five-year numerical goals in each Economic Report) medium-term annual numerical goals specified in section 3(a)(2)(B), and in each President's Budget submitted immediately prior thereto, the President shall incorporate the programs and policies the President deems necessary to achieve such medium-term goals and a balanced Federal budget and to achieve reasonable price stability as rapidly as feasible as provided for in section 5(b) of this Act. 15 USC 1022a. *Ante*, p. 1892. *Post*, p. 1895.

"(b) The medium-term goals in the first three Economic Reports and, subject to the provisions of subsection (d), in each Economic Report thereafter shall include (as part of the five-year goals in each Economic Report) interim numerical goals for—

"(1) reducing the rate of unemployment, as set forth pursuant to section 3(d) of this Act, to not more than 3 per centum among individuals aged twenty and over and 4 per centum among individuals aged sixteen and over within a period not extending beyond the fifth calendar year after the first such Economic Report; and *Supra.*

"(2) reducing the rate of inflation, as set forth pursuant to section 3(e) of this Act, to not more than 3 per centum within a period not extending beyond the fifth calendar year after the first such Economic Report: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment. *Supra.*

For purposes of this subsection, the first Economic Report shall be the Report issued in the first calendar year after enactment of the Full Employment and Balanced Growth Act of 1978.

"(c)(1) Upon achievement of the 3 and 4 per centum goals specified in subsection (b)(1), each succeeding Economic Report shall have the goal of achieving as soon as practicable and maintaining thereafter full employment and a balanced budget.

"(2) Upon achievement of the 3 per centum goal specified in subsection (b)(2), each succeeding Economic Report shall have the goal of achieving by 1988 a rate of inflation of zero per centum: *Provided*, That policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetables specified in clause (1) of this subsection for the reduction of unemployment.

Review and corrective measures.

"(d) In the second Economic Report after enactment of the Full Employment and Balanced Growth Act of 1978, the President shall review the numerical goals and timetables for the reduction of unemployment and inflation and the goal of balancing the Federal budget; report to the Congress on the degree of progress being made, the programs and policies being used, and any obstacles to achieving such goals and timetables; and, if necessary, propose corrective economic measures toward achievement of such goals and timetables: *Provided*, That beginning with the second Report and in any subsequent Reports, if the President finds it necessary, the President may recommend modification of the timetable or timetables for the achievement of the goals provided for in subsection (b) and the annual numerical goals to make them consistent with the modified timetable or timetables, and the Congress may take such action as it deems appropriate consistent with title III of the Full Employment and Balanced Growth Act of 1978.

Ante, p. 1887.

Post, p. 1904.

"(e) If, after achievement of the 3 and 4 per centum goals specified in subsection (b), the unemployment rate for a year as set forth pursuant to section 3(d) of this Act is more than 3 per centum among individuals aged twenty and over or more than 4 per centum among individuals aged sixteen and over, the next Economic Report after such rate is set forth and each succeeding Economic Report shall include (as part of the five-year goals in each Economic Report) the interim numerical goal of reducing unemployment to not more than the levels specified in subsection (b)(1) as soon as practicable but not later than the fifth calendar year after the first such Economic Report, counting as the first calendar year the year in which such Economic Report is issued: *Provided*, That, if the President finds it necessary, the President may, under the authority provided in subsection (d), recommend modification of the timetable provided for in this subsection for the reduction of unemployment, and for the purposes of section 304 of the Full Employment and Balanced Growth Act of 1978, such recommendation by the President shall be treated as a recommendation made under subsection (d) of this section.

Ante, p. 1893.

Presidential recommendation.

Post, p. 1906.

"(f)(1) In taking action to reduce unemployment in accord with the numerical goals and timetable established under section (b), every effort shall be made to reduce those differences between the rates of unemployment among youth, women minorities, handicapped persons, veterans, middle-aged and older persons and other labor force groups and the overall rate of unemployment which are caused by any improper factors with the ultimate objective of removing such differentials to the extent possible.

"(2) Insofar as the differences specified in the preceding paragraph are due to lack of training and skills, occupational practices, and other relevant factors, the Secretary of Labor shall—

"(A) take such action as practicable to achieve the objectives of this subsection;

"(B) make studies, develop information, and make recommendations toward remedying these differences in rates of unemployment, and include these in the annual Employment and Training

Report of the President required under section 705(a) of the Comprehensive Employment and Training Act of 1973 (hereinafter in this Act referred to as 'CETA'); and *Post*, p. 2021.

"(C) make recommendations, as deemed necessary, to the Congress related to the objectives of this paragraph.

"(g)(1) The term 'middle-aged and older persons' as used in this section includes any individual forty-five years of age or older. Definitions.

"(2) For purposes of this subsection, the term 'veteran' shall mean the same as defined in section 2011(1) or (2)(A) of title 38, United States Code.".

PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

SEC. 105. The Employment Act of 1946 is amended by adding a new section 5 as follows:

"PROVISIONS APPLICABLE TO SHORT-TERM AND MEDIUM-TERM GOALS

"SEC. 5. (a) To aid in determining the short-term and medium-term goals for employment, production, real income, and prices, analysis shall be presented in the Economic Report with respect to major aspects of the appropriate composition or structure of each goal, and as to the appropriate apportionment of total national production among its major components (private investment, consumer expenditures, and public outlays) as affected by relative income flows and other factors, in order to promote balanced growth and a balanced Federal budget, reduce cyclical disturbances, and achieve the other purposes of this Act and the Full Employment and Balanced Growth Act of 1978. Analysis. 15 USC 1022b. *Ante*, p. 1887.

"(b) In choosing means to achieve the goal for the reduction of unemployment and choosing means to achieve the goal of reasonable price stability, those means which are mutually reinforcing shall be used to the extent practicable.".

NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

SEC. 106. The Employment Act of 1946 is amended by adding a new section 6 as follows:

"NATIONAL PRIORITY POLICIES AND PROGRAMS REQUIRED FOR FULL EMPLOYMENT AND BALANCED GROWTH

"SEC. 6. To contribute to the achievement of the goals under the Full Employment and Balanced Growth Act of 1978, the President's Budget for each fiscal year beginning after the date of enactment of the Full Employment and Balanced Growth Act of 1978 shall include priority policies and programs, which shall include, to the extent deemed appropriate by the President, consideration of the following— 15 USC 1022c.

"(A) development of energy sources and supplies, transportation, and environmental improvement;

"(B) proper attention to the problems and needs of smaller businesses including (i) the availability of investment capital, management and technical expertise, and technology and labor needs, (ii) analysis of economic and social trends which may affect smaller businesses, (iii) government policies and programs

(including agency regulations and excessive paperwork requirements) that may create undue hardship for or reduce the competitiveness of smaller businesses, and (iv) other policies and programs to remove barriers to competition and to strengthen and promote the creation and growth of smaller businesses;

"(C) development of a comprehensive national agricultural policy that assures—

"(i) production levels adequate to meet the nutritional needs of all Americans and respond to rising food requirements throughout the world;

"(ii) farm and ranch income at full parity levels that will improve opportunities for farm families, encourage production, provide for essential capital investment in farming, and provide for farm prices at full parity in the market place;

"(iii) renewed commitment to the protection and conservation of rural land and water through support for improved conservation practices and research, and attention to agricultural land use in the formulation of plans for energy, water and mineral resources, transportation, and commercial, industrial, and residential development; and

"(iv) support for programs and public services designed to respond to the unique economic and social conditions of rural communities;

"(D) proper attention to the relationship between Federal programs and policies and the problems and needs of urban areas, including inner cities and the employment problems of their residents, especially youths;

"(E) proper attention to the quality and quantity of health care, education and training programs, child care and other human services, and housing, essential to a full employment economy and to moving toward their availability for all individuals at costs within their means;

"(F) policies concerning Federal aid to State and local governments, especially for public investment and unemployment related costs;

"(G) national defense and other needed international programs;

"(H) proper attention to the relationship between Federal grants, contracts, and procurement and the closure of military bases and other Federal facilities and the distribution of jobs and income among different regions of the Nation, and among urban, suburban, and rural areas;

"(I) Proper attention to balancing the Federal budget;

"(J) proper attention to the dislocation of jobs caused by Federal laws, regulations, and policies;

"(K) policies and programs designed to increase exports and improve the international competitive position of agriculture, business, and industry, including measures to promote a free and fair international trading system, a sound and stable international monetary system and innovation in agriculture, business, and industry;

"(L) such other priority policies and programs as the President deems appropriate.".

THE PRESIDENT'S BUDGET

SEC. 107. The Employment Act of 1946 is amended by inserting a new section 7 as follows:

"THE PRESIDENT'S BUDGET

"SEC. 7. (a) The President's Budget shall recommend levels of outlays and receipts which shall be consistent with the short-term economic goals of section 3(a)(2)(A). 15 USC 1022d. *Ante*, p. 1892.

"(b) The President's Budget shall provide five-year projections of outlays and receipts consistent with the medium-term goals of section 4(b). *Ante*, p. 1893.

"(c) The principal elements in the President's Budget shall be set forth briefly in each Economic Report, toward the end of making clear the relationship between the President's Budget and the goals and policies set forth in such Economic Report. Both the expenditure and revenue elements of the President's Budget shall be developed to promote the purposes, policies, and goals of the Full Employment and Balanced Growth Act of 1978. The size of the President's expenditure and revenue proposals, and the relationships between such proposals, shall be determined in a manner which gives consideration to the needs of the economy and the people in the priority areas set forth in section 6, and the relationship between the President's expenditure and revenue proposals shall be guided accordingly.". *Ante*, p. 1887.

MONETARY POLICY

SEC. 108. (a) Section 2A of the Federal Reserve Act is amended by striking out the second and third sentences and inserting in lieu thereof the following: "In furtherance of the purposes of the Full Employment and Balanced Growth Act of 1978, the Board of Governors of the Federal Reserve System shall transmit to the Congress, not later than February 20 and July 20 of each year, independent written reports setting forth (1) a review and analysis of recent developments affecting economic trends in the Nation; (2) the objectives and plans of the Board of Governors and the Federal Open Market Committee with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year during which the report is transmitted, taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices; and (3) the relationship of the aforesaid objectives and plans to the short-term goals set forth in the most recent Economic Report of the President pursuant to section 3(a)(2)(A) of the Employment Act of 1946 and to any short-term goals approved by the Congress. In addition, as a part of its report on July 20 of each year, the Board of Governors shall include a statement of its objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates for the calendar year following the year in which the report is submitted. The reports required under the two preceding sentences shall be transmitted to the Congress and shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs. The Board shall consult with each such Committee on the reports and, thereafter, each such Committee shall submit to its respective body a report containing its views and recommendations with respect to the Federal Reserve's intended policies. Nothing in this Act shall be interpreted to require that the objectives and plans with respect to the ranges of growth or diminution of the monetary and credit aggregates disclosed in the reports submitted under this section be achieved if the Board

Annual reports to Congress. 12 USC 225a.

Transmittals to congressional committees, consultation and report.

of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions: *Provided*, That in the subsequent consultations with, and reports to, the aforesaid Committees of the Congress pursuant to this section, the Board of Governors shall include an explanation of the reasons for any revisions to or deviations from such objectives and plans.".

Effective date.
12 USC 225a note.

(b) The amendment made by subsection (a) takes effect on January 1, 1979.

OVERCOMING INFLATION

SEC. 109. The Employment Act of 1946 is amended by inserting a new section 8 as follows:

"OVERCOMING INFLATION

15 USC 1022e.

"SEC. 8. (a) The Congress hereby determines that the objective of achieving reasonable price stability as soon as feasible, as set forth in section 3(a)(3) and section 4(a), shall be pursued by the methods and subject to the requirements of section 5(b).

Ante, pp. 1892, 1893.
Ante, p. 1895.

"(b) The Congress finds that sole dependence upon fiscal or monetary policies or both to combat inflation can exacerbate both inflation and unemployment. The Congress finds that the coordinated use of fiscal and monetary policies in conjunction with specific targeted policies are necessary to combat inflation.

Policy initiation and recommendations.

"(c) The President shall initiate specific policies to reduce the rate of inflation, including recommendations to the Congress where necessary, and include recommendations within the Economic Report and the President's budget to the extent practicable. Structural policies to reduce the rate of inflation may include—

"(1) an effective information system to monitor and analyze inflationary trends in individual economic sectors, so that the President and Congress can be alerted to developing inflation problems especially those caused by bottlenecks inhibiting the flow of goods and services;

"(2) programs and policies for alleviating shortages of goods, services, labor, and capital, with particular emphasis on food, energy, and critical industrial materials to aid in stabilizing prices;

"(3) the establishment of stockpiles of agricultural commodities and other critical materials to help stabilize prices, meet emergency needs, and promote adequate income to producers;

"(4) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and economic sectors;

"(5) recommendations to increase competition in the private sector and to improve the economic climate for the creation and growth of smaller businesses, including recommendations to strengthen and enforce the antitrust laws, the patent laws, and the internal revenue laws and regulations;

"(6) removal or proper modification of such Government restrictions and regulations as add unnecessarily to inflationary costs;

"(7) increasing exports and improving the international competitive position of agriculture, business, and industry; and

"(8) such other administrative actions and recommendations for legislation as the President deems desirable, to promote reasonable price stability.".

COUNCIL OF ECONOMIC ADVISERS

SEC. 110. (a) Section 10 of the Employment Act of 1946 (as redesignated by section 104 of this Act) is amended— 15 USC 1023. *Ante*, p. 1893.

(1) in the second sentence of subsection (a), by inserting "full" immediately after "promote";

(2) in subsection (c)(4), by inserting "including small and larger business" immediately after "enterprise" and by inserting "full" immediately after "maintain";

(3) in subsection (e)(1), by inserting immediately before the semicolon a comma and the following: "and shall consult with the board or boards established under section 9"; and

(4) in subsection (e), by inserting after paragraph (2) the following:

"In its work under this Act and the Full Employment and Balanced Growth Act of 1978, the Council is authorized and directed to seek and obtain the cooperation of the various executive and independent agencies in the development of specialized studies essential to its responsibilities.". *Ante*, p. 1887.

ADVISORY BOARD OR BOARDS

SEC. 111. (a) The Employment Act of 1946 is amended by inserting a new section 9 as follows:

"ADVISORY BOARD OR BOARDS

"SEC. 9. (a) An advisory board or boards (including regional advisory boards) may be established as the President deems appropriate, to advise and consult periodically with one or more of the following: The President, the Council of Economic Advisers, and such other departments and agencies of the executive branch of the Federal Government as the President shall determine. Establishment and duties. 15 USC 1022f.

"(b) Such advisory board or boards shall include appropriate representation of labor, small and larger businesses and industries, agriculture, consumers, State and local officials, and the public at large, and shall advise and consult with respect to matters related to this Act, the Full Employment aand Balanced Growth Act of 1978, and other appropriate matters related to national economic programs and policies. The President shall, in accordance with applicable provisions of law, take the steps necessary to provide appropriate compensation to the members of such advisory board or boards.". Membership.

TITLE II—STRUCTURAL ECONOMIC POLICIES AND PROGRAMS, INCLUDING TREATMENT OF RESOURCE RESTRAINTS

STATEMENT OF PURPOSE

SEC. 201. The Congress recognizes that general economic policies alone have been unable to achieve the goals set forth in this Act related to full employment, production, and real income, balanced growth, adequate growth in productivity, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agri- 15 USC 3111.

culture, business, and industry, and achievement of reasonable price stability as provided for in section 5(b) of the Employment Act of 1946. It is, therefore, the purpose of this title to require the President to initiate, as the President deems appropriate, with recommendations to the Congress where necessary, supplementary programs and policies to the extent that the President finds such action necessary to help achieve these goals, including the goals and timetable for the reduction of unemployment. Insofar as feasible without undue delay, any policies and programs so recommended shall be included in the Economic Report.

Ante, p. 1895.
Policies and programs, initiation.

COUNTERCYCLICAL EMPLOYMENT POLICIES

15 USC 3112.

SEC. 202. (a) Any countercyclical efforts undertaken to aid in achieving the purposes of section 201 shall consider for inclusion the following programmatic entities:

(1) accelerated public works, including the development of standby public works projects;

(2) public service employment;

(3) State and local grant programs;

(4) the levels and duration of unemployment insurance;

(5) skill training in both the private and public sectors, both as a general remedy and as a supplement to unemployment insurance;

(6) youth employment programs as specified in section 205;

(7) community development programs to provide employment in activities of value to the States, local communities (including rural areas), and the Nation;

(8) Federal procurement programs which are targeted on labor surplus areas; and

(9) augmentation of other employment and training programs which would help to reduce high levels of unemployment arising from cyclical causes.

(b) In any countercyclical efforts undertaken, the President shall consider a triggering mechanism which will implement the program during a period of rising unemployment and phase out the program when unemployment is appropriately reduced, and incorporate effective means to facilitate individuals assisted under programs developed pursuant to this section to return promptly to regular private and public employment as the economy recovers.

COORDINATION WITH STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR ECONOMIC ACTIVITY

15 USC 3113.

SEC. 203. (a) As an integral part of any countercyclical employment policies undertaken in accord with section 202, the President shall, to the extent the President deems necessary, set forth programs and policies, including recommended legislation where needed, to coordinate economic action among the Federal Government, regions, States and localities, and the private sector to promote achievement of the purposes of this Act and the Employment Act of 1946 and an economic environment in which State and local governments and private sector economic activity and employment will prosper. In considering programs and policies related to the private sector, full consideration shall be given to promoting the growth and well-being of small businesses and employment training programs through private sector incentives.

15 USC 1021 note.

(b) In any efforts under this section, the President shall endeavor to meet criteria that establish programs which are funded to take account of the fiscal needs and budget conditions of the respective States and localities and their own efforts, with special attention to the rates of unemployment in such States and localities.

REGIONAL AND STRUCTURAL EMPLOYMENT POLICIES

SEC. 204. (a) To the extent deemed appropriate by the President in fulfillment of the purposes of section 201, the President shall recommend legislation to the Congress if necessary, regional and structural employment policies and programs. Legislative recommendations. 15 USC 3114.

(b) In formulating the regional components of any such programs, the President shall encourage to the extent the President deems necessary, new private sector production and employment to locate within depressed localities and regions with substantial unemployment and to aid in stabilizing their economic base. To the extent feasible, such policies and programs shall foster the establishment and growth of smaller businesses in such localities and regions. Any regional employment proposal of the President shall also include an analysis of the extent to which Federal tax, expenditure (including procurement of goods and services), defense, transportation, energy, natural resources and employment policies have influenced the movement of people, jobs, and small and larger business and industries from chronic high unemployment regions and areas, and proposals designed to correct Federal policies that have an adverse economic impact upon such regions and areas. Analysis, inclusion.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds and declares— 15 USC 3115.

(1) That serious unemployment and economic disadvantage of a unique nature exist among youths even under generally favorable economic conditions;

(2) that this group constitutes a substantial portion of the Nation's unemployment, and that this significantly contributes to crime, alcoholism and drug abuse, and other social and economic problems; and

(3) that many youths have special employment needs and problems which, if not promptly addressed, will substantially contribute to more severe unemployment problems in the long run.

(b) To the extent deemed necessary in fulfillment of the purposes of this Act, the President shall improve and expand existing youth employment programs, recommending legislation where required. In formulating any such program, the President shall—

(1) include provisions designed to fully coordinate youth employment activities with other employment and training programs;

(2) develop a smoother transition from school to work;

(3) prepare disadvantaged and other youths with employability handicaps for regular self-sustaining employment;

(4) develop realistic methods for combining training with work; and

(5) develop provisions designed to attract structurally unemployed youth into productive full-time employment through incentives to private and independent sector businesses;

JOB TRAINING, COUNSELING AND RESERVOIRS OF EMPLOYMENT PROJECTS

Policies, procedures and recommendations. 15 USC 3116. 15 USC 1021 note.

SEC. 206. (a) Further to promote achievement of full employment under this Act and the Employment Act of 1946, the President, through the Secretary of Labor, shall develop policies and procedures and, as necessary, recommend programs for providing employment opportunities to individuals aged 16 and over in the civilian labor force who are able, willing, and seeking to work but who, despite serious efforts to obtain employment, remain unemployed.

(b) In meeting the responsibilities under subsection (a), the Secretary of Labor shall, as appropriate, fully utilize the authority provided under CETA and other relevant provisions of law to—

(1) assure the availability of counseling, training, and other support activities necessary to prepare persons willing and seeking work for employment (including use of section 110 of CETA when necessary);

Post, p. 1930.

(2) refer persons able, willing, and seeking to work to job opportunities in the private and public sectors through the existing public employment placement facilities and through the United States Employment Service of the Department of Labor, including job opportunities in any positions created under programs established pursuant to sections 202, 204, and 205 of this Act; and

(3) encourage flexi-time and part-time jobs for persons who are able, willing, and seeking employment but who are unable to work a standard workweek.

Project reservoirs, establishment.

(c) (1) To the extent that individuals aged sixteen and over and able, willing, and seeking to work are not and in the judgment of the President cannot be provided with private job opportunities or job opportunities under other programs and actions in existence, in accord with the goals and timetables set forth in the Employment Act of 1946, the President shall, as may be authorized by law, establish reservoirs of public employment and private nonprofit employment projects, to be approved by the Secretary of Labor, through expansion of CETA and other existing employment and training projects or through such new programs as are determined necessary by the President or through both such projects and such programs.

(2) New programs as may be authorized by law after the date of enactment of this Act referred to in paragraph (c) (1)—

(A) shall not be put into operation earlier than two years after the enactment of this Act, nor without a finding by the President, transmitted to the Congress, that other means of employment are not yielding enough jobs to be consistent with attainment of the goals and timetables for the reduction of unemployment set forth in the Employment Act of 1946;

(B) shall be designed so that no workers from private employment are drawn into the reservoir projects thereunder;

(C) shall be useful and productive jobs;

(D) shall be mainly in the lower ranges of skills and pay, and toward this end the number of reservoir jobs under such new programs shall, to the extent practicable, be maximized in relationship to the appropriations provided for such jobs;

(E) shall be targeted on areas of high unemployment and on individuals who are structurally unemployed;

(F) shall be phased in by the President as necessary, in conjunction with the employment goals under sections 3(a)(2) and 4(b) of the Employment Act of 1946.

Ante, pp. 1892, 1893.

(d) The Secretary, in carrying out the provisions of this section, shall establish regulations providing for— Regulations.

(1) an initial determination of the job seeker's ability to be employed at certain types and duration of work, so that such individual may be appropriately referred to jobs, training, counseling, and other supportive services;

(2) compliance with the nondiscrimination provisions of this Act in accordance with section 401; *Post*, p. 1907.

(3) appropriate eligibility criteria to determine the order of priority of access of any person to any new programs under subsection (c) as may be authorized by law including but not necessarily limited to (A) household income, duration of unemployment (not less than five weeks), and the number of people economically dependent upon such person; and (B) denial of access to any person refusing to accept or hold a job except for good cause, as determined by the Secretary of Labor, including refusal to accept or hold a job subject to reference under subsection (b) paragraph (2), in order to seek a reservoir project job under subsection (c); and

(4) such administrative appeal procedures as may be appropriate to review the initial determination of the abilities of persons willing, able, and seeking to work under paragraph (1) of this subsection and the employment need and eligibility under paragraph (3) of this subsection.

CAPITAL FORMATION—PRIVATE AND PUBLIC

SEC. 207. (a) The Congress finds that— 15 USC 3117.

(1) promotion of full employment and balanced growth is in itself a principal avenue to high and sustained rates of capital formation;

(2) high rates of capital formation are necessary to ensure adequate rates of capacity expansion and productivity growth, compliance with governmental health, safety and environmental standards, and the replacement of obsolete production equipment;

(3) the ability of our economy to compete successfully in international markets, the development of new technology, improved working conditions, expanding job opportunities, and an increasing standard of living depend on the availability of adequate capital at reasonable cost to commerce and industry;

(4) an important goal of national policy shall be to remove obstacles to the free flow of resources into new investment, particularly those obstacles that hinder the creation and growth of smaller businesses because general national programs and policies to aid and stimulate private enterprise are not sufficient to deal with the special problems and needs of smaller businesses; and

(5) while private business firms are, and should continue to be, the major source of investment, the investment activities of the Federal, State, and local governments play an important role in affecting the level of output, employment, and productivity and in achieving other national purposes.

(b) The Economic Report shall include an Investment Policy Report which shall, as appropriate, (1) review and assess existing Federal Government programs and policies which affect business investment decisions, including, but not limited to, the relevant aspects Investment Policy Report, inclusion.

of the tax code, Federal expenditure policy, Federal regulatory policy, international trade policy, and Federal support for research, development, and diffusion of new technologies; (2) provide an assessment of the levels of investment capital available, required by, and applied to small, medium and large business entities; (3) provide an analysis of current and foreseeable trends in the level of investment capital available to such entities; and (4) provide a description of programs and proposals for carrying out the policy set forth in section 102(i). In addition, the Economic Report shall include an assessment of the effect of the overall economic policy environment and the rate of inflation on business investment. The President shall recommend in the President's Budget, as appropriate, new programs or modifications to improve existing programs concerned with private capital formation. The President shall also transmit to the Congress as part of the President's Budget such other recommendations as the President may deem necessary or desirable to achieve the policy as set forth in section 102(i). The Investment Policy Report, when transmitted to the Congress, shall be referred to the Joint Economic Committee.

Assessment.

Recommendations.

Referral to congressional committee.

(c) The Economic Report referred to in subsection (b) shall review and assess Federal policies and programs which directly, or through grants-in-aid to State and local governments, or indirectly through other means, affect the adequacy, composition and effectiveness of public investments, as a means of achieving the goals of this Act and the Employment Act of 1946. The President shall recommend, as appropriate, new programs and policies or modifications to improve existing Federal programs affecting public investment.

15 USC 1021 note.

TITLE III—POLICIES AND PROCEDURES FOR CONGRESSIONAL REVIEW

STATEMENT OF PURPOSE

15 USC 3131.

SEC. 301. (a) The purposes of this title are to establish procedures for congressional review and action with respect to the Economic Report of the President (hereafter in this title referred to as the "Economic Report"), the report of the Board of Governors of the Federal Reserve System, and the other policies and provisions of this Act and the Employment Act of 1946.

Legislative action.

(b) The Congress shall initiate or develop such legislation as it deems necessary to implement proposals and objectives pursuant to this Act and the Employment Act of 1946 after such modification in such proposals at it deems desirable. Nothing in this title shall be construed to prevent the Congress or any of its committees from considering or initiating at any time legislative action in furtherance of the goals and purposes of this act.

COMMITTEE REVIEW

15 USC 3132.

SEC. 302. (a) In conjunction with its review of the Economic Report, and the holding of hearings on the Economic Report under the Employment Act of 1946, the Joint Economic Committee shall review and analyze the short-term and medium-term goals set forth in the Economic Report pursuant to sections 3(a)(2) and 4(b) of the Employment Act of 1946 (as amended by sections 103 and 104 of this Act).

Ante, pp. 1892, 1893.

(b) The Joint Economic Committee shall hold hearings on the Economic Report for the purpose of receiving testimony from Members of the Congress, and such appropriate representatives of Federal departments and agencies, the general public, and interested groups as the joint committee deems advisable. The joint committee shall also consider the comments and views on the Economic Report which are received from State and local officials. Hearings.

(c) Within thirty days after receipt by the Congress of the Economic Report, each standing committee of the Senate and the House of Representatives, each other committee of the Senate and the House of Representatives which has legislative jurisdiction, and each joint committee of the Congress may submit to the Joint Economic Committee, for use by the Joint Economic Committee in conducting its review and analysis under subsection (a), a report containing the views and recommendations of the submitting committee with respect to aspects of the Economic Report which relate to its jurisdiction. Report.

(d) On or before March 15 of each year, a majority of the members of the Joint Economic Committee shall submit a report to the Committees on the Budget of the Senate and the House of Representatives. Such report shall include findings, recommendations, and any appropriate analyses with respect and in direct comparison to each of the short-term and medium-term goals set forth in the Economic Report. Report.

REVIEW OF ECONOMIC REPORT AS PART OF CONGRESSIONAL BUDGET PROCESS

SEC. 303. (a) Section 301(c) of the Congressional Budget Act of 1974 is amended— 31 USC 1322.

(1) by inserting after the first sentence the following new sentences: "Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending."; and

(2) by inserting "also" after "shall" in the last sentence.

(b) Section 305(a) of such Act is amended— 31 USC 1326.

(1) by inserting before the period at the end of the first sentence of paragraph (2) a comma and "plus such additional hours of debate as are consumed pursuant to paragraph (3)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (6) through (9) respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, *Ante*, pp. 1892, 1893.

shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

31 USC 1326. (c) Section 305(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) Following the presentation of opening statements on the first concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

"(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.".

Ante, pp. 1892, 1893.

MODIFICATION OF TIMETABLE FOR ACHIEVING UNEMPLOYMENT GOALS

SEC. 304. (a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

31 USC 1322.

(1) by striking out "and" at the end of paragraph (5); and

(2) by renumbering paragraph (6) as (7) and inserting after paragraph (5) the following new paragraph:

"(6) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and".

(b) Section 301 of such Act is amended by adding at the end thereof the following new subsection:

"(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

"(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment set for in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

Ante, p. 1893.

"(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to para-

Ante, p. 1894.

graph (1) or its most recent action pursuant to this paragraph, the first concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

"(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.". 31 USC 1322. *Ante*, pp. 1892, 1893.

EXERCISE OF RULEMAKING POWERS

SEC. 305. (a) The Provisions of this title and the amendments made by such provisions are enacted by the Congress— 15 USC 3133.

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House), at any time, in the same manner and to the same extent as in the case of any other rule of such House.

TITLE IV—GENERAL PROVISIONS

NONDISCRIMINATION

SEC. 401. (a) No person in the United States shall on the ground of sex, age, race, color, religion, national origin or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded pursuant to the implementation of this Act, including membership in any structure created by this Act. 15 USC 3151.

(b) Whenever the Secretary of Labor determines that a recipient of funds made available pursuant to this Act has failed to comply with subsection (a), or an applicable regulation, the Secretary shall notify the recipient of the noncompliance and shall request such recipient to secure compliance. If within a reasonable period of time, not to exceed sixty days, the recipient fails or refuses to secure compliance, the Secretary of Labor may— Noncompliance, notification. Remedies.

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in the appropriate United States district court for any and all appropriate relief.

Enforcement, analysis.

(d) To assist and evaluate the enforcement of this section, and the broader equal employment opportunity policies of this Act, the Secretary of Labor shall include, in the annual Employment and Training Report of the President provided under section 705(a) of CETA, a detailed analysis of the extent to which the enforcement of this section achieves positive results in both the quantity and quality of jobs, and for employment opportunities generally.

Post, p. 2012.

LABOR STANDARDS

15 USC 3152.

SEC. 402. (a) Any new program enacted and funded pursuant to the implementation of this Act shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, provide that persons employed are paid equal wages for equal work, and that such policies and programs create a net increase in employment through work that would not otherwise be done or are essential to fulfill national priority purposes.

(b) Any person employed in any reservoir project enacted and funded pursuant to the implementation of section 206(c)(1), or in any other job created pursuant to implementation of this Act, shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, be paid not less than the pay received by others performing the same type of work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938. No person employed in any reservoir project enacted and funded pursuant to implementation of section 206(c)(1) shall perform work of the type to which the Davis-Bacon Act (40 U.S.C. 276a—276a-5) applies, except as otherwise may be specifically authorized by law.

29 USC 201.

(c) Any recommendation by the President for legislation to implement any program enacted pursuant to the provisions of this Act, requiring the use of funds under this Act, and submitted pursuant to the requirements of this Act, shall contain appropriate wage provisions based upon existing wage standard legislation.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-895, Pt. I (Comm. on Education and Labor) and Pt. II (Comm. on Rules).

SENATE REPORTS: No. 95-1177 *accompanying* S. 50 (Comm. on Human Resources) and (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Mar. 8, 9, 15, 16, considered and passed House.

Oct. 10, 11, 13, considered and passed Senate, amended.

Oct. 15, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 27, *Presidential statement.*

Public Law 95-524
95th Congress

An Act

To amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

Oct. 27, 1978
[S. 2570]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act Amendments of 1978".

Comprehensive Employment and Training Act Amendments of 1978.
29 USC 801 note.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT REAUTHORIZATION

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act, with the following table of contents, may be cited as the 'Comprehensive Employment and Training Act'.

29 USC 801 note.

"TABLE OF CONTENTS

"Sec. 1. Short title.
"Sec. 2. Statement of purpose.
"Sec. 3. Definitions.

"TITLE I—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"Sec. 101. Prime sponsors.
"Sec. 102. Authority of Secretary to provide services.
"Sec. 103. Comprehensive employment and training plan.
"Sec. 104. Review of plans.
"Sec. 105. Governor's coordination and special services plan.
"Sec. 106. Complaints and sanctions.
"Sec. 107. Judicial review.
"Sec. 108. Reallocation.
"Sec. 109. Prime sponsor's planning council.
"Sec. 110. State employment and training council.
"Sec. 111. Consultation.
"Sec. 112. Authorization of appropriations.

"PART B—GENERAL PROVISIONS

"Sec. 121. Conditions applicable to all programs.
"Sec. 122. Special conditions applicable to public service employment.
"Sec. 123. Special provisions.
"Sec. 124. Wages and allowances.
"Sec. 125. Labor standards.
"Sec. 126. Secretary's authority and performance standards.
"Sec. 127. Reports.
"Sec. 128. Services and property.
"Sec. 129. Utilization of services and facilities.
"Sec. 130. Interstate agreements.
"Sec. 131. Prohibition against political activities.
"Sec. 132. Nondiscrimination.
"Sec. 133. Records, audits, and investigations.
"Sec. 134. Bonding.
"Sec. 135. Office of Management Assistance.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"Sec. 201. Purpose of program.
"Sec. 202. Allocation of funds.
"Sec. 203. Conditions for receipt of financial assistance.
"Sec. 204. Supplemental vocational education assistance.
"Sec. 205. Participant assessment.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 211. Description of program.
"Sec. 212. Limitations on use of funds.
"Sec. 213. Eligibility for participation.
"Sec. 214. Services for youth.
"Sec. 215. Services for older workers.
"Sec. 216. Services for public assistance recipients.

"PART C—UPGRADING AND RETRAINING

"Sec. 221. Occupational upgrading and retraining.

"PART D—TRANSITIONAL EMPLOYMENT OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 231. Statement of purpose.
"Sec. 232. Financial assistance.
"Sec. 233. Allocation of funds.
"Sec. 234. Expenditure of funds.
"Sec. 235. Prime sponsors and program agents.
"Sec. 236. Eligibility.
"Sec. 237. Wages.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"Sec. 301. Special programs and activities.
"Sec. 302. Native American employment and training programs.
"Sec. 303. Migrant and seasonal farmworker employment and training programs.
"Sec. 304. Job search and relocation assistance.
"Sec. 305. Veterans information and outreach.
"Sec. 306. Programs for the handicapped.
"Sec. 307. Partnership programs.
"Sec. 308. Projects for middle-aged and older workers.

"PART B—RESEARCH, TRAINING, AND EVALUATION

"Sec. 311. Research.
"Sec. 312. Labor market information and job bank program.
"Sec. 313. Evaluation.
"Sec. 314. Training and technical assistance.
"Sec. 315. National Occupational Information Coordinating Committee.
"Sec. 316. Evaluations and incentive grants.
"Sec. 317. Voucher demonstration projects.
"Sec. 318. Employment and training activities to stimulate local private economic development.

"TITLE IV—YOUTH PROGRAMS

"Sec. 401. Statement of purpose.
"Sec. 402. Definitions.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"Sec. 411. Statement of purpose.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"Sec. 416. Entitlement pilot projects authorized.
"Sec. 417. Employment guarantees.
"Sec. 418. Selecting prime sponsors.
"Sec. 419. Special provisions.
"Sec. 420. Reports.

"Subpart 2—Youth Community Conservation and Improvement Projects

"Sec. 421. Statement of purpose.
"Sec. 422. Definitions.
"Sec. 423. Allocation of funds.
"Sec. 424. Community conservation and improvement youth employment projects.
"Sec. 425. Project applications.
"Sec. 426. Proposed agreements.
"Sec. 427. Approval of agreements.
"Sec. 428. Work limitation.

"Subpart 3—Youth Employment and Training Programs

"Sec. 431. Statement of purpose.
"Sec. 432. Programs authorized.
"Sec. 433. Allocation of funds.
"Sec. 434. Eligible applicants.
"Sec. 435. Eligible participants.
"Sec. 436. Conditions for receipt of financial assistance.
"Sec. 437. Review of plans by Secretary.
"Sec. 438. Secretary's discretionary projects.
"Sec. 439. Youth employment incentive and social bonus program.

"Subpart 4—General Provisions

"Sec. 441. Distribution of funds.
"Sec. 442. Wage provisions.
"Sec. 443. Special conditions.
"Sec. 444. Special provisions for subparts 2 and 3.
"Sec. 445. Academic credit, education credit, counseling and placement services, and basic skills development.
"Sec. 446. Disregarding earnings.
"Sec. 447. Relation to other provisions.

"PART B—JOB CORPS

"Sec. 450. Statement of purpose.
"Sec. 451. Establishment of the Job Corps.
"Sec. 452. Individuals eligible for the Job Corps.
"Sec. 453. Screening and selection of applicants: general provisions.
"Sec. 454. Screening and selection: special limitations.
"Sec. 455. Enrollment and assignment.
"Sec. 456. Job Corps Centers.
"Sec. 457. Program activities.
"Sec. 458. Allowances and support.
"Sec. 459. Standards of conduct.
"Sec. 460. Community participation.
"Sec. 461. Counseling and job placement.
"Sec. 462. Experimental and developmental projects.
"Sec. 463. Advisory boards and committees.
"Sec. 464. Participation of the States.
"Sec. 465. Application of provisions of Federal law.
"Sec. 466. Special provisions.
"Sec. 467. General provisions.
"Sec. 468. Utilization of funds.

"PART C—SUMMER YOUTH PROGRAM

"Sec. 481. Establishment of program.
"Sec. 482. Prime sponsors.
"Sec. 483. Financial assistance
"Sec. 484. Secretarial authority.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"Sec. 501. Statement of purpose.
"Sec. 502. Commission established.
"Sec. 503. Functions of the Commission.
"Sec. 504. Administrative provisions.
"Sec. 505. Reports.

"TITLE VI—COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT PROGRAM

"Sec. 601. Statement of purpose.
"Sec. 602. Report on appropriations.
"Sec. 603. Financial assistance.
"Sec. 604. Allocation of funds.
"Sec. 605. Expenditure of funds.
"Sec. 606. Prime sponsors and program agents.
"Sec. 607. Eligibility.
"Sec. 608. Wages.
"Sec. 609. Wage supplementation.
"Sec. 610. Utilization of funds.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"Sec. 701. Statement of purpose.
"Sec. 702. Financial assistance.
"Sec. 703. Conditions for receipt of financial assistance.
"Sec. 704. Private industry councils.
"Sec. 705. Program activities.
"Sec. 706. Report.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"Sec. 801. Statement of purpose.
"Sec. 802. Establishment of Young Adult Conservation Corps.
"Sec. 803. Selection of enrollees.
"Sec. 804. Activities of the Corps.
"Sec. 805. Conditions applicable to Corps enrollees.
"Sec. 806. State and local programs.
"Sec. 807. Secretarial reports.
"Sec. 808. Antidiscrimination.
"Sec. 809. Transfer of funds.

"STATEMENT OF PURPOSE

29 USC 801.

"SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated, and decentralized system of Federal, State, and local programs. It is further the purpose of this Act to provide for the maximum feasible coordination of plans, programs, and activities under this Act with economic development, community development, and related activities, such as vocational education, vocational rehabilitation, public assistance, self-employment training, and social service programs.

"DEFINITIONS

29 USC 802.

"SEC. 3. As used in this Act—

"(1) The term 'academic credit' means credit for education, training, or work experience applicable toward a secondary school

diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

"(2)(A) Except as provided in subparagraph (B), the term 'area of substantial unemployment' means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 percent for the most recent 12 months as determined by the Secretary.

"(B) With respect to determinations made for fiscal year 1979, and for parts A, B, and C of title II for any fiscal year, such term means any area of sufficient size and scope to sustain such a program and which has an average rate of unemployment of at least 6.5 percent for any 3 consecutive months within the most recent 12-month period as determined by the Secretary. *Post*, pp. 1950, 1954, 1956.

"(C) Determinations of areas of substantial unemployment shall be made once each fiscal year.

"(3) The term 'artificial barriers to employment' means limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to an individual's fitness or ability to perform the duties required by the employment position.

"(4) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, union-related organizations, and employer-related nonprofit organizations). 29 USC 706.

"(5) The term 'Consumer Price Index' means the 'All Urban Consumer Index' as determined by the Secretary of Labor.

"(6) The term 'disabled veteran' means those veterans described in section 2011(1) of title 38, United States Code.

"(7) The term 'displaced homemaker' means an individual who—

"(A) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

"(B)(i) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (ii) is receiving public assistance on account of dependent children in the home; and

"(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(8) The term 'economically disadvantaged' means a person who (A) receives, or is a member of a family which (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the 6-month period

prior to application for the program involved which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the 6-month period prior to application for the program involved (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for any person who would be eligible for assistance under title V of the Older Americans Act of 1965 or a handicapped individual who is sixteen years of age or older, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of the Internal Revenue Code of 1954 for the previous year shall be presumed, unless otherwise demonstrated, to be part of the person's family for the current year.

42 USC 3041.

26 USC 151.

"(9) The term 'entry level' means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

"(10) The term 'Governor' means the chief executive of any State.

"(11) The term 'handicapped individual' means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

"(12) The term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

"(13) The term 'health care' includes preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

"(14) The terms 'institutions of higher education' and 'post-secondary institutions' mean those institutions defined as institutions of higher education in section 1201(a) of the Higher Education Act of 1965.

20 USC 1141.

"(15)(A) Except as provided in subparagraph (B), the term 'local educational agencies' means agencies as defined in section 195(10) of the Vocational Education Act of 1963.

20 USC 2461.

"(B) For purposes of subpart 3 of part A of title IV, such term means agencies as defined in section 1001(f) of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978.

"(16) The term 'low-income level' means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price

Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"(17) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living family budget' issued by the Secretary.

"(18) The term 'offender' means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

"(19) The term 'project' means, for the purpose of titles II and VI, a definable task or group of related tasks which will be completed within a definable period of time, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds. *Post*, pp. 1950, 2003.

"(20) The term 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

"(21) The term 'public assistance' means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"(22) The term 'public service' includes work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

"(23) The term 'recipient' means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

"(24) The term 'Secretary' means the Secretary of Labor.

"(25) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"(26) The term 'supportive services' means services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them in retaining employment, and facilitate their movement into permanent

employment not subsidized under the Act. Supportive services may include health care, transportation, temporary shelter, child care, and financial counseling and assistance.

"(27) The term 'underemployed persons' means—

"(A) persons who are working part time but seeking full-time work; or

"(B) persons who are working full time but receiving wages not in excess of the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget; or (ii) 70 percent of the lower living standard income level.

"(28) The term 'unemployed persons' means—

"(A) persons who are without jobs and who want and are available for work; or

"(B) except for purposes of allocation formulas—

"(i) in cases permitted by regulations of the Secretary, persons who are institutionalized in, or who have been released from a prison, hospital, or similar institution, or are clients of a sheltered workshop; or

"(ii) adults who receive, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (I) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (II) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

42 USC 301, 601, 1201, 1381.

The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

"(29) The term 'unit of general local government' means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"(30) The term 'veterans outreach' means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38, and the services described in section 305 of this Act.

38 USC 1501 *et seq.*, 1651 *et seq.* *Post*, p. 1965.

"(31) The term 'Vietnam-era veterans' means those veterans defined in section 2011(2)(A) of title 38, United States Code, who are under 35 years of age.

"TITLE I—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"PRIME SPONSORS

"SEC. 101. (a) A prime sponsor under this Act shall be— 29 USC 811.

"(1) a State;

"(2) a unit of general local government which has a population of 100,000 or more persons on the basis of the most satisfactory current data available to the Secretary;

"(3) any consortium of units of general local government which includes any unit of general local government qualifying under paragraph (2);

"(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

"(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

"(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit of general local government in the jurisdiction of which it is located or as the State;

"(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; and

"(6) any unit of general local government previously designated as a prime sponsor under the provisions of this Act (as in effect prior to the effective date of the Comprehensive Employment and Training Act Amendments of 1978), regardless of a population decline below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under this Act. *Ante*, p. 1909.

"(b) (1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

"(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

"(c) An applicant shall submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as a prime sponsor any Notice.

applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

"(d) State prime sponsors shall, in coordination with units of general local government, make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

"AUTHORITY OF SECRETARY TO PROVIDE SERVICES

29 USC 812.

"SEC. 102. In any area for which no prime sponsor has been designated or where the Secretary has taken an action under section 104 or section 106 which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

"COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN

29 USC 813.

"SEC. 103. (a) In order to receive financial assistance under this Act, a prime sponsor designated under section 101(c) shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough understanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this Act. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

"(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

"(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

"(3) include a detailed description of—

"(A) the methods and institutional arrangements which will be used to involve community based organizations, educational agencies, and other deliverers of services in the development and implementation of the programs assisted under this Act; and

"(B) the methods and criteria which will be used to select such deliverers of services from an inventory of potentially

available deliverers of services (which have expressed an interest in writing) maintained by the prime sponsor as records accessible to the public;

"(4) include a detailed description of—

"(A) the prime sponsor's administrative arrangements, including the procedures to be used to supervise deliverers of service (including criteria for determining that a program has demonstrated effectiveness), to select and to place individuals on the administrative staff, to evaluate and audit the operation of such programs, and to process complaints and grievances;

"(B) the methods to be used to identify and place participants in such programs, the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

"(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning council, the youth council, and the private industry council;

"(5) include a description of arrangements to ensure that—

"(A) employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped individuals, persons facing barriers to employment commonly experienced by older workers, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

"(B) nondiscrimination and equal employment opportunities are provided; and

"(C) procedures are developed which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

"(6) provide a description of appropriate arrangements with educational agencies serving youth, community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan;

"(7) provide for utilizing those services and facilities which are available, with or without reimbursement, from Federal, State, and local agencies to the extent deemed appropriate by the prime sponsor after giving due consideration to the effectiveness of such existing services and facilities, including the State employment service, State vocational education and vocational rehabilitation agencies, State public assistance agencies, area skills centers, local educational agencies, postsecondary training and education institutions, community action agencies, other public agencies and community-based organizations, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services;

"(8) provide (A) a description of arrangements for (i) the use of skills centers established under section 231 of the Manpower Development and Training Act of 1962, and (ii) the use of other public vocational education facilities in such area; (B) a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (C) a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code;

"(9) provide for and include a description of arrangements made to ensure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this Act;

"(10) include a description of procedures for the consideration of any changes in the agreement required by this subsection or in the annual plan required under subsection (b), including review of such changes by the prime sponsor planning council;

"(11) include a detailed description of recordkeeping procedures (including books of account) for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor the prime sponsor's programs, and will assure adequate supervision and monitoring of such programs by the prime sponsor, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices;

"(12) include a detailed description of procedures for the monitoring and auditing of any subgrantees or subcontractors;

"(13) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this Act;

"(14) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's planning council, including local advisory councils established under section 105(a) of the Vocational Education Act of 1963 and the private industry council established under section 704 of this Act, representatives of local education agencies, and representatives of postsecondary educational agencies;

20 USC 2305.

Post, p. 2011.

"(15) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this Act and under the Wagner-Peyser Act, with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

29 USC 49 *et seq.*

"(16) include a description of the procedures concerning academic credit developed in conjunction with the appropriate local educational agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local educational agency, developed in conjunction with, and approved by, the appropriate State educational agency;

"(17) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

"(18) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

"(19) include a description of efforts to remove artificial barriers to employment;

"(20) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this Act with economic development activities in the private sector; and

"(21) include adequate assurances of compliance with all provisions of this Act and regulations promulgated pursuant thereto.

"(b) To receive funds for any fiscal year, a prime sponsor shall submit an annual plan, which shall include— Annual plan.

"(1) a description of any significant changes from the information provided in the master plan;

"(2) a description of the eligible population identified by race, sex, national origin, and age, and the proposed activities and services for participants from these significant segments of the eligible population;

"(3) a description of specific services for individuals who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skill development, have limited English-speaking ability, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public assistance recipients, are 55 years of age or older, are youth, are single parents, are women, or are other individuals who the Secretary determines have particular disadvantages in the labor market;

"(4) a description of the services to be provided, the prime sponsor's performance and placement goals (including such goals as may be established with respect to the groups identified in paragraphs (2) and (3)), and the relationship of such goals to the Secretary's performance standards;

"(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

"(6) a description of the relationship between job development and placement under this Act and other employment and training programs in the area served, and efforts made or which will be made to coordinate programs under this Act with such other programs;

"(7) a description of programs to orient and prepare the participants for their job responsibilities;

"(8) a description of efforts to be undertaken to involve the private sector;

"(9) a statement of any intention by the prime sponsor to apply for and utilize funds provided under this Act which are not allocated by formula;

"(10) a description of wage rates or salaries and fringe benefits to be paid to persons employed in public service employment and a comparison with the wages or salaries and fringe benefits paid for similar public occupations by the same employer; levels of employment not supported under this Act; layoffs, and hiring and promotional freezes in each employing agency;

(11) a description of the procedures which will be used to promote the objectives of section 121(a)(4), including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

"(12) the method for determining priorities for service under title II which shall be based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need, such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

Post, p. 1950.

"(13) a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of positive placement for individuals who have completed such programs;

"(14) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

"(15) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served in the preceding year the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment; and

Post, p. 1953.

"(16) a copy of all agreements made pursuant to section 203(c).

"(c) The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this Act, not more than once each fiscal quarter.

"REVIEW OF PLANS

29 USC 814.

"SEC. 104. (a) Each prime sponsor shall, at least 45 days before submitting its master or annual plan to the Secretary—

"(1) transmit such plan, in order to allow at least 30 days of review and comment, to—

"(A) the Governor;

"(B) the State employment and training council;

"(C) the prime sponsor planning council and the private industry council;

"(D) appropriate units of general local government in its area; and

"(E) labor organizations in the area which represent employees engaged in work similar to that proposed to be funded;

"(2) make such plan available, in order to allow for at least thirty days of review and comment, to— Availability for review and comment.

"(A) each House of the State legislature for appropriate referral;

"(B) appropriate community based organizations of demonstrated effectiveness in serving significant segments of the eligible population; and

"(C) appropriate educational agencies and institutions, and give written notification of its availability; and

"(3) make such plan available to the general public through such means as public hearings, newspapers, bulletins, and other media, including publications that primarily serve significant segments of the eligible population. Public availability.

"(b) The prime sponsor shall consider any comments or recommendations received and shall transmit to the Secretary copies of the comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council. Copies of comments and recommendations.

"(c)(1) The Secretary shall review each comprehensive employment and training plan to determine whether it is complete, whether it meets the requirements of this Act and the regulations promulgated under this Act and other applicable law, and whether, taking into account such factors as past performance and the recommendations made by the Governor, the State employment and training council, and the prime sponsor planning council, it is adequately designed to carry out an effective and well-administered program. The Secretary shall require the prime sponsor to take such action as the Secretary deems necessary to bring its plan and programs into conformance with the Act and the regulations promulgated under this Act or to improve the administration and effectiveness of its programs. If it is determined that such action is made necessary as a result of the Secretary's review of recommendations submitted by the Governor, the State employment and training council, or the prime sponsor planning council, the Secretary shall request an explanation of why the prime sponsor rejected such recommendations.

"(2) The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose.

"(3) The Secretary shall, prior to approval of any plan, ensure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all participants. The Secretary may require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsor of such penalties to

be applied upon a finding of the ineligibility of any participant. In reviewing such plans, the Secretary shall ensure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will ensure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

Disapproval of plan.

"(4) The Secretary may disapprove all or any portion of a plan if he finds that the use of funds for a particular subcontract or subgrant provided within that portion of the plan would be grossly inefficient or fail to carry out the purposes of this Act.

"(d) (1) The Secretary shall disapprove any plan that does not fully satisfy the review under subsection (c), after a reasonable opportunity, but not less than 30 days, has been given to the prime sponsor to remedy any defect found in the plan and the prime sponsor has failed to do so.

Notice of disapproval.

"(2) Whenever the Secretary disapproves a plan he shall transmit a notice of disapproval to the prime sponsor and the Governor, accompanied by a statement of reason for the disapproval. The Secretary shall not disapprove a plan without first affording an opportunity for a hearing to the prime sponsor.

"(e) (1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this Act on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

"(2) During the period of time between May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary's approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

"GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

"SEC. 105. (a) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan to the Secretary. 29 USC 815.

"(b) Governor's coordination and special services activities shall include the following—

"(1) coordinating all employment and training, education, and related services provided by the State, by prime sponsors, by State education agencies and other appropriate institutions of vocational and higher education, State and local public assistance agencies, and by other providers of such services within the State;

"(2) coordinating programs financed under the Wagner-Peyser Act and this Act, including assisting in the negotiation of any agreements (including partnership arrangements described in section 307) between prime sponsors and State employment security agencies; 29 USC 49 *et seq.* *Post*, p. 1966.

"(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

"(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service agencies and to take affirmative action, as required in section 2012(a) of title 38, United States Code;

"(5) assuring the promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services;

"(6) exchanging of information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

"(7) developing and providing to prime sponsors information on a State and local area basis regarding economic, industrial, and labor market conditions;

"(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

"(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 301(b)(2); *Post*, p. 1960.

"(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

"(11) providing labor market and occupational information to prime sponsors and appropriate educational agencies and institutions without reimbursement; and

"(12) facilitating and fostering the activities of the State Occupational Information Coordinating Committee established pursuant to section 161(b)(2) of the Vocational Education Act of 1963, with special emphasis on the systematic use of occupational infor- 20 USC 2391.

mation for prime sponsor planning as well as assisting and encouraging the development and use of career outlook information for individuals who are receiving rehabilitation services, students in local schools, and individuals using the services of prime sponsors and local offices of State employment security agencies.

"(c) A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b).

"COMPLAINTS AND SANCTIONS

Grievance procedure.
29 USC 816.
Post, p. 1960.

"SEC. 106. (a)(1) Except for complaints subject to the provision of paragraph (2), each prime sponsor receiving financial assistance under this Act or contractor or grantee under title III shall establish and maintain a grievance procedure, including provision for hearings within 30 days after the filing of a grievance, and for handling complaints about the program arising from its participants, subgrantees, contractors, and other interested persons. Hearings under such procedure shall be conducted expeditiously and decisions shall be made not later than 60 days after the filing of the grievance involved. With the exception of grievances alleging fraud or any criminal activity, the filing of a grievance must be made within one year of the alleged occurrence.

Hearings.

"(2) Whenever the recipient of financial assistance under this Act is an employer and the participant is an employee of that employer, the recipient shall continue to operate or shall establish and maintain a grievance procedure relating to the terms and conditions of employment.

"(b) Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system under subsection (a)(1) or which has exhausted or failed to achieve resolution of the grievance under the recipient's grievance system under subsection (a)(2) or under a collective bargaining agreement within the time limits prescribed in subsection (a)(1) or in such agreement) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this Act is failing to comply with the requirements of this Act, the regulations under this Act, or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

"(c)(1) The Secretary shall revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate financial assistance thereunder, if prior notice and opportunity for a hearing have been given, when the Secretary determines that the prime sponsor is maintaining a pattern or practice of discrimination in violation of section 132.

Post, p. 1948.

"(2) The Secretary shall have the authority to revoke a prime sponsor's comprehensive employment and training plan and terminate financial assistance thereunder, if prior notice and opportunity for a hearing have been given, when the Secretary determines that the prime sponsor is—

"(A) failing to make opportunities available equitably among the significant segments of the eligible population in the area it serves;

"(B) failing to provide participants with employment or training opportunities at levels of skill and remuneration that are commensurate with their capabilities or potential capabilities;

"(C) failing to give due consideration to the eligible population in areas of chronic or concentrated unemployment;

"(D) failing to give due consideration to funding of programs of demonstrated effectiveness;

"(E) incurring unreasonable administrative costs in the conduct of activities and programs, as determined by the Secretary pursuant to regulations under this Act;

"(F) materially failing to expend funds in a reasonable period of time; or

"(G) otherwise materially failing to carry out the purposes and provisions of this Act or the regulations promulgated pursuant to this Act.

"(d)(1) If the Secretary concludes that any recipient of funds under this Act is failing to comply with any provision of this Act or the regulations under this Act or that the recipient has not taken appropriate action against its subcontractors, subgrantees, and other recipients, the Secretary shall have authority to terminate or suspend financial assistance in whole or in part and order such sanctions or corrective actions as are appropriate, including the repayment of misspent funds from sources other than funds under this Act and the withholding of future funding, if prior notice and an opportunity for a hearing have been given to the recipient. Whenever the Secretary orders termination or suspension of financial assistance to a subgrantee or subcontractor (including operators under a nonfinancial agreement), the Secretary shall have authority to take whatever action is necessary to enforce such order, including action directly against the subgrantee or subcontractor, and an order to the primary recipient that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

"(2) If the Secretary concludes that a public service employment program is being conducted in violation of section 121 (e)(2), (e)(3), (g)(1), section 122 (c), (e), or section 123(g), or regulations promulgated pursuant to such sections, the Secretary shall, pursuant to paragraph (1) of this subsection, terminate or suspend financial assistance in whole or in part, order the repayment of misspent funds from sources other than funds under this Act or other funds used in connection with programs funded under this Act (unless, in view of special circumstances as demonstrated by the recipient, the Secretary determines that requiring repayment would not serve the purposes of attaining compliance with such sections), and order such other sanctions or corrective actions as are appropriate.

Termination or suspension of financial assistance. Notice and hearing.

"(e) In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing, within 30 days after such termination or suspension, are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

"(f) If the Secretary determines that any recipient under this Act has—

"(1) discharged or in any other manner discriminated against a participant or against any person in connection with the administration of the program involved or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation under or related to this Act, or otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this Act or the Secretary's regulations, or

"(2) discriminated against any person, failed to serve equitably significant segments of the eligible population, or failed to provide employment or training opportunities at levels of skill and remuneration that are commensurate with the participant's capabilities or potential capabilities;

the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved person, or both.

"(g) The Secretary may withhold funds otherwise payable under this Act in order to recover any amounts expended in any fiscal year in violation of any provision of this Act, any regulation promulgated pursuant to this Act, or any term or condition of assistance under this Act. In the event of any such withholding which results from fraud or abuse, the Secretary may order the prime sponsor to conduct the program as specified in the applicable plan on the basis of funds other than funds under this Act and may enforce such order by appropriate civil action, unless the prime sponsor elects to terminate participation as a grantee under this Act.

"(h) With the consent and consideration of State agencies charged with the administration of State laws, the Secretary shall be authorized, for the purpose of carrying out this section and section 133, to utilize the services of State and local agencies and their employees. Notwithstanding any other provision of law, the Secretary is authorized to reimburse, in whole or in part, such State and local agencies and their employees for services rendered for such purposes.

Post, p. 1949.

"(i)(1) Except as otherwise provided in subsection (e), the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other provision of this Act, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor—

"(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

"(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to clause (A), with a notice that (i) indicates that efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsor of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

"(2) Within 10 days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this subsection without first fulfilling all the requirements under this subsection. Hearing.

"(j) In order to ensure compliance with the provisions of this Act and regulations promulgated under this Act and to ensure conduct of programs in a manner consistent with the purposes and objectives of this Act, the Secretary may require prime sponsors to participate in unified audit programs established by the Secretary to provide for the audit of both prime sponsors and their respective subgrantees and subcontractors. In any such case the Secretary may require the prime sponsor to pay, from funds under this Act available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subgrantees and subcontractors. Audit programs.

"(k) Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

"(l) The existence of remedies under this section shall not preclude any person, who alleges that an action of a prime sponsor or of any other recipient violates any of the provisions of the Act or the regulations promulgated under the Act, from instituting a civil action or pursuing any other remedies authorized under Federal, State, or local law.

"JUDICIAL REVIEW

"SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104, or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, or if any interested person is dissatisfied with or aggrieved by any final action of the Secretary authorized under section 106, such prime sponsor, recipient, or person may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor, recipient, or person resides or transacts business a petition for review of such action. 29 USC 817.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall certify to the court the record of the further proceedings.

"REALLOCATION

"SEC. 108. (a) The Secretary is authorized to reallocate any amount of any allocation under this Act to the extent that the Secretary deter- 29 USC 818.

mines that the recipient will not be able to use such amount within a reasonable period of time.

"(b)(1) Any allocations to a prime sponsor designated under section 101(c) may be reallocated only if the Secretary has provided 30 days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

Publication in Federal Register.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

"(3) In reallocating any such funds, the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

"PRIME SPONSOR'S PLANNING COUNCIL

29 USC 819.

"SEC. 109. (a) Each prime sponsor designated under section 101(c) shall establish a planning council.

Membership.

"(b) Each planning council established under subsection (a) shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organizations, the employment service, veterans organizations, representatives of handicapped individuals, vocational education agencies, public assistance agencies, other education and training agencies and institutions, business, labor, and, where appropriate agricultural employers and workers.

"(c) The prime sponsor shall appoint the members of the planning council, designate a public member as chairperson and furnish staff to provide professional, technical, and clerical assistance to the council.

"(d) The planning council shall meet no less than 5 times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

Publicly announced meetings.

Recommendations.

"(e) The council shall (1) participate in the development of, and submit recommendations regarding, the prime sponsor's comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and of other employment and training programs in the prime sponsor's area; (2) monitor, and provide for objective evaluation of, employment and training programs conducted in such area; and (3) provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Special consideration shall be given to the recommendations of the planning council, but any final decision with respect to such recommendations shall be made by the prime sponsor.

"(f) The planning council shall take into consideration any comments and recommendations of the private industry council in the development of the comprehensive employment and training plan.

"STATE EMPLOYMENT AND TRAINING COUNCIL

29 USC 820.

"SEC. 110. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State employment and training council (hereinafter in this section referred to as the 'Council'). Funding for the council shall be provided pursuant to section 202(c).

Post, p. 1950.

"(2) The council shall be appointed by the Governor, who shall designate one public member thereof to be chairperson. The Governor shall furnish staff to provide professional, technical, and clerical assistance to the council.

"(3) The council shall be composed of— Membership.

"(A) representatives of the units or combinations of units of general local government in such State, including those which are prime sponsors, who together shall comprise at least one-quarter of the membership of the council and shall be nominated by the chief executive officers of the units or combination of units of general local government;

"(B) representatives of organized labor, business, and agricultural employers and workers, who together shall comprise one-quarter of the membership of the council;

"(C) representatives of the eligible population (including significant segments thereof) and of the general public, who together shall comprise one-quarter of the membership of the council; and

"(D) representatives of service deliverers, who together shall comprise not more than one-quarter of the membership of the council, including at least—

"(i) one representative each of the State board of vocational education and the public employment service of such State;

"(ii) one representative of the State Advisory Council on Vocational Education created pursuant to section 105 of the Vocational Education Act of 1963; 20 USC 2305.

"(iii) one representative of the State public assistance agency;

"(iv) one representative of each such other State agency as the Governor may determine to have a direct interest in overall employment and training and human resource utilization within the State;

"(v) representatives of community-based organizations;

"(vi) representatives of veterans organizations; and

"(vii) representatives of handicapped individuals.

"(4) The council shall meet at such times (but at least 5 times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public. Publicly announced meetings.

"(b) The council shall—

"(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

"(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act;

"(3)(A) identify, in coordination with the State Advisory Council on Vocational Education, the employment and training and vocational education needs of the State and assess the extent to which employment and training, vocational education, voca-

tional rehabilitation, public assistance, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

Comments.

"(B) comment at least once annually on the reports of the State Advisory Council on Vocational Education, which comments shall be included in the annual report submitted by that Council pursuant to section 105 of the Vocational Education Act of 1963;

20 USC 2305.

"(4) review the comprehensive employment and training plans of prime sponsors pursuant to section 104, especially with respect to nonutilization or duplication of existing services;

"(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agencies and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State; and

"(6) participate in the development of the Governor's coordination and special services plan.

"CONSULTATION

29 USC 821.

"SEC. 111. (a) The Secretary shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respects to health, education, and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

"(b) The Secretary, in carrying out or supporting programs under this Act, shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other officials as appropriate.

"AUTHORIZATION OF APPROPRIATIONS

29 USC 822.

"SEC. 112. (a) (1) There are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out title I.

Ante, p. 1917.

"(2) (A) There are authorized to be appropriated $2,000,000,000 for fiscal year 1979 to carry out parts A, B, and C of title II.

Post, pp. 1950, 1954, 1956.

"(B) There are authorized to be appropriated $3,000,000,000 for fiscal year 1979 to carry out part D of title II.

Post, p. 1957.

"(C) Subject to subsection (b) (1), there are authorized to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the two succeeding fiscal years to carry out parts A, B, C, and D of title II.

"(3) Subject to subsection (b) (2), there are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out title III.

Post, p. 1960.

"(4) (A) There are authorized to be appropriated $2,250,000,000 for fiscal year 1979 to carry out title IV.

Post, p. 1974.

"(B) There are authorized to be appropriated $2,400,000,000 for fiscal year 1980 to carry out title IV. *Post*, p. 1974.

"(C) There are authorized to be appropriated such sums as may be necessary for fiscal year 1981 and for the succeeding fiscal year to carry out parts B and C of title IV.

"(5) There are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out title V. *Post*, p. 2002.

"(6) There are authorized to be appropriated for fiscal year 1979 and for each of the three succeeding fiscal years the amount determined pursuant to section 602 to carry out title VI. *Post*, p. 2005.

"(7)(A) There are authorized to be appropriated $500,000,000 for fiscal year 1979 to carry out title VII. *Post*, p. 2010.

"(B) There are authorized to be appropriated $525,000,000 for fiscal year 1980 to carry out title VII.

"(8)(A) There are authorized to be appropriated $350,000,000 for fiscal year 1979 to carry out title VIII. *Post*, p. 2013.

"(B) There are authorized to be appropriated $400,000,000 for fiscal year 1980 to carry out title VIII.

"(C) There are authorized to be appropriated such sums as may be necessary for fiscal year 1981 and for the succeeding fiscal year to carry out title VIII.

"(b)(1) Of the amount appropriated to carry out title II for fiscal years 1980, 1981, and 1982, the amount which shall be available for part D of such title for a fiscal year shall not exceed 60 percent of the total amount appropriated for such title for such fiscal year.

"(2) Of the amount appropriated to carry out this Act for any fiscal year, not more than 20 percent of such amount (excluding any amount made available for carrying out part D of title II and title VI) shall be available for carrying out the provisions of title III. From such amount made available for title III activities, the Secretary shall transfer an amount which shall be not less than $3,000,000 and not more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963 for purposes described in section 315 of this Act. *Post*, pp. 1957, 2005. 20 USC 2391. *Post*, p. 1972.

"(c) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of 2 years from the date of obligation.

"(d)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"PART B—GENERAL PROVISIONS

"CONDITIONS APPLICABLE TO ALL PROGRAMS

29 USC 823. "SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

"(a)(1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

"(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequisite to eligibility for, or receipt of, any benefit under the program.

"(4) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

"(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

"(b)(1)(A) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this Act among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"(B) In the administration of programs under this Act, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

"(2)(A) The Secretary shall take appropriate steps to provide for the increased participation of qualified disabled and Vietnam-era veterans (with special emphasis on those who served in the Armed Forces in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in public service employment programs and job training opportunities supported under this Act, but nothing in this Act shall authorize the Secretary to establish a hiring or participation goal for such veterans. In carrying out this paragraph, the Secretary shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs. Such steps shall include employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and employment needs of veterans.

"(B) Special efforts shall be made to acquaint such veterans with the employment and training opportunities available under this Act, and to coordinate efforts in behalf of such veterans with those activi-

ties authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations. 38 USC 2001, *et seq.*

"(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

"(c)(1) All persons participating in training under this Act shall receive allowances pursuant to section 124; no participant may receive allowances from funds under this Act for institutional or classroom training for more than 104 weeks in a 5-year period.

"(2) Subject to section 212(b), no individual shall participate in programs receiving financial assistance under this Act for longer than a total of 30 months in any 5-year period. For purposes of this subparagraph, no period of participation prior to October 1, 1978, shall be included in the computation of such 30 months. *Post*, p. 1955.

"(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

"(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, work-sharing arrangements, and part-time jobs, particularly for parents of young children and for older persons.

"(4) All programs for in-school youth shall be consistent with applicable State educational standards.

"(5) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

"(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

"(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(3) No program shall impair existing contracts for services.

"(4) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

"(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

"(2) No person shall be trained for an occupation which requires less than 2 weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

"(3) All programs shall be designed, to the maximum extent practicable, consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

"(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

"(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

"(g)(1)(A) No program shall substitute funds under this Act for other funds in connection with work that would otherwise be performed.

"(B) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this Act.

"(C) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

"(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed effective by the prime sponsor.

"(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to conduct an evaluation of any program under this Act if such individual, institution or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

"(2) No member of any council under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents) or vote on any matter which would financially benefit the member or the organization which the member represents.

"(i) Except as provided in section 212(b), work experience programs conducted under this Act shall not exceed a total of 1,000 hours for any individual (other than an in-school youth), for any year, and not more than 2,000 hours within a 5-year period beginning on the effective date of the Comprehensive Employment and Training Act Amendments of 1978. Work experience shall only be for persons who need assistance in becoming accustomed to basic work requirements, including basic work skills, in order to be able to compete successfully in the labor market.

Ante, p. 1909.

"(j) Funds available for employment benefits under this Act may be used, for the duration of participation, for contributions on behalf of participants who are, prior to July 1, 1979, enrolled in retirement systems or plans. With respect to participants enrolled in retirement systems or plans on or after such date, except as otherwise provided in regulations promulgated by the Secretary, no funds under this Act may be used for contributions to retirement systems or plans unless such contributions bear a reasonable relationship to the cost of providing benefits to participants. Such regulations shall take into consideration circumstances where efforts are being made to change State or local laws or both affecting retirement coverage for individuals who are participants in activities funded pursuant to this Act. Pursuant to section 314 of this Act, the Secretary shall provide technical assistance to recipients to enable retirement systems or plans to comply with section 122(k) and this subsection.

Post, p. 1972.

"(k) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

"(1) The Secretary shall promulgate regulations to insure that payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and supportive services and the costs of lower productivity associated with employing an individual who lacks the requisite skills to perform the job in which the individual is placed and such costs for those otherwise employed. The length of time for which such payments may be made shall not exceed that period of time generally required for the acquisition of skills needed for a position within a particular occupation. Regulations.

"(m) Prime sponsors shall provide, where employment opportunities already exist or where there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974. 42 USC 5552.

"(n)(1) No prime sponsor may use any funds received under this Act to assist or promote union organizing. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary to be in violation of this subsection shall be refunded promptly to the United States Treasury.

"(2) No individual may be required to join a union as a condition of enrolling in a program assisted under this Act in which only institutional training is provided, unless such institutional training involves individuals employed under a collective-bargaining agreement which contains a union security provision.

"(o) No funds provided under this Act shall be paid to any nongovernmental organization, association, firm or other entity for the conduct of any program or activity (other than under title VII or on-the-job training) under this Act unless— *Post*, p. 2010.

"(1) such organization, association, firm or other entity has a meritorious written plan which has been reviewed and evaluated by the prime sponsor or, where appropriate, the Secretary, according to standards promulgated by the Secretary and is found to meet the purposes and requirements of the Act; and

"(2) such organization, association, firm or other entity is selected on the basis of merit which shall mean at least that such organization, association, firm or other entity—

"(A) has the administrative capability to perform effectively under the program;

"(B) has submitted a written plan under paragraph (1) that compares favorably to other plans; and

"(C) has not been seriously deficient in its conduct of or participation in any Department of Labor program in the past, or, is not a successor organization to one that was seriously deficient in the past, unless the Secretary in his discretion certifies after a clear, convincing, and detailed showing, that the deficiencies will be eliminated and performances substantially improved; and

"(3) a comprehensive and independent monitoring program designed to insure compliance with the plan and this Act is in effect

in accordance with standards promulgated by the Secretary requiring adequate training of monitors and procedures for the prompt follow up of problems found during the monitoring process.

The Secretary shall issue regulations to achieve the objectives of this subsection for title VII and on-the-job training programs with a minimum of burden on recipients.

Post, p. 2010.

"(p) No recipient shall knowingly use any funds under this Act to enroll or serve any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

"(q) Each prime sponsor receiving funds under this Act shall establish an independent unit to monitor compliance with the requirements of this Act, the regulations issued thereunder, and the comprehensive employment and training plan. The Secretary shall annually assess the effectiveness of the units established pursuant to the preceding sentence, with particular regard to the adequacy of provisions made for funding, staffing, and insuring the independence and objectivity of monitoring practices and methods.

"SPECIAL CONDITIONS APPLICABLE TO PUBLIC SERVICE EMPLOYMENT

29 USC 824.

SEC. 122. Except as otherwise provided, the following conditions shall apply to all public service employment programs receiving financial assistance under this Act:

"(a) Only persons residing within the area qualifying for assistance shall be employed, and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

"(b)(1)(A) Public service employment under this Act is intended for eligible persons who are the most severly disadvantaged in terms of their length of unemployment and their prospects for finding employment.

"(B) Special consideration in filling public service jobs shall be given to eligible persons who are public assistance recipients or who are eligible for public assistance but not receiving such assistance.

"(2) Special consideration shall be given to eligible disabled and Vietnam-era veterans (with special emphasis on those who served in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in accordance with procedures established by the Secretary, and special attention shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

"(3)(A) Special emphasis in filling public service jobs shall be given to eligible members of groups specifically identified in section 301(a) as facing particular labor market disadvantages, taking into account the household support obligations of persons applying for such jobs, but nothing in this Act shall authorize the Secretary to establish hiring or participation goals for such persons.

Post, p. 1960.

"(B) Special efforts shall be made to acquaint such persons with the employment and training opportunities available under this Act, and to coordinate efforts in behalf of such persons with activities authorized by section 301.

"(c)(1) No person shall be employed or job opening filled (A) when any other person not supported under this Act is on layoff from

the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this Act or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a public service employee.

"(2) No funds for public service employment programs under this Act may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

"(d) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this Act.

"(e) No public service jobs shall be substituted for existing federally assisted jobs.

"(f) The Secretary shall assure that prime sponsors have undertaken, or will undertake, analyses and reevaluations of job descriptions and, where feasible, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment (as defined in section 3) of those whom it is the purpose of this Act to assist.

"(g) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

"(h)(1) All persons participating in public service employment shall receive wages in accordance with section 124.

"(2) No participant may be paid wages from funds under this Act for public service employment for more than 78 weeks in a 5-year period.

"(3) For purposes of paragraph (2), no more than 26 weeks of public service employment financed in whole or in part under this Act prior to October 1, 1978, shall be considered as part of the 78 weeks.

"(4)(A) The Secretary may waive the provisions of paragraph (2) or of section 121(c)(2) to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to October 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act or in the case of Native American entities who operate programs authorized under section 302(c)(1) of this Act. *Post*, p. 1962.

"(B) The Secretary may waive the provisions of paragraph (2), with respect to any area served by a unit of general local government which is eligible to be a prime sponsor (or any area served by such a Native American entity) in which the rate of unemployment is equal to or exceeds 7 percent or, in the case of a prime sponsor which is a State, any area under the jurisdiction of a unit of general local government in which the rate of unemployment is equal to or exceeds 7 percent, to provide a temporary extension of time, which shall be no greater than 12 months in duration (and which shall be subject to the provisions of section 121(c)(2)), for persons hired on or after

October 1, 1978, in a public service employment program under any title of this Act in the case of a recipient which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act because of high unemployment in the area of service.

"(i)(1) Funds under this Act shall not be used to pay wages to any individual employed in a public service job at a rate in excess of $10,000 per year, but such maximum shall be adjusted upward for particular areas served by recipients as determined by the Secretary, on the basis of the wage adjustment index issued in accordance with paragraph (3) of this subsection. In no case shall such maximum be increased by more than 20 percent, except in the case of an area in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 150 percent of the national average wage in such employment.

"(2) In order to provide the maximum number of employment and training opportunities under this Act, the Secretary shall issue appropriate standards to be maintained on an area basis with respect to average federally-supported wage rates for public service jobs under this Act. Such standards shall be designed to assure that for particular areas served by recipients, as determined by the Secretary, an annual average federally-supported wage rate per public service jobholder equivalent to $7,200, as adjusted in accordance with the wage adjustment index issued in accordance with paragraph (3) of this subsection, will not be exceeded. Average wage rates established under such standards for public service jobs for each area shall be adjusted annually by the Secretary by a percentage equal to the change in average wages in regular employment not supported under this Act in such area.

Area wage adjustment index.

"(3) The Secretary shall issue and publish annually an area wage adjustment index based upon the ratio which annual average wages in regular public and private employment in various areas served by recipients bear to the average of all such wages nationally, on the basis of the most satisfactory data the Secretary determines to be available.

Post, p. 2012.

"(4)(A) Except as otherwise provided in section 609, no public service employment participant may be provided wages for any public service employment job from sources other than this Act.

"(B) Notwithstanding subparagraph (A), any person in public service employment on September 30, 1978, receiving wages from sources other than this Act may continue to receive such wages.

"(j) Notwithstanding any eligibility limitation on public service employment in this Act, a person who on September 30, 1978, held a public service employment position under this Act may continue in such position subject to subsection (h) of this section.

"(k) All persons employed in public service jobs shall be provided workers' compensation, health insurance, unemployment benefits, and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type of work and similarly classified. Any such classification must be reasonable and must include nonfederally financed employees, but within any single classification a distinction may be made between public service employees and other employees for purposes of determining eligibility for participation in retirement systems or plans

which provide benefits based on age or service or both. Nothing in this subsection or in section 121(j) shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits based on age or service, or both, to a public service employee unless funds under this Act are available, pursuant to section 121(j) to make such contribution.

"(l) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients and other applicants for assistance from the employment security agency of any available public service jobs for which they may be eligible.

"(m) To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public and private sectors, and to the extent compatible with such objectives, shall meet community needs including but not limited to community betterment activities (including rehabilitation of public properties, assistance in the weatherization of dwellings occupied by low income families, demonstration of energy conserving measures including solar energy techniques, removal of architectural barriers to access by handicapped persons to public facilities, and neighborhood revitalization), education, health care, transportation services, crime prevention and control, and environmental quality control.

"(n) No individual shall be eligible to be employed in a public service employment position, if such individual has, within 6 months prior to the determination, voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate not less than the Federal minimum wage as prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938. 29 USC 206.

"SPECIAL PROVISIONS

"SEC. 123. (a) No authority conferred by this Act shall be used to 29 USC 825.
enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries, except for those jobs (1) for which there exists a training program, approved by the Secretary, of a specified length of time designed to teach specific skills, and (2) where the rate of labor turnover does not exceed substantially the rate of labor turnover in other industries in the same area.

"(b) The Secretary shall provide for the sharing of the comprehensive employment and training plans between the prime sponsors and other recipients in the prime sponsor's area in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

"(c)(1) Notwithstanding any other provisions of law, employment and training furnished under this Act in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 percent of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964 or the 42 USC 2809.
Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976. 42 USC 6851.

"(2) Recipients of funds under this Act shall assure an adequate number of supervisory personnel for weatherization projects, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

"(3) The Secretary shall facilitate and extend projects for work on the weatherization of low income housing in titles II, III, IV, and VI of this Act, so as to achieve the most efficient match of manpower funds to materials funds. The Secretary shall, in coordination with other appropriate agencies, provide technical assistance and otherwise encourage prime sponsors, serving areas where such projects would contribute to energy savings, to develop and continue weatherization projects as part of their programs under this Act to best prepare applicants for employment in energy related jobs in unsubsidized employment.

Post, pp. 1950, 1960, 1970, 2005.

Technical assistance.

Regulations.

"(4) The Secretary shall issue regulations setting forth conditions under which prime sponsors, in carrying out community improvement projects, community betterment activities, and public service employment projects under this Act, may provide work for eligible participants on the rehabilitation of housing for lower-income families as defined in section 8(f)(1) of the United States Housing Act of 1937 as part of community revitalization or stabilization projects.

42 USC 1437f.

"(d)(1) All allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

"(2) Whenever the Secretary allocates funds required to be allocated by formula under this Act, the Secretary shall publish the proposed amount to be distributed to each prime sponsor.

Publication in Federal Register.

"(3) Whenever the Secretary utilizes a formula to allocate funds made available for distribution in the Secretary's discretion under the Act (except funds appropriated for title III), the Secretary shall, not later than 30 days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.

"(e) For purposes of eligibility for participation in a program under this Act, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

"(f)(1) All funds received under any title of this Act, which are allowed to be used for administrative costs under the provisions of the title under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this Act, and may be used to plan for the administration of title VI programs without regard to present funding for such programs.

"(2) Nothing in section 121 or this section shall be deemed to authorize the Secretary to pre-approve the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any title of this Act are used by a prime sponsor for making payments on contracts for legal or other associated services unless the prime sponsor certifies that—

"(A) the payments are not unreasonable in relation to the fees charged by other contractors providing similar services; and

"(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

Standards and procedures.

"(g) The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this Act as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; excessive or unreasonable legal fees; the improper commingling of funds under the Act with funds received from other sources; the failure to keep and maintain sufficient, audit-

able, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, antireligious, unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

"(h) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

"(i) Every recipient which receives funds directly from the Secretary shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisions of section 104(a). *Ante*, p. 1922.

"(j) Federal assistance under this Act shall not be used for the payment of a fee for the placement of any persons in a training or employment program under this Act. Nor may any person or organization charge a fee for the placement or referral of any person in or to such program.

"(k) The Secretary shall notify the Governor and the appropriate prime sponsor of any activity to be funded by the Secretary under this Act within the State or prime sponsor area. Notification.

"(l) The Secretary and recipients of financial assistance under this Act shall give special consideration, in carrying out programs authorized by this Act, to community-based organizations, as defined in section 3, which have demonstrated effectiveness in the delivery of employment and training services. *Ante*, p. 1912.

"(m) The Secretary of Labor may assist Native American entities which are eligible to receive assistance under section 302, in applying for financial assistance under the Act.

"WAGES AND ALLOWANCES

"SEC. 124. Except as otherwise provided in this Act, the following allowances and wages shall apply to all activities financed under this Act: 29 USC 826.

"(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the State or local minimum wage law applicable to most employees in the State, and such basic allowances shall, in the case of an individual with dependents be increased by $5 a week for each dependent over 2 up to a maximum of 4 additional dependents. Basic hourly allowance. 29 USC 206.

"(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

"(3) Except for trainees receiving allowances under part A of title IV, a trainee receiving public assistance, or whose needs or *Post*, p. 1974.

income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training not to exceed $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs.

"(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

"(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 (2) the minimum wage under the applicable State or local minimum wage law or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

29 USC 206.

"(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements and individual proficiency, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"LABOR STANDARDS

29 USC 827.

"SEC. 125. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

"SECRETARY'S AUTHORITY AND PERFORMANCE STANDARDS

Rules and regulations.
29 USC 828.

"SEC. 126. (a)(1) The Secretary may, in accordance with chapter 5, title 5, United States Code, prescribe such rules and regulations, including performance standards, as deemed necessary in accordance with paragraph (2). Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least 30 days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each

5 USC 500 *et seq.*

5 USC 553.

Publication in Federal Register.

Copies to congressional committees.

material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

"(2) The Secretary shall assess the adequacy of each prime sponsor's proposed performance and placement goals in accordance with performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served. Performance standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

"(A) the local labor market conditions, including the levels of unemployment, and the current and projected labor market demands;

"(B) the economic base of the community, including the growth or decline of industry within the community;

"(C) the distribution of available employment opportunities by industry or occupation, for persons residing within the prime sponsor's area;

"(D) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage, handicap, capabilities, and job readiness of the eligible population to be served; and

"(E) such other factors as the Secretary deems appropriate.

"(b) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as deemed necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

"(c) The Secretary may delegate within the Department of Labor authority over the Office established pursuant to section 135 in order to effectively carry out the purposes of such section.

"(d) The Secretary shall, to the extent feasible, reduce the costs of compliance imposed on prime sponsors by rules and regulations issued under this Act including, but not limited to, the costs of applications, plan preparation, data collection, recordkeeping, report preparation, and other paperwork and regulatory cost burdens.

"(e) In order to reduce paperwork burdens, the Secretary is authorized to consolidate reports required by this Act. Nothing in this subsection shall be construed to reduce or eliminate the requirements established by this Act relating to the furnishing of information by the Secretary.

"(f) Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

"REPORTS

"SEC. 127. (a) The Secretary shall make such reports and recommendations to the President as the Secretary deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and the President shall transmit to the Congress a 29 USC 829.

report on the same topics not later than March 1 of each year. The first such report submitted after the effective date of the Comprehensive Employment and Training Act Amendments of 1978 shall include recommendations with respect to necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under this Act.

Ante, p. 1909.

"(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

"(c) The Secretary shall annually transmit to the Congress a detailed report which evaluates all programs and activities conducted under this Act, including that information derived from evaluations provided for in section 313. The Secretary shall include specific data concerning the extent to which (1) participants in such activities subsequently secure and retain public or private employment, participate in training or employability development programs, and (2) significant segments of the population of unemployed persons are provided public service employment opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of title IV and title VII with the program established by title II.

Post, p. 1971.

Post, pp. 1974, 2010.

"(d) In order to assist the Secretary in preparing the report required by this section, the Secretary shall require as a condition of financial assistance that annual reports and evaluations be submitted in accordance with regulations. The data derived from such reports shall be compiled on a State, regional, and national basis, and shall be included in the annual report to the Congress. Such reports shall include but not be limited to the following information:

"(1) a detailed comparison of program performance with approved plan;

"(2) participant characteristics (cross-tabulated);

"(3) average cost per participant; and

"(4) the types of outcomes that participants experience after the program.

"(e)(1) In the annual report to Congress required in subsection (a), the Secretary shall make recommendations for program modification, including recommendations for the succeeding fiscal year, based upon such findings, and other legislative or administrative recommendations as the Secretary deems appropriate.

"(2) In the annual report required in subsection (a), the Secretary shall include a description of the actions, if any, which the Secretary undertook during the fiscal year for which the report is made to reduce the costs of compliance imposed on the prime sponsors by rules or

regulations issued under this Act, as required under section 126(d).

"(f) In the annual report required under subsection (a), the Secretary shall report on the monitoring and auditing activities of the Department, on administrative changes made or proposed to improve such activities, and on actions taken under section 106, and shall make any necessary proposals for legislative action. *Ante*, p. 1926.

"(g) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this Act, including employment service/prime sponsor demonstration projects.

"(h) The Secretary shall, in consultation with the Director of the Office of Management and Budget, submit a report once each year to the Congress on efforts being taken to reduce paperwork and reporting and to comply with the requirements of the Federal Reports Act and management directives of the Office of Management and Budget.

"(i) Any evaluation report, or data, or information collected in preparation of such report submitted under this section or under any other provisions of this Act, or any contract which is made or information pursuant to such contract which is paid for or made with appropriated funds shall be made available upon request, within four days to the chairman or ranking minority member of the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate.

"(j) The Secretary shall report to Congress, as part of the annual report for fiscal year 1979, his recommendations for legislative changes designed to increase the representatives and independence of the prime sponsor's planning councils, with special attention to the process for selecting council memberships.

"SERVICES AND PROPERTY

"SEC. 128. The Secretary is authorized, in carrying out functions and responsibilities under this Act, to accept, purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States. 29 USC 830. 31 USC 665.

"UTILIZATION OF SERVICES AND FACILITIES

"SEC. 129. (a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent. 29 USC 831.

"(b) The Secretary shall carry out responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

"INTERSTATE AGREEMENTS

29 USC 832. "SEC. 130. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

"PROHIBITION AGAINST POLITICAL ACTIVITIES

29 USC 833. "SEC. 131. (a) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

"(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

5 USC 1501 *et seq.*

"NONDISCRIMINATION

29 USC 834. "SEC. 132. (a) No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(b) Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 106, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 106 with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

Ante, p. 1926.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(d) In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this Act.

42 USC 2000d-1.
42 USC 2000d-2.

"(e) No participant under this Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

"(f)(1) The Secretary shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(15) and shall insure that the special needs of such individuals are being met. *Ante*, p. 1918.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(15), including a comparison of such practices and achievements with the preceding year.

"RECORDS, AUDITS, AND INVESTIGATIONS

"SEC. 133. (a) In order to assure that funds provided under this Act are used in accordance with its provisions, the following provisions shall apply. 29 USC 835.

"(1) Every recipient of funds under this Act shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations as the Secretary may require by regulation or order.

"(2) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has violated any provision of this Act or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

"(3) For the purpose of any hearing or investigation authorized under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49, relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

"(b) The Secretary shall complete all audits of recipients of funds which he deems necessary in a timely fashion following the end of the fiscal year for which the audits are made. In the annual report required under section 127(a), the Secretary shall include a statement of the average delay between the end of each fiscal year and the audits of prime sponsors for such year, the actions, if any, taken by the Secretary to reduce the delay, and the additional funds and personnel the Secretary would need in order to carry out all audits within the 24-month period following the end of the fiscal year for which the audits are made.

"BONDING

"SEC. 134. Every officer, director, agent, or employee of a recipient of funds under this Act who handles funds or other financial assistance received under the Act shall be bonded to provide protection against loss by reason of fraud or dishonesty on such person's part directly or 29 USC 836.

through conspiracy with others. The Secretary shall establish the amount and other bonding requirements by regulation.

"OFFICE OF MANAGEMENT ASSISTANCE

Establishment. 29 USC 837.

"SEC. 135. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act; and

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation as not being in compliance with any important requirement of this Act, of regulations issued thereunder, or of the comprehensive employment and training plan.

Services under this section may be provided on a reimbursable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution of such services. The Secretary shall periodically publish any proposals for corrective action made by the Office which may be useful to other prime sponsors.

Periodic publications.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

"PURPOSE OF PROGRAM

Establishment. 29 USC 841.

"SEC. 201. It is the purpose of this title to establish programs to provide comprehensive employment and training services throughout the Nation in order to ease barriers to labor force participation encountered by economically disadvantaged persons, to enable such persons to secure and retain employment at their maximum capacity, and to enhance the potential for individuals to increase their earned income. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

"ALLOCATION OF FUNDS

29 USC 842.

"SEC. 202. (a)(1)(A) Eighty-five percent of the amount available for parts A, B, and C of this title in fiscal year 1979 shall be allocated as follows:

"(i) 50 percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the sums received by the State under title I of the Comprehensive Employment and Training Act of 1973 for fiscal year 1978 compared to the sums received by all States under such title in that year;

"(ii) 37½ percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the relative number of unemployed persons within the State as compared to the number in all States;

"(iii) 12½ percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the relative

number of adults in families with an annual income below the low-income level within the State compared to the total number in all States; and

"(iv) Not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas in accordance with their respective needs.

"(B) The sum allocated to each State shall be allocated by the Secretary among prime sponsors within the State on an equitable basis based upon the factors set forth in subparagraph (A).

"(2)(A) Eighty-five percent of the amount available for parts A, B, and C of this title in fiscal years 1980, 1981, and 1982 shall be allocated as follows:

"(i) two-thirds of such amount shall be allocated in accordance with the provisions of subparagraph (B) of this paragraph; and

"(ii) one-third of such amount shall be allocated in accordance with the provisions of subparagraph (C) of this paragraph.

"(B) The amount allocated under this subparagraph shall be allocated as follows:

"(i) 50 per centum of the amount allocated under this subparagraph shall be allocated on the basis of the amount allocated to the prime sponsor under this subparagraph (or under paragraph (1)) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

"(ii) 37½ per centum of the amount allocated under this subparagraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

"(iii) 12½ per centum of the amount allocated under this subparagraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

"(iv) not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, the Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

"(C) The amount allocated under this subparagraph shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

"(b) Six percent of the funds available for parts A, B, and C of this title shall be available only for grants under section 204 for supplemental vocational education assistance.

"(c) One percent of the amount available for parts A, B, and C of this title shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to States for the costs of the State employment and training council incurred in carrying out the provisions of section 110, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 105.

Ante, p. 1930.

Ante, p. 1925.

"(d) One percent of the amounts available for this title shall be available to the Governor of each State in the same proportion as that

State's allocation under subsection (a) for encouraging coordination and establishing linkages between prime sponsors and appropriate educational agencies and institutions, and institutions providing training programs which are approved by the Secretary, and for services for eligible participants delivered jointly by employment and training agencies and appropriate educational agencies and institutions.

"(e) Four percent of the amounts available for parts A, B, and C of this title shall be available to each Governor in the same proportion as that State's allocation under subsection (a), for the Governor's coordination and special services under section 105, and, when deemed necessary by the Governor, for additional support of State employment and training councils.

Ante, p. 1925.

"(f)(1) The remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 102) in accordance with the provisions of paragraph (2).

"(2)(A) The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (i) an amount for fiscal year 1979 equal to 90 percent of the sum of the funds available for expenditure during fiscal year 1978 by such prime sponsor under section 103(a)(2), (f), and (g) (as in effect prior to the enactment of the Comprehensive Employment and Training Act Amendments of 1978); (ii) an amount for fiscal year 1980, equal to 90 percent of the sum of the funds available for expenditure during fiscal year 1979 by prime sponsors under subsection (a)(1); or (iii) an amount for any fiscal year beginning on or after October 1, 1980, equal to 90 percent of the sum of the funds available for expenditure during the preceding fiscal year by such prime sponsor under subsection (a)(2).

29 USC 813.

"(B) The Secretary shall next use such funds (i) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and (ii) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this subsection are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction. The allocations required under clause (ii) of this subparagraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

"(C) The Secretary shall next use such funds as needed to provide continued funding of programs of demonstrated effectiveness, and to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 101(a)(3)) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

Ante, p. 1917.

"(g) Prime sponsors are authorized to use funds allocated under this section to support prime sponsor planning councils.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 203. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 103. 29 USC 843.

Ante, p. 1918.

"(b) Not more than 6.5 per centum of each prime sponsor's allocation under section 202(a) may be used for programs and activities under part C of this title.

"(c)(1) The Secretary shall not provide financial assistance under this title for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 103(a)) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

"(A) vocational training designed to prepare individuals for employment;

"(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

"(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

"(D) such other employment and training activities as may be consistent with the purposes and provisions of this title.

"(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

"SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

"SEC. 204. (a)(1) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors, in accordance with an agreement between the State vocational education board and the prime sponsor. 29 USC 844.

"(2) The State vocational education board, prior to making any agreement with a prime sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a)(1) of the Vocational Education Act of 1963. 20 USC 2307.

"(b) All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 202(a).

"(c)(1) Not less than 85 percent of the funds available under this section shall be used only for providing vocational education and services to participants in programs under this Act.

"(2) The remainder of the funds available under this section may be used—

"(A) to coordinate programs under this Act with existing vocational education programs;

"(B) to coordinate the utilization of funds under this Act and the Vocational Education Act of 1963 to enhance economic growth and development in the State;

20 USC 2301 note.

"(C) to develop linkages between vocational education, education, and training programs under this Act and private sector employers;

"(D) to provide technical assistance to vocational education institutions and local education agencies to aid them in making cooperative arrangements with appropriate prime sponsors;

"(E) to provide information, curriculum materials, and technical assistance in curriculum development and staff developments to prime sponsors.

"PARTICIPANT ASSESSMENT

29 USC 845.

"SEC. 205. (a) In order to assess the appropriate mixture of training or employment services, or both, needed by each individual receiving assistance under this title, the prime sponsor shall assist each such individual to establish a personalized employability plan. In establishing such plan, prime sponsors shall take into consideration an individual's skills, interests, and career objectives, subject to the availability of services, and shall consider the barriers to employment or advancement faced by that individual in order to assist that individual to attain unsubsidized employment.

"(b) An assessment of appropriate training and supportive services shall be made at the time of entrance to a program assisted in part or in whole by this title, which shall be reviewed periodically throughout the duration of the individual's participation in a program funded under this title. Such assessment shall be included in each individual's employability plan.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"DESCRIPTION OF PROGRAM

29 USC 846.

"SEC. 211. Comprehensive employment and training services may include, but need not be limited to, the following:

"(1) job search assistance, including orientation, counseling, and referral to appropriate employment and training opportunities;

"(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

"(3) supported work programs or activities;

"(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

"(5) on-the-job training and training leading to self-employment in small business;

"(6) work experience programs providing employment opportunities for eligible individuals unable to attain employment with

public or private sector employers, which shall be designed to increase the employability of the participants through development of work habits, occupational skills, and linkages with other training programs, or to provide temporary employment to individuals who are seeking suitable placement in classroom training, on-the-job training, public service employment, or other such employment and training opportunities;

"(7) payments or other inducements to public or private employers to expand job opportunities, in accordance with section 121(1);

"(8) services to individuals to enable them to retain employment;

"(9) supportive services, including, but not limited to, necessary health care, child care, residential support, or assistance in securing bonds, and transportation, needed to enable individuals to participate in employment and training;

"(10) development of labor market information, and activities such as job restructuring, to make the program more responsive to the needs of the eligible population;

"(11) training, employment opportunities, and related services conducted by community based organizations;

"(12) part-time, flexitime, and other alternative working arrangements for individuals who are unable because of age, handicap, or other factors to work full-time:

"(13) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment; and

"(14) any programs or activities authorized by part A of title III, title IV, and title VII of this Act. *Post*, pp. 1974, 2010.

"LIMITATIONS ON USE OF FUNDS

"SEC. 212. (a) No prime sponsor may use funds allocated for parts A, B, and C for public service employment. 29 USC 847.

"(b) Work experience programs conducted under this part, except for in-school youth, shall—

"(1) be designed to lead to unsubsidized employment, and

"(2) be subject to the limitations on duration specified in section 121(c)(2) and section 121(i), *Ante*, p. 1934.

unless the prime sponsor's plan as approved by the Secretary establishes that the lack of alternative job opportunities in the area makes such conditions and limitations impractical.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 213. A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school. 29 USC 848.

"SERVICES FOR YOUTH

"SEC. 214. (a) Services for youth under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by youth, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or suc- 29 USC 849.

cessfully apply for employment, financial barriers to labor force participation, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible youth under this part includes—

"(1) provisions for coordinating activities under this part with activities under part A of title IV of this Act;

"(2) assurances that, to the maximum extent feasible, the activities enumerated in section 432 of this Act, except for public service employment, will be utilized to serve youth under this part; and

Post, p. 1982.

"(3) procedures for review of such plans by the youth council established under section 436(b) of this Act.

Post, p. 1985.

"SERVICES FOR OLDER WORKERS

29 USC 850.

"SEC. 215. (a) Services for older workers under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by older workers, including skills that are obsolete or no longer needed in the community, changing physical characteristics associated with aging, employer reluctance to hire older workers, financial barriers to labor force participation, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible older workers under this part includes provisions for utilizing activities including activities described in section 308 and coordinating services for older workers under this part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act of 1965).

42 USC 3001 note.

"SERVICES FOR PUBLIC ASSISTANCE RECIPIENTS

29 USC 851.

"SEC. 216. (a) Services for public assistance recipients under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by such recipients, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, inability to obtain transportation to employment opportunities, medical problems, inability to obtain satisfactory child care, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible public assistance recipients under this part includes provisions for coordinating services assisted under this part with other programs assisted under this Act; and with services provided by State and local public assistance agencies.

"PART C—UPGRADING AND RETRAINING

"OCCUPATIONAL UPGRADING AND RETRAINING

29 USC 852.

"SEC. 221. (a) Pursuant to regulations of the Secretary, prime sponsors may provide financial assistance to public and private employers for the costs associated with occupational upgrading programs, including supportive services, through agreements with public and private employers for the employees of such employers. Individuals eligible for such programs shall be individuals operating at less than their

full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

"(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

"(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

"(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualifications for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

"(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

"(5) adequate personnel, attendance and progress records shall be maintained;

"(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

"(7) compensation shall be paid by the employer at rates, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice, skill requirements, individual proficiency, and the geographical region, but not at rates less than that received before upgrading; and

"(8) successful completion shall be expected to result in employment with the employer in the occupation for which the employee has been upgraded and at not less than prevailing wages.

Retraining programs.

"(b) (1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supportive services, directly or through agreements with public and private employers or other organizations or agencies.

"(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff, and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

"(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

"(c) If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such programs shall have the concurrence of labor organizations representing employees in such jobs.

"PART D—TRANSITIONAL EMPLOYMENT OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

29 USC 853.

"SEC. 231. It is the purpose of this part to provide economically disadvantaged persons who are unemployed with transitional employment in jobs providing needed public services, and related training and services to enable such persons to move into employment or training not supported under this Act.

"FINANCIAL ASSISTANCE

29 USC 854.

"SEC. 232. (a) The Secretary shall provide financial assistance to prime sponsors for transitional public service employment for economically disadvantaged persons who are unemployed. Such employment—

"(1) shall be entry level;

"(2) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

"(3) shall be designed to enable participants to move into unsubsidized employment.

"(b)(1) Not more than 10 percent of the funds allocated to a prime sponsor in accordance with the provisions of this part may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants, or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

"(2) Not less than—

"(A) 10 percent of the funds so allocated for fiscal year 1979;

"(B) 15 percent of the funds so allocated for fiscal year 1980;

"(C) 20 percent of the funds so allocated for fiscal year 1981;

"(D) 22 percent of the funds so allocated for fiscal year 1982;

shall be used only for training.

"(3) The remainder of the funds so allocated may be expended only for wages, employment benefits, training, and supportive services, to persons employed in public service employment under this part.

"ALLOCATION OF FUNDS

29 USC 855.

"SEC. 233. (a) Funds made available for carrying out this part shall be allocated among prime sponsors by the Secretary in accordance with subsection (b).

"(b) The Secretary shall reserve an amount equal to not less than 2 percent of the amounts made available pursuant to section 232 for any fiscal year to enable Native American entities which are described in section 302(c)(1)(A) to carry out public service employment programs under this part. Eighty-five percent of the amounts made available for this part for any fiscal year shall be allocated in accordance with subsection (c).

Supra.

"(c)(1) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all such areas in all the States.

"(2) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number which represents unemployed persons in excess of 4½ percent of the labor force in the jurisdiction of the prime sponsor in whose jurisdiction such persons reside, or (ii) in the case of a prime sponsor which is a State, the term 'excess number' means such number as defined in clause (i) or the number which represents unemployed persons in excess of 4½ percent of the labor force in areas of substantial unemployment.

"Excess number."

"(3) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(4) Twenty-five percent of the amount allocated under this subsection shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions.

"(d)(1) The Secretary shall, from the remainder of the funds made available under this part, first use such remainder— Remainder of funds.

"(A) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and

"(B) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this section and title IV are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction.

The allocations required under clause (B) of this subparagraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

"(2) The remainder of the amount made available under this part shall be available to the Secretary for financial assistance to prime sponsors and Native American entities described in section 302(c)(1)(A) as the Secretary deems appropriate.

"(e) For purposes of making allocations under subsections (c)(1) and (c)(2) of this section, the Secretary shall use average annual data for the most recent 12-month period for which satisfactory data are available.

"EXPENDITURE OF FUNDS

"SEC. 234. Funds available for the purposes of this part shall be utilized by prime sponsors for public service employment activities, or projects carried out by project applicants as defined in section 3, or for activities set forth in section 211. 29 USC 856. *Ante*, p. 1912.

"PRIME SPONSORS AND PROGRAM AGENTS

"SEC. 235. The provisions set forth in section 606 of this Act shall be applicable to this part. 29 USC 857. *Post*, p. 2008.

"ELIGIBILITY

"SEC. 236. (a) An individual eligible to be employed in a position supported under this part shall be a person (1) who has been unemployed for at least 15 weeks and who is economically disadvantaged, or (2) who is, or whose family is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act. 29 USC 858. 42 USC 601. 42 USC 1381.

"(b) The provisions of section 122(h) shall apply to duration of participation under this part. *Ante*, p. 1938.

"WAGES

29 USC 859.

"SEC. 237. (a) Wages to individuals employed in public service employment under this part shall be paid in accordance with sections 122(i) and 124.

Ante, pp. 1938, 1943.

"(b) Public service employment participants under this part may not have their wages supplemented by the payment of any additional wages for such employment from any source whatever, except as provided in section 122(i)(4)(B).

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"SPECIAL PROGRAMS AND ACTIVITIES

29 USC 871.

"SEC. 301. (a) The Secretary shall use funds available under this title to provide services authorized under all titles of this Act and for employment and training programs that—

"(1) meet the employment-related needs of persons who face particular disadvantages in specific and general labor markets or occupations, including offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, individuals who lack educational credentials, public assistance recipients, and other persons whom the Secretary determines require special assistance;

"(2) are most appropriately administered from the national level, such as programs sponsored by public agencies or private organizations that conduct federally assisted activities in more than one State;

"(3) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community based organizations;

"(4) provide continued support for programs of demonstrated effectiveness;

"(5) eliminate or reduce critical skill shortages in the Nation's labor force; and

"(6) serve individuals who become unemployed as a result of large-scale loss of jobs in a locality, caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances;

Financial assistance for displaced homemakers.

"(b)(1)(A) The Secretary shall make available financial assistance to conduct programs to provide employment opportunities and appropriate training and supportive services (through multipurpose projects or otherwise) to displaced homemakers. Such training and supportive services shall include, but not be limited to, job training, job readiness services, job counseling, job search, and job placement services; outreach and information services, including information on available education opportunities; and referrals (through cooperative arrangements, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served. To the maximum extent feasible, activities supported under this paragraph shall be coordinated with and supplement, but not supplant, activities supported under other titles of this Act and shall emphasize training and other employment related services for participants that are designed to

enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community. To the maximum extent feasible, supervisory, technical, and administrative positions within the programs shall be filled by displaced homemakers. Priority for participation in projects supported under this paragraph shall be given to displaced homemakers who, as provided in regulations which the Secretary shall prescribe, are most in need of services by virtue of age, education, training, household support obligations, and employability.

"(B) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

"(C) For the purposes of carrying out this subsection, the Secretary shall reserve not more than 2 percent of the funds made available to carry out this title.

Financial assistance for offenders.

"(2) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation and health care) which will enable them to secure and retain meaningful employment. The Secretary shall support activities designed to enable offenders to secure meaningful training and employment including but not limited to those services which provide highly structured and supervised employment opportunities, such as employment and training opportunities proven effective under section 311(c). Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision. Services shall be comprehensive, and recipient of funds shall coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. The Secretary may provide for appropriate arrangements with employers and labor organizations, and appropriate parole, probationary, and judicial authorities, for the utilization of training equipment comparable to that currently used for the job for which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 127(a), the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this Act for the purpose of assessing the scope and implementation of offender programs.

Grants.

Studies.

Survey.

"(3) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (A) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (B) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including

programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

"(4) The Secretary shall make financial assistance available to conduct programs for handicapped individuals, youth, single parents, and older workers to provide employment, training and related assistance and supportive services which will enable them to secure and retain meaningful employment. Such programs shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

Report to Congress.

"(c) The Secretary shall report to the Congress not later than March 1 of each year with detailed information and analysis of the programs conducted pursuant to this section. The information required by this subsection may be included in the annual report of the Secretary under section 127(a).

Allocation of funds.

"(d) Funds allocated to recipients for purposes of this section shall be used to supplement funds which otherwise would be used for purposes of undertaking the same or similar programs and activities for such persons.

"(e) To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this Act, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

"(f) Notwithstanding any other provisions of this Act, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act of 1965, and which thereafter have been funded under section 304 of this Act prior to the enactment of the Comprehensive Employment and Training Act Amendments of 1978, shall be those which applied when the programs were established under title X.

42 USC 3246.

Ante, p. 1909.

"(g) The Secretary shall establish a special program for the funding of local workshops for the training of youths and other individuals who wish to pursue careers as self-employed owners and managers of small businesses. Such workshops should provide instruction in management techniques, business communication skills, motivational training, special problems in business operation, advice concerning Federal and State regulations, preparation of financial statements and loan applications, recordkeeping, development of marketing techniques, and information on beneficial resources available within the community.

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

29 USC 872.

"SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Native American Indian, Alaskan Native, and Hawaiian native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in these communities consistent with their goals and lifestyles.

"(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be

served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Native American Indian tribes, bands, and groups and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

"(c)(1)(A) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Native American Indian tribes, bands, or groups on Federal or State reservations (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971) and the Oklahoma Indians, having a governing body and such public agencies and private nonprofit organizations as the Secretary determines will best serve Native Americans, for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

43 USC 1601 note.

Submission of plan.

"(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such public agencies or private nonprofit organizations as the Secretary determines will best meet their needs.

Hawaiian natives.

"(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Indians for employment and training and related services.

"(d) Whenever the Secretary determines not to utilize Native American Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public agencies or private nonprofit organizations which meet with the approval of the tribes, bands, or groups to be served.

"(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Native American employment and training programs authorized under this Act.

"(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by prime sponsors under other provisions of this Act.

"(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.5 percent of the amount allocated pursuant to section 202(a).

Allocation of funds.

"(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

"MIGRANT AND SEASONAL FARMWORKER EMPLOYMENT AND TRAINING PROGRAMS

29 USC 873.

"SEC. 303. (a) The Congress finds and declares that—

"(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

"(2) because of the special nature of farmworker employment and training problems such programs can best be administered at the national level.

"(b)(1) The Secretary shall meet the employment and training needs of migrants and seasonal farmworkers through public agencies and private nonprofit organizations, including, but not limited to, programs and activities carried out by prime sponsors under other provisions of this Act, as the Secretary determines have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a capability to administer effectively a comprehensive employment and training program for migrant and seasonal farmworkers.

"(2) Programs supported under this section shall include, but not be limited to, employment and training in traditional as well as newly developing agricultural occupations and related assistance and supportive services.

Grants or contracts.

"(c)(1) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of State government.

Postsecondary schooling, program continuation.

"(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

"(A) which is—

"(i) operated through the use of the facilities of any institution of higher education; and

"(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

"(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled by—

"(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

"(ii) generating motivation necessary for success in education beyond secondary school; and

"(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

"(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 5 percent of the amount allocated pursuant to section 202(a). Allocation of funds.

"(e) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine in consultation with appropriate State and local educational agencies, that no substantial duplication will exist. Consultation and agreements.

"JOB SEARCH AND RELOCATION ASSISTANCE

"SEC. 304. (a) The Secretary is authorized to carry out job search and relocation assistance through agreements with States, State agencies or prime sponsors. 29 USC 874.

"(b) Job search assistance shall be available to economically disadvantaged, unemployed, and underemployed persons.

"(c)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes. Loans or grants.

"(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected to secure fulltime employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

"VETERANS INFORMATION AND OUTREACH

"SEC. 305. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities. 29 USC 875. Consultation.

"PROGRAMS FOR THE HANDICAPPED

"SEC. 306. (a)(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for the Handicapped Act and section 504 of the Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removal of architectural barriers required by these Acts. 29 USC 876. 20 USC 1401 note. 29 USC 794.

"(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

Training or education.

"(b) The Secretary shall establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

"(c) The Secretary shall take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

"PARTNERSHIP PROGRAMS

29 USC 877.

"SEC. 307. (a) From funds available under this title the Secretary is authorized to promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this Act. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

"(b) Such partnerships may result in—

"(1) the creation of a joint-planning, administrative, and operational entity;

"(2) combining and colocation of staff; and

"(3) a joint data base and information system.

Reimbursement.

"(c) The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

"PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

Employment and training policies. 29 USC 878.

"SEC. 308. (a) The Secretary shall—

"(1) develop and establish employment and training policies and programs for middle-aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers;

"(2) develop and establish programs to facilitate the transition of workers over 55 years of age from one occupation to another within the labor force and to facilitate the transition of such workers from non-participation to participation in the labor force including work experience, vocational education, public service employment, on-the-job training, occupational upgrading, and job search and placement, and technical assistance to employers for establishing flexi-time, job sharing, and other innovative arrangements suited to the needs of older workers;

Research.

"(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and private sectors better understand and utilize the capabilities of middle-aged and older workers; and

"(4) develop and establish programs to develop methods designed to assure increased labor force participation by older workers who are able and willing to work but who have been unable to secure employment or who have been discouraged from seeking employment.

"(b) In carrying out the provisions of subsection (a) the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 3. Such arrangements may include, but need not be limited to— *Ante*, p. 1912.

"(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied;

"(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

"(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers; Counseling.

"(4) the establishment of second career objectives which will— Second career objectives.

"(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

"(B) enable the participant to compete successfully in the job market; and

"(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

"(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

"(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

"(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

"(c) The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 122(i)(1). Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment, materials, and such other costs necessary for a participant to achieve the objectives of his second careers program. Payment, regulations. *Ante*, p. 1938.

"(d) Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis. Part- or flexible-time programs.

Eligibility.

"(e) Participants in programs authorized under this section shall be individuals over the age of 55 who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the poverty level established by the Director of the Office of Management and Budget.

Allocation of funds.

"(f) For the purposes of carrying out this section, the Secretary shall reserve from funds available for this title not more than 5 percent of the amount available for this title.

"(g) No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 55 years of age under titles II, VI, and VII of this Act.

Ante, p. 1950; *Post*, pp. 2005, 2010.

"PART B—RESEARCH, TRAINING, AND EVALUATION

"RESEARCH

29 USC 879.

"SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. The programs required by this section may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training policy; development or improvement of employment and training programs; increased knowledge about labor market processes, including programs designed to eliminate artificial barriers to employment; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; testing the usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

Grants or contracts.

"(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than wages established by the Fair Labor Standards Act of 1938 for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such

Consultation.
29 USC 201.
Agreement with Secretary of HEW.

training shall be agreed to by the Secretary and the Secretary of Health, Education, and Welfare.

"(c) The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment or self-employment. Such programs shall provide for skill training as required to effect such transition.

"(d) The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible work hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; and (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

"(e) The Secretary is authorized to conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities. Such demonstration and experimental projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation.

"(f) The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this Act through community vocational resource centers established in economically distressed communities or areas pursuant to section 134(a)(7) of the Vocational Education Act of 1963. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of vocational skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Projects shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers and to provide assurances that programs will be coordinated with other guidance and counseling activities of the prime sponsor, including activities under section 445(c), other in-school guidance and counseling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to title VII of this Act.

20 USC 1284.
Funding.

Post, p. 1992.

Post, p. 2010.

39-194 O—80—pt. 2——44 : QL3

"(g) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

Consultation.

"LABOR MARKET INFORMATION AND JOB BANK PROGRAM

29 USC 880.

"SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

"(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alternative methods to produce more accurate data on underemployment and labor demand by State and local areas.

"(c) The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

Household budget data.

"(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural.

Funding. Notification of congressional committees.

"(e) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

Veterans employment.

"(f) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

"EVALUATION

"SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs. 29 USC 881.

"(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers. 42 USC 630.

"(c) In order to reduce the paperwork burden and costs on prime sponsors, project applicants and program agents, in carrying out evaluations of the cost-effectiveness of identical or similar programs of prime sponsors, the impact of such programs on communities and agents, the implication for related programs, and the adequacy of the mechanism for the delivery of services, the Secretary shall to the maximum extent possible, consistent with the purposes of this Act, use statistical sampling techniques.

"(d) The Secretary shall prepare and submit to the Congress an annual evaluation plan, setting forth major themes for the areas of research, statistics, evaluation, experimentation, and demonstrations to be undertaken in the succeeding fiscal year, the program purposes and policy alternatives to which each such area is related and the current and proposed funding and staffing levels. The Secretary shall specify in the portions of the plan relating to experimentation and demonstrations the intended outcome of proposed major innovations and the amount of time required to test the innovations or to achieve adoption of the demonstration. The information required by this subsection may be included in the annual report of the Secretary under section 127(a). Evaluation plan, submittal to Congress.

Ante, p. 1945.

"(e) The Secretary shall prepare and submit to the Congress an annual evaluation report for employment and training programs. Such report may be included in the annual report of the Secretary under section 127(a). The Secretary shall include in such report— Evaluation report, submittal to Congress.

"(1) a summary of the achievements, failures, and problems of the various programs authorized in this Act in meeting the objective of this Act;

"(2) a summary of major findings from research, evaluation, and experiments conducted in the previous fiscal year;

"(3) recommendations for program modifications based upon analysis of such findings; and

"(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

"(f) The Secretary shall develop an ongoing program to notify prime sponsors of experiments and demonstrations to be conducted in their States and shall disseminate to prime sponsors and Governors the results of all research, demonstrations, evaluations, and experiments of employment and training programs.

"(g)(1) The Secretary shall—

"(A) develop standard definitions of 'enrollments', 'completions', 'job placements', and 'training-related job placements' for classroom and on-the-job training programs funded under this Act;

"(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act; and

Report to Congress.

"(C) make a report to the Congress not later than March 1, 1980, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

"(2) The information required by paragraph (1)(C) may be included in the annual report of the Secretary under section 127(a).

Ante, p. 1945.

"(3) For the purposes of this subsection, the term 'detailed occupational or training code' shall mean any occupational or training code equivalent in detail to the Standard Occupational Classification at the four-digit level.

"Detailed occupational or training code."

"TRAINING AND TECHNICAL ASSISTANCE

Grants or contracts, consultation. 29 USC 882.

"SEC. 314. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

Youth. 29 USC 883.

"SEC. 315. (a) The National Occupational Information Coordinating Committee, in carrying out its responsibilities under this section, shall give special attention to the labor market information needs of youth, including activities such as, but not limited to—

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service agencies and to improve the match of youth career desires with available and anticipated labor demand;

"(3) assisting and encouraging the development of State occupational information systems, accessible to local schools, including pilot programs in the use of computers to facilitate such access; and

"(4) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions.

"(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to postsecondary youths; and

"(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage ecoperation and contact among such eligible applicants, employers, and offices.

Allocation of funds.
20 USC 1341.
20 USC 2611.

"(b) All funds available to the National Occupational Information Coordinating Committee under this Act, under section 161 of the Vocational Education Act of 1963 and under section 12 of the Career Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

"EVALUATIONS AND INCENTIVE GRANTS

Regulation.
29 USC 884.
Ante, p. 1950.

"SEC. 316. (a) Any prime sponsor may volunteer for an evaluation of its title II programs by the Department of Labor. Such evaluation may include monitoring of the rate of placement of title II enrollees after leaving the title II program, the salaries paid to such enrollees, the length of time that they remain in the job, and whatever other information that the Secretary determines, by regulation, is important in evaluating the performance of the prime sponsors. For purposes of making this evaluation, the performance of the prime sponsor shall be assessed by comparing enrollees to a comparable group of nonenrollees within the prime sponsor's area.

Regulation.

"(b) The Secretary shall make awards from the funds appropriated under this title to those prime sponsors which have performed well in their title II functions. The Secretary shall make awards according to a unit measurement; each such unit may consist of some degree of improvement among title II enrollees in job placement, salary, longevity, and whatever other factors the Secretary determines, by regulation, are important (each factor shall be weighed by the Secretary in a manner which best effectuates the purposes of this Act), over performance on each of the criteria set forth in this section by a comparable group of nonenrollees in the prime sponsor's area.

"VOUCHER DEMONSTRATION PROJECTS

Regulations.
29 USC 885.

"SEC. 317. (a) The Secretary shall establish a special voucher project to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment with or without training to such individuals to payment in amounts equal to the value of the voucher pursuant to regulations of the Secretary.

"(b) In establishing regulations under this section, the Secretary shall establish criteria, eligibility of participants and portability of vouchers between qualifying employers, the value of vouchers, the guarantees against displacement of eligible workers, and such other factors as the Secretary deems appropriate.

Report to Congress.

"(c) Not later than March 1, 1981, the Secretary shall prepare and submit to the Congress a report evaluating the effectiveness of the demonstration projects conducted pursuant to this section, together with such recommendations, including recommendations for legisla-

tion, as the Secretary deems appropriate. The information required by this subsection may be included in the appropriate annual report of the Secretary under section 127(a).

Ante, p. 1945.

"EMPLOYMENT AND TRAINING ACTIVITIES TO STIMULATE LOCAL PRIVATE ECONOMIC DEVELOPMENT

Experimental program.
29 USC 886.

"SEC. 318. (a) The Secretary is authorized to carry out a special experimental program to link the employment and training activities of prime sponsors to a workable strategy for stimulating local private economic development and replacement of declining industries. Any determination concerning the nature of skills to be provided in training and retraining programs shall be made after consultation with agencies charged with fostering the growth or introduction of industries in a given labor market. This experiment may include use of vouchers as authorized in section 317.

"(b) The Secretary shall take whatever action is necessary to assure that any experimental program conducted under this section is coordinated with Federal, State, regional, and local agencies responsible for administering and receiving funds from the Economic Development Administration pursuant to sections 201 and 202 of the Public Works and Economic Development Act of 1965 and from the Small Business Investment Act of 1958. Activities under any such program shall be consistent with the overall economic development plan for the area required by section 202(b)(10) of the Public Works and Economic Development Act of 1965.

42 USC 3141, 3142.
15 USC 661 note.

"TITLE IV—YOUTH PROGRAMS

"STATEMENT OF PURPOSE

29 USC 891.

"SEC. 401. It is the purpose of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

"DEFINITIONS

29 USC 892.
Post, p. 2001.

"SEC. 402. (a) For purposes of parts B and C, the term 'eligible youth' means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

"(b) For the purposes of subpart 1 of part A, the term 'eligible youth' means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"STATEMENT OF PURPOSE

29 USC 893.

"SEC. 411. It is the purpose of this part to establish a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's

youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment or self-employment opportunities after they have completed the program.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"ENTITLEMENT PILOT PROJECTS AUTHORIZED

Prime sponsors. 29 USC 894.

"SEC. 416. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of 16 and 19, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

"(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee the employment described in subsection (a) to each such unemployed youth described in subsection (a) who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 418(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

Funds received for youth employment.

"(c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 418(a)(4)(F).

"EMPLOYMENT GUARANTEES

29 USC 895.

"SEC. 417. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

Part-time employment.

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of 20 hours per week for each youth employed, and not to last less than 6 months nor more than 9, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies; institutions of higher education; nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor

organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in 2 or more units of general local government.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

Full-time employment.

"(4) Full-time employment during the summer months, not to exceed 40 hours per week for each youth employed, and not to last less than 8 weeks in any of the institutions described in clause (1).

"SELECTING PRIME SPONSORS

29 USC 896.

"SEC. 418. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

Ante, p. 1950.
Post, p. 2001.

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title II and part C of this title for the purpose of carrying out a youth incentive entitlement project or for supportive services;

"(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of sections 442 and 443 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; State and local public assistance agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness

with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(F) an agreement that funds available under title II for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for youth eligible under subsection (a) will be used in support of the project authorized under this subpart; *Ante*, p. 1950. *Post*, p. 2001.

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 419;

"(H) assurances that participating youth shall not be employed more than an average of 20 hours per week during the school year and not more than 40 hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training; 29 USC 214.

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment;

"(L) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirement of this subpart; and

"(M) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the reports required by section 420.

"(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

"(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 417 and 419(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

"(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

"(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

"(4) the inclusion of economically disadvantaged youths between the ages of 19 and 25 who have not received their high school diploma;

"(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

"(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

"SPECIAL PROVISIONS

Employment and training.
29 USC 897.

"SEC. 419. (a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include employment and training in such fields as environmental quality, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

"REPORTS

Report to Congress.
29 USC 898.

"SEC. 420. The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

"(1) the number of youths enrolled at the time of the report;

"(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"Subpart 2—Youth Community Conservation and Improvement Projects

"STATEMENT OF PURPOSE

"SEC. 421. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed 12 months, supplementary to but not replacing opportunities available under title II. 29 USC 899.

"DEFINITIONS

"SEC. 422. As used in this subpart, the term— 29 USC 900.

"(1) 'eligible applicant' means any prime sponsor qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of this Act; *Ante*, p. 1962. *Ante*, p. 1964.

"(2) 'project applicant' shall have the same meaning as in section 3(20) of this Act; *Ante*, p. 1912.

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials, and supplies available without cost; removal of architectural barriers to access, by handicapped persons, to public facilities; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

"SEC. 423. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 percent of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 percent of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 percent of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. 29 USC 901.

"(b) Of the funds available for this subpart, 2 percent shall be available for projects for Native American eligible youths, and 2 percent shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

"COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROJECTS

29 USC 902. "SEC. 424. The Secretary is authorized in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

"PROJECT APPLICATIONS

29 USC 903. "SEC. 425. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

Regulations. "(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out the project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

"(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"PROPOSED AGREEMENTS

29 USC 904. "SEC. 426. (a)(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The functions of a program agent shall be as set forth in section 606(b)(2) of this Act.

Post, p. 2008.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105, of this Act, and also including a

Ante, p. 1925.

description of arrangements with school systems, the public employment service (including school cooperative programs), the courts of jurisdiction for status and youthful offenders, and a description of arrangements with public assistance agencies on the employment of youth from families receiving public assistance, including parents of dependent children;

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 109 (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council (and the youth council established under section 436) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest. *Ante*, p. 1930.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval. Regulations.

"APPROVAL OF AGREEMENTS

"SEC. 427. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any opposed agreement. 29 USC 905.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in subpart 4 will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"WORK LIMITATION

"SEC. 428. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary. 29 USC 906.

"Subpart 3—Youth Employment and Training Programs

"STATEMENT OF PURPOSE

29 USC 907.

"SEC. 431. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart shall be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

Ante, p. 1950.

"PROGRAMS AUTHORIZED

Financial assistance.
29 USC 908.

"SEC. 432. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants, including—

"(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures, including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, removal of architectural barriers to access, by handicapped individuals, to public facilities, and related activities;

"(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

"(3) approprate training and services to support the purpose of this subpart, including—

"(A) outreach, assessment, and orientation;

"(B) counseling, including occupational information and career counseling;

"(C) activities promoting education to work transition;

"(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

"(E) services to youth to help them obtain and retain employment;

"(F) literacy training and bilingual training;

"(G) attainment of certificates of high school equivalency;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training, including development of basic skills and job skills;

"(J) transportation assistance;

"(K) child care and other necessary supportive services;

"(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

"(M) community-based central intake and information services for youth;

"(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

"(O) programs to overcome sex-stereotyping in job development and placement; and

"(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

"(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 3(20)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 121(1), or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart. Consultation. *Ante*, p. 1912. *Ante*, p. 1934.

"ALLOCATION OF FUNDS

"SEC. 433. (a) From the sums available for this subpart— 29 USC 909.

"(1) an amount equal to 75 percent of such funds shall be made available to prime sponsors for programs authorized under section 432;

"(2) an amount equal to 5 percent of the amount available for this part shall be made available to Governors for special statewide youth services under subsection (c);

"(3) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 423(b));

"(4) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 423(b)); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 438.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 3(2)) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and *Ante*, p. 1912.

"(C) 25 percent thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 3(16)) within each State as compared to the total number of such persons in all States.

Ante, p. 1912.

"(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including (A) occupational and career guidance and counseling and placement services for in-school and out-of-school youth; and (B) coordination of statewide activities carried out under the Career Education Incentive Act;

20 USC 2601 note.

"(4) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(5) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils; and

"(6) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d)(1) Not less than 22 percent of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) shall give special consideration in carrying out programs authorized under section 432, to community-based organizations (as defined in section 3(4)) which have demonstrated effectiveness in the delivery of employment and training services.

Ante, p. 1912.

"ELIGIBLE APPLICANTS

"SEC. 434. Eligible applicants for purposes of this subpart, except section 438, are prime sponsors qualified under section 101, sponsors of Native American programs qualified under section 302(c)(1), and sponsors of migrant and seasonal farmworker programs qualified under section 303.

29 USC 910.
Ante, p. 1917.
Ante, p. 1962.
Ante, p. 1964.

"ELIGIBLE PARTICIPANTS

"SEC. 435. Eligible participants for programs authorized under this subpart shall be persons who—

Regulations.
29 USC 911.

"(1)(A) are unemployed or are underemployed or are in school and are ages 16 to 21, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages 14 to 15, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 percent of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under section 432(a).

Notwithstanding the provisions of subsection (a), 10 percent of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 436. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 432 unless such eligible applicant provides assurances that the standards set forth in subpart 4 will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

29 USC 912.

"(1) describe the programs, projects, or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, the courts of jurisdiction for status and youthful offenders, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

Ante, pp. 1934, 1953.

"(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

Ante, p. 1950.

"(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, public assistance agencies, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, the courts of jurisdiction for status and youthful offenders programs, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(4) provide assurances that in the implementation of programs under this subpart, there will be coordination, to the extent feasible, with activities conducted under the Career Education Incentive Act;

20 USC 2601 note.

"(5) provide assurance satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 124 and such regulations as the Secretary may prescribe for this subpart;

Ante, p. 1943.

"(6) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109;

Ante, p. 1930.

"(7) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 109) in accordance with subsection (b) of this section;

"(8) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education, and training, derived by each participant from programs established under this subpart;

"(9) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(10) provide that the funds available under section 433(d) shall be used for programs authorized under section 432 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

"(11) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

Youth council, recommendations.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 109 with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and

organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b). Each such agreement shall— Agreement between prime sponsor and local educational agency.

"(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program;

"(2) be administered, under agreements with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b);

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment or self-employment;

"(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"SEC. 437. The provisions of sections 102, 104, and 107 shall apply to all programs and activities authorized under section 432. 29 USC 913. *Ante*, pp. 1918, 1922, 1929.

"SECRETARY'S DISCRETIONARY PROJECTS

"SEC. 438. (a)(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies, and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, 29 USC 914.

where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions, and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems.

Consultation.

"(2) In carrying out or supporting such programs, the Secretary shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

Transfer of funds.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations (as defined in section 3(4)) which have demonstrated effectiveness in the delivery of employment and training services.

Ante, p. 1912.

"YOUTH EMPLOYMENT INCENTIVE AND SOCIAL BONUS PROGRAM

29 USC 915.

"SEC. 439. (a) From funds available under section 438 the Secretary, through the use of prime sponsors where feasible, shall carry out in not more than 10 areas of high youth unemployment a youth employment incentive and social bonus demonstration program in order to test the efficacy of providing incentives for private industry to establish additional employment opportunities for youth without significant previous employment experience.

"(b)(1) The Secretary shall provide a social bonus of not more than $2,500 per year, in such amount and in such manner as the Secretary shall prescribe, to each employer who, pursuant to an agreement under this section, has employed 5 eligible youths for at least 35 hours per week for a period of not less than one year. The Secretary may allow for payment after 9 months in exceptional circumstances.

"(2) A youth is eligible if such youth is economically disadvantaged, unemployed, and has no significant previous employment, as determined by the Secretary. No youth may participate in this program for more than 18 months.

"(3) An employer may receive a social bonus for each such youth employed if—

"(A) the employer has at least 5 eligible youths in the program; and

"(B) the employer offers each youth in the program appropriate training, supportive services, and counseling.

If such training includes on-the-job training, the social bonus shall be in addition to any moneys received under the on-the-job training agreement.

"(c) In the selection of employers to carry out projects under this section, the Secretary shall give priority to urban poverty areas in which the State or local government provides for special tax treatment for any employer which locates or expands within the urban poverty area, and to any employer establishing a new facility in an urban poverty area.

"(d) No payment for a social bonus may be made under this section unless— Requirements.

"(1) youth employed under this program are paid no less than the higher of the prevailing rate of pay for the occupation and job classification of individuals employed by the same employer, or the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage; and 29 USC 206.

"(2)(A) the conditions of this Act are followed including sections 121(g)(1)(B) (relating to maintenance of effort), 121(f)(1) (relating to meaningful training and employment), and 123(a) (relating to jobs in low wage industries); and *Ante*, p. 1934. *Ante*, p. 1941.

"(B) the employment will not result in the filling of a job opening created by the action of the employer in laying off or terminating the employment of any regular employee in anticipation of filling the vacancy so created by hiring a youth employee in order to receive such social bonus.

"(e) An employer who receives a social bonus under this section may not receive, apply for, or accept any financial advantage from the Federal Government for such employment other than as specified in this Act. Financial help, prohibition.

"(f)(1) The Secretary, in consultation with the Secretary of the Treasury and other appropriate Federal officials, shall assure that activities carried out under this section are coordinated with any appropriate other activities under which employers are provided incentives or credits by the Federal Government for the employment of comparably unemployed individuals. Consultation with Secretary of the Treasury.

"(2) Not later than 36 months after the date of enactment of this section the Secretary, in consultation with the Secretary of the Treasury and other appropriate Federal officials shall submit to the appropriate committees of the Congress a report on the results of activities carried out under this section in comparison to the results of such other activities. Report to Congress.

"Subpart 4—General Provisions

"DISTRIBUTION OF FUNDS

"SEC. 441. Of the sums available for carrying out the provisions of this part— 29 USC 916.

"(1) 15 percent shall be available for subpart 1;
"(2) 15 percent shall be available for subpart 2; and
"(3) 70 percent shall be available for subpart 3.

"WAGE PROVISIONS

"SEC. 442. Rates of pay under this part shall be no less than the higher of— 29 USC 917.

"(1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is 14 or 15 years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938; 29 USC 214.

"(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

Agreement with employer and labor organization.

"(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

Job reclassification.

"(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2), but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this clause the labor organization, prime sponsor, or employer may petition the Secretary, who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

Pay rates.

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2), but if there is a dispute with respect to such new or different job classification or occupation, the Secretary, shall within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

Job classification, determination.

Rates of pay.
40 USC 276a note.

"(D) in the case of projects to which the provision of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"SPECIAL CONDITIONS

Financial assistance.
29 USC 918.

"SEC. 443. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

Labor organization, notifications.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

Full-time employment, prohibitions.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

Handicapped and others. 29 USC 919.

"SEC. 444. (a) Appropriate efforts shall be made to ensure that youths participating in programs, projects, and activities under subparts 2 and 3 shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

Reallocation.

"(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 to the extent that the Secretary determines that an

eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided 30 days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

Publication in Federal Register.

"(c) The provisions of section 121(g)(1)(C) shall apply to subparts 2 and 3.

Ante, p. 1934.

"ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"SEC. 445. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

29 USC 920.

"(b) The Secretary, in carrying out the purposes of this part, shall cooperate with the Secretary of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this part.

Cooperation with Secretary of HEW.

"(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

Regulations.

"DISREGARDING EARNINGS

"SEC. 446. Earnings and allowances received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

29 USC 921.

"RELATION TO OTHER PROVISIONS

"SEC. 447. The provisions of title I shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

29 USC 922.
Ante, p. 1917.

"PART B—JOB CORPS

"STATEMENT OF PURPOSE

"SEC. 450. This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The

Establishment.
29 USC 923.

purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of national, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

"ESTABLISHMENT OF THE JOB CORPS

"SEC. 451. There is established within the Department of Labor a 'Job Corps'. 29 USC 924.

"INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

"SEC. 452. To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who— 29 USC 925.

"(1) has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary, in the case of any handicapped individual; Regulations.

"(2) is economically disadvantaged or is a member of a family which is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

"(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

"(4) is determined, after careful screening as provided for in sections 453 and 454 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

"(5) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

"SCREENING AND SELECTION OF APPLICANTS: GENERAL PROVISIONS

"SEC. 453. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youths over substantial periods of time and able to offer reliable information as to their needs and problems. The rules shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of— 29 USC 926. Rules.

"(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

"(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

"(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

"(b) The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

Rural youth.

"(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

"SCREENING AND SELECTION: SPECIAL LIMITATIONS

29 USC 927.

"SEC. 454. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

Probation or parole, release.

"(b) An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

"ENROLLMENT AND ASSIGNMENT

29 USC 928.

"SEC. 455. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

"(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

"(c) After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, except that the Secretary

Waiver.

may waive this requirement for good cause, including to ensure an equitable opportunity for youth from various sections of the Nation to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

"JOB CORPS CENTERS

Agreements with other agencies. 29 USC 929.

"SEC. 456. (a) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of

1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semi-skilled employment.

20 USC 2304, 2392.

Civilian Conservation Centers.

"(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

"PROGRAM ACTIVITIES

"SEC. 457. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized, and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

29 USC 930.

"(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

Arrangements with local educational agencies and technical institutes.

"(c) To the extent feasible, arrangements for education, both at the center and at other locations, shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes service in the Job Corps and which will reflect the enrollee's level of educational attainment.

Graduation certificate.

Concurrence with Secretary of HEW.

"ALLOWANCES AND SUPPORT

"SEC. 458 (a) The Secretary is authorized to provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. For the fiscal year ending September 30, 1979, personal allowances

29 USC 931.

shall be established at a rate not to exceed $60 per month during the first 6 months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than 6 months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified in this subsection in unusual circumstances as determined by him. For fiscal years beginning on or after October 1, 1979, such personal allowance limitations may be increased, by regulation, as the Secretary determines appropriate. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

Personal allowance limitation increase. Regulation.

"(b) The Secretary shall prescribe rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least 6-months' service in the Job Corps.

Leave. Rules.

"(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed, for the fiscal year ending September 30, 1979, $100 for each month of satisfactory participation in the Job Corps. For fiscal years beginning on or after October 1, 1979, such readjustment allowance limitation may be increased, by regulation, as the Secretary determines appropriate. No enrollee shall be entitled to a readjustment allowance unless he has remained in the program at least 90 days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, to advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee. The Secretary is authorized, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

Readjustment allowance.

Beneficiary payment.

"(d) Such portion of the readjustment allowance as prescribed by the Secretary may be paid monthly during the period of service of the enrollee directly to a spouse or child of an enrollee, or to any other relative who draws substantial support from the enrollee, and any amount so paid shall be supplemented by the payment of an equal amount by the Secretary.

"STANDARDS OF CONDUCT

29 USC 932.

"SEC. 459. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

"(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees, including dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

"COMMUNITY PARTICIPATION

"SEC. 460. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth shall be represented on the advisory council and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include— 29 USC 933.

"(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

"(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

"(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

"(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

"(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

"(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

"(7) developing, where feasible, job or career opportunities for enrollees in the community; and

"(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this Act.

"COUNSELING AND JOB PLACEMENT

"SEC. 461. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs. 29 USC 934.

"(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

"(c) The Secretary shall determine the status and progress of enrollees scheduled for termination and make every effort to assure that their needs for further education, training, and counseling are met.

"(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office

where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

"EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

29 USC 935.

"SEC. 462. (a)(1) The Secretary is authorized to undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis.

"(2) The Secretary is authorized to undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavorial aberrations.

Consultation.

"(3) Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary is authorized to waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connnection with combined residential and nonresidential projects.

Waiver.

Report to Congress.

Cooperation with Secretary of HEW.

"(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, is authorized to enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

"ADVISORY BOARDS AND COMMITTEES

29 USC 936.

"SEC. 463. The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

"PARTICIPATION OF THE STATES

"SEC. 464. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs. Consultation with State agencies. 29 USC 937.

"(b) The Secretary is authorized to enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary is authorized, pursuant to regulations, to pay part or all of the costs of such programs.

"(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within 30 days of such submission.

"(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 465. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits: 29 USC 938.

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except— 5 USC 8101.

"(A) the term 'performance of duty' shall not include any act of an enrollee while absent from the assigned post of duty of such enrollee, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps; "Performance of duty."

"(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

"(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

"(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

"(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary is authorized to adjust and settle it in an amount not exceeding $1,500.

"(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

"SPECIAL PROVISIONS

Enrollment of women.
29 USC 939.

"SEC. 466. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

"(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

"(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

"GENERAL PROVISIONS

"SEC. 467. The Secretary is authorized to—

Information, dissemination.
29 USC 940.

"(1) disseminate, with regard to the provisions of section 4154 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

"(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accuring to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

Printing and binding.

"(3) expend funds made available for purposes of this part—

"(A) for printing and binding, in accordance with applicable law and regulation; and

Buildings, rent and repair.

"(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not utilize the authority contained in this subparagraph—

"(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

Written notification to Administrator of General Services.

"(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such

authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

"UTILIZATION OF FUNDS

"SEC. 468. Notwithstanding the limitations of title II and part C of this title, financial assistance under title II and part C of this title which is used for the Job Corps program, may be used in accordance with the provisions of this part. 29 USC 941. *Ante*, p. 1950. *Infra.*

"PART C—SUMMER YOUTH PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 481. (a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months. 29 USC 942.

"(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act.

"PRIME SPONSORS

"SEC. 482. Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 101(c) and Native American entities described in section 302(c)(1). 29 USC 943. *Ante*, pp. 1917, 1962.

"FINANCIAL ASSISTANCE

"SEC. 483. (a) In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103. 29 USC 944. *Ante*, p. 1918.

"(b) The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion including allocations to Native American entities under subsection (c)(2).

"(c)(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program. Allocation of funds.

"(2) Funds for prime sponsors designated under section 101(c) shall be allocated as follows:

"(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

"(ii) 37½ percent of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

"(iii) 12½ percent of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low-income families in the United States; except that— Low-income families, ratio.

"(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

Native American entities, allocation of funds.

"(3) Funds for Native American entities described in section 302 (c) (1) shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youths 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it in the previous fiscal year.

"(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

"SECRETARIAL AUTHORITY

Regulations. 29 USC 945.

"SEC. 484. Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"STATEMENT OF PURPOSE

29 USC 951.

"SEC. 501. The purpose of this title is to establish a National Commission for Employment Policy which will have the responsibility for examining broad issues of development, coordination, and administration and employment and training programs, and for advising the President and the Congress on national employment and training issues.

"COMMISSION ESTABLISHED

29 USC 952.

"SEC. 502. (a) There is established a National Commission for Employment Policy (formerly known as the National Commission for Manpower Policy and hereinafter in this title referred to as the 'Commission'). The Commission shall be composed of 15 members selected as follows:

Membership.

"(1) The Secretary, the Secretary of Health, Education, and Welfare, the Administrator of Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration.

"(2) A representative of the National Advisory Council on Vocational Education established under section 162 of the Vocational Education Act of 1963.

20 USC 2392.

"(3) Nine members, appointed by the President, broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elective officials currently serving in office, community based organizations, individuals served by employment and training programs and of the general public.

"(b) In making the first appointments under clause (3) of subsection (a), the President may appoint not more than 3 individuals who are serving as members of the National Commission for Manpower Policy on the effective date of this subsection. Any such individuals shall serve for a term of 1 year.

Term of office.

"(c) The term of office of each member of the Commission appointed under clause (3) of subsection (a) shall be 3 years, except that— Term of office.

"(1) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

"(2) of the members first taking office—

"(A) 3 shall serve for terms of 1 year;

"(B) 3 shall serve for terms of 2 years; and

"(C) 3 shall serve for terms of 3 years;

as designated by the President at the time of appointment (subject to the provisions of the last sentence of subsection (b)).

"(d)(1) The Chairman shall be selected by the President from among members appointed pursuant to clause (3) of subsection (a). Chairman.

"(2) The Commission shall meet not fewer than 3 times each year at the call of the Chairman.

"(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(e) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. The Commission shall— 29 USC 953.

"(1) identify the employment goals and needs of the Nation, and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this Act and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) develop and make appropriate recommendations (including recommendations responsive to requests made by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives), and develop innovative approaches, designed to meet the needs and goals described in clause (1);

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including programs assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2);

"(4) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or the objectives set forth in the recommendations of the Commission, with particular attention shall be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

Consultation with National Advisory Council on Vocational Education.

"(5) (A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

"(B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963;

20 USC 2392.

Impact of energy shortages, study and recommendations to Congress.

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include the findings and recommendations with respect thereto in the reports required by section 505;

"(7) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

"(8) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including conditions of employment, organizational effectiveness and efficiency, alternative working arrangements, and technological changes;

"(9) examine and evaluate the relationships between employment and training programs assisted under this Act with programs under parts A and C of title IV of the Social Security Act and related public assistance programs under the Social Security Act; and

42 USC 601, 630..

Ante, p. 1950.
29 USC 801 note.

"(10) (A) examine and evaluate the eligibility standards set forth in titles II and VI of this Act, and of the Comprehensive Employment and Training Act of 1973, to determine their impact on single heads of households (especially women and older Americans); and (B) submit a report, not later than July 1, 1979, to the Congress, for appropriate referral, on the Commission's findings together with any proposed changes in this Act concerning the eligibility standards for such single heads of households.

"ADMINISTRATIVE PROVISIONS

29 USC 954.

"SEC. 504. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

"(1) prescribe such rules and regulations as may be necessary;

"(2) appoint and fix the compensation of such staff personnel as the Chairman deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the General Schedule pay rates, appoint not to exceed 3 additional professional personnel;

5 USC 5101 *et seq.*, 5331

"(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

"(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this title;

"(6) enter into contracts and make such other arrangements and modifications, as may be necessary; Contract authority.

"(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this title;

"(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies. with the consent of such agencies, with or without reimbursement therefor; and

"(9) make advances, progress, and other payments necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

"(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this Act.

"REPORTS

"SEC. 505. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, the Secretary, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission. Reports to President and Congress. 29 USC 955.

"TITLE VI—COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to provide for temporary employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 percent, and that the number of jobs funded shall be sufficient to provide jobs for 20 percent of the number of unemployed in excess of 4 percent, or 25 percent of the number of unemployed in excess of 4 percent in periods during which the national rate of unemployment is in excess of 7 percent. 29 USC 961.

"REPORT ON APPROPRIATIONS

Presidential reports to Congress.
29 USC 962.

"SEC. 602. (a)(1) On or before March 1 of each year, the President shall report to the Congress the amount that would be needed to be appropriated for the following fiscal year in order to provide jobs—

"(A) for 20 percent of the number of unemployed in excess of 4 percent; or

"(B) in fiscal years during which the President estimates that the national rate of unemployment will exceed 7 percent, for 25 percent of the number of unemployed in excess of 4 percent.

Such report shall contain the President's estimate of the unemployment rate for the following fiscal year, the number of unemployed in excess of 4 percent of the labor force, and the average man-year cost of each public service employment opportunity.

"(2) If during a fiscal year the rate of unemployment equals or exceeds 7 percent, and the President estimates that the rate of unemployment for the balance of such year will differ significantly from the rate contained in the most recent report submitted with respect to such year under this subsection or subsection (b), the President shall so report to the Congress and shall include the additional amount, if any, which would be needed to provide jobs for the applicable percentage of unemployed under paragraph (1)(A) or (1)(B). Such report shall also contain the information required by the last sentence of paragraph (1).

"(b) The President shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a)(1) due to changes in his estimates of unemployment or the cost of providing public service jobs under this title.

"(c) The Secretary shall, as soon as practicable after submission of the report required under subsection (a), inform each prime sponsor of its estimated allocation on the basis of the amount of funds estimated in such report. Each prime sponsor's annual plan for using funds provided under this title shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such estimated allocation.

"FINANCIAL ASSISTANCE

29 USC 963.

"SEC. 603. (a) Not less than 80 percent of the funds allocated in accordance with the provisions of this title which are used by a prime sponsor for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title. Not less than 10 percent of the funds allocated in accordance with the provisions of this title for fiscal year 1979, and not less than 5 percent of such funds for any fiscal year thereafter, shall be expended for providing training and employability counseling and services to persons employed under this title. The remaining funds may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

"(b) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each prime sponsor shall give special consideration to unemployed persons with previous

teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this title and such positions with local educational agencies shall be filled through subcontracting with the appropriate local educational agency.

"ALLOCATION OF FUNDS

"SEC. 604. (a) (1) The Secretary shall reserve an amount equal to not less than 2 percent of the amounts made available for this title for any fiscal year to enable Native American entities which are eligible entities under section 606(a)(2) to carry out public service employment programs. 29 USC 964.

"(2) Not less than 85 percent of the amounts made available pursuant to section 602 for any fiscal year shall be allocated among prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

"(3)(A) Fifty percent of the amount allocated under this subsection shall be allocated among prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

"(B) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(C) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number of unemployed persons, residing in the jurisdiction of the prime sponsor, in excess of 4½ percent of the labor force residing in such jurisdiction or (ii) in the case of a prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ percent of the labor force in areas of substantial unemployment located in the jurisdiction of such prime sponsor.

"(b)(1) The Secretary shall, from the remainder of the funds made available under this title, first use such remainder—

"(A) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and

"(B) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this section and title IV are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction.

The allocations required under clause (B) of this paragraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population

survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

"(2) The remainder of the amount made available pursuant to section 602 shall be available to the Secretary for financial assistance to prime sponsors and Native American entities described in section 302(c)(1)(A) as the Secretary deems appropriate, taking into account changes in rates of unemployment.

"EXPENDITURE OF FUNDS

29 USC 965.

"SEC. 605. (a) Fifty percent of the funds available to any prime sponsor under this title may be used only for employment in projects (carried out by project applicants) planned to extend for not more than 18 months from the commencement of the project. A project may be extended for an additional 18 months if, after review of the project, the prime sponsor determines that the project has demonstrated its effectiveness in meeting the purposes of this title, in accordance with regulations issued by the Secretary. Employment that is not in such projects must be at entry level.

"(b) Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain such information as required by the Secretary's regulations.

"(c) Funds available to a prime sponsor under the second sentence of section 603(a) (with respect to training and employability counseling and services) shall be utilized for residents of the area who are employed under this title and who the prime sponsor determines, on the basis of an assessment of the employability of the participant, requires additional training or employability counseling or services in order to obtain unsubsidized employment.

"PRIME SPONSORS AND PROGRAM AGENTS

29 USC 966.

SEC. 606. (a) The Secretary shall provide financial assistance under this title only to—

"(1) prime sponsors designated under section 101(c), and

"(2) Native American entities described under section 302(c)(1)(A).

"(b)(1) Whenever a unit of general local government or combination of such units having a population of 50,000 or more (but less than that necessary to qualify as a prime sponsor under section 101) is within a prime sponsor's area, the prime sponsor shall, if such unit or units so desire, subgrant to such unit or units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on account of the area served by the program agent.

"(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual employment and training plan and the subgrant which shall be developed by the prime sponsor in cooperation with the program agent.

"(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions of section 101(b)(2) shall be applicable.

"ELIGIBILITY

"SEC. 607. An individual eligible to be employed in a position supported under this title shall be— 29 USC 967.

"(1) an individual—

"(A) who has been unemployed for at least 10 out of the 12 weeks immediately prior to a determination under this section, and

"(B) who is unemployed at the time the determination is made; and

"(2) an individual—

"(A) whose family income does not exceed 100 percent of the lower living standard income level (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) based on the 3-month period prior to the individual's application for participation; or

"(B) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act, or who is receiving supplemental security income benefits under title XVI of the Social Security Act.

"WAGES

"SEC. 608. Individuals employed in public service employment under this title shall be paid wages in accordance with sections 122(j) and 124. 29 USC 968. *Ante*, pp. 1938, 1943.

"WAGE SUPPLEMENTATION

"SEC. 609. Public service employees (other than employees described in section 122(i)(4)(B)) receiving financial assistance under this title may have their wages supplemented by the payment of additional wages for such employment only under the following conditions: 29 USC 969.

"(1) the total amount of funds which may be used in any fiscal year to provide such supplemental wages shall not exceed a sum equal to 10 percent of such prime sponsor's allocation under this title for such fiscal year; and

"(2) the supplemental wages for any public service employee under this title may not exceed an amount equal to 10 percent of the maximum federally supported wage applicable for such prime sponsor area under section 608, except that, in the case of an area in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the national average wage in such employment, the supplemental wages for any such employee may not exceed 20 percent of such federally supported wage.

"UTILIZATION OF FUNDS

"SEC. 610. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than public service employment), part A of title III, title IV, and title VII. 29 USC 970.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

29 USC 981.

"SEC. 701. It is the purpose of this title to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act, and to increase private sector employment opportunities for unemployed or underemployed persons who are economically disadvantaged. Employment and training opportunities for such eligible participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this title among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"FINANCIAL ASSISTANCE

29 USC 982.

"SEC. 702. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title.

"(b) Ninety-five percent of the funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 202(a). The remainder of the funds made available under this title shall be used by the Secretary to provide financial assistance to prime sponsors who join together to establish a single private industry council and to Native American entities described in sections 302 (c)(1) (A) and (B) for carrying out the purposes of this title.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

29 USC 983.

"SEC. 703. (a) Each prime sponsor, and each entity described in section) 302(c)(1) (A) and (B), desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title and the integration of such initiatives with other training and placement activities under this Act. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

"(b) The Secretary shall provide financial assistance under this title to a prime sponsor, or an entity described in section 302(c)(1) (A) or (B), only if the Secretary determines that—

"(1) the proposed activities for which such financial assistance is to be used are consistent with the provisions of this Act and the regulations of the Secretary;

"(2) financial assistance made available under this title will be used to supplement, but not to supplant, on-the-job training and related activities carried out under other titles of this Act;

"(3) the private industry council will undertake to make an analysis of private sector job opportunities, including estimates by occupation, industry, and location;

"(4) the private industry council has provided a copy of its proposed plan for activities under this title to the prime sponsor

planning council for its review and comments and the recommendations of the prime sponsor planning council were satisfactorily considered prior to the submission of the proposed plan to the Secretary;

"(5) the proposed plan for activities under this title has been made available to appropriate labor organizations, community-based organizations and educational agencies for their comments prior to submission to the Secretary; and

"(6) the prime sponsor and the private industry council have both agreed to the plan submitted to the Secretary and have provided assurances that no activity will be funded which does not have the approval of both the prime sponsor and the private industry council.

"(b) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under section 121 (l) or by regulations under other provisions of this Act, and a specific waiver by the Secretary shall be required to make payments for any such activities.

"PRIVATE INDUSTRY COUNCILS

"SEC. 704. (a) (1) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. The prime sponsor shall appoint members from industry and the business community (including small business and minority business enterprises), organized labor, community-based organizations, and educational agencies and institutions to serve on such council. Other members of the private industry council may be appointed by the prime sponsor from representatives of persons eligible to participate in activities under this title. In no event shall representatives of industry and business have less than a majority on the council, and, whenever possible, at least half of such industry and business representatives shall be representatives of small business. The private industry council may consist of members of existing or newly formed organizations and members of the prime sponsor planning council. Such council may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council. 29 USC 984.

"(2) For purposes of this subsection, the term 'small business' means any private, for-profit enterprise employing 500 or fewer employees. "Small business".

"(b) The chairman of the private industry council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the prime sponsor planning council, and the chairman of the prime sponsor planning council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the private industry council.

"(c) Such council shall participate with the prime sponsor in the development and implementation of programs under this title, and shall consult with the prime sponsor with respect to other programs under this Act. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(d) The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

"PROGRAM ACTIVITIES

29 USC 985.

"SEC. 705. (a) Prime sponsors receiving financial assistance under this title shall, consistent with section 702(b), carry out private sector initiatives to demonstrate the purposes of this title. Such activities shall augment private sector-related activities under title II, including arrangements for on-the-job training with private employers, and may include—

Ante, p. 1950.

"(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(2) developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

"(3) developing relationships between employment and training programs, educational institutions, and the private sector;

"(4) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(5) conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

"(6) developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

"(7) coordinating programs under this title with other job development, placement, and employment and training activities carried out by public and private agencies;

"(8) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(9) providing followup services with employees placed in private employment and employers who hire recipients of services under this Act;

"(10) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(11) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

"(12) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(13) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

"(14) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

"(15) disseminating information to private employers so that they may more fully utilize programs under this Act.

Procedures and regulations.

"(b)(1) The Secretary shall establish such procedures and regulations as may be necessary to assure that the total amount of administrative costs incurred by all prime sponsors in carrying out programs

under this title does not exceed 20 percent of the total cost of carrying out all such programs.

"(2) The Secretary by regulation shall provide for necessary and reasonable limitations on administrative costs incurred by prime sponsors, which shall be designed to assure the effective operation of programs carried out by prime sponsors under this title, taking into account differing conditions in urban and rural areas. The administrative costs of any prime sponsor carrying out a program under this title may not exceed the limitations established by the Secretary under this paragraph, unless such excess costs are justified and documented in the approval of the prime sponsor's program. Administrative cost limitations.

"REPORT

"SEC. 706. (a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this title accompanied by recommendations for legislation. 29 USC 986.

"(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this title.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters. 29 USC 991.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center. 29 USC 992. Administration.

"SELECTION OF ENROLLEES

"SEC. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary. 29 USC 993.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment— Membership qualifications.

"(A) are unemployed;

"(B) are between the ages 16 to 23 inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretary, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretary, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretary shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, public assistance agencies, prime sponsors, sponsors of Native American programs described in section 302, sponsors of migrant and seasonal farmworker programs under section 303, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

Ante, p. 1962.
Ante, p. 1964.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment as defined in section 3.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than 12 months, with such maximum period consisting of either 1 continuous 12-month period, or 3 or less periods which total 12 months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the 12-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

29 USC 994.

"SEC. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;
"(2) wildlife habitat improvements and preservation;
"(3) range management improvements;
"(4) recreation development, rehabilitation, and maintenance;
"(5) fish habitat and culture measures;
"(6) forest insect and disease prevention and control;
"(7) road and trail maintenance and improvements;
"(8) general sanitation, cleanup, and maintenance;
"(9) erosion control and flood damage;
"(10) drought damage measures;
"(11) other natural disaster damage measures; and
"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed

under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law (including the Fish and Wildlife Conservation Act; 16 U.S.C. 601). 16 USC 1600 note. 16 USC 1600 note.

"(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available. Job placement.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretary, in carrying out the purpose of this title shall cooperate with the Secretary of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title. Academic credits.

"CONDITIONS APPLICABLE TO CORPS ENROLLEES

"SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits: 29 USC 995.

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

Compensation for work injuries.
5 USC 8101.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

Tort claims procedures.
28 USC 2671.

"(3) For purposes of chapter 171 of title 18, United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government' as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

Work standards, establishment.

"(b) The Secretary shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

29 USC 206.

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

Grants.
29 USC 996.

SEC. 806. (a) Consistent with interagency agreements with the Secretary, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 804(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least 2 years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application

shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 803(b);

"(2) shall be employed in accordance with section 805(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 807. The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

Report to President and Congress.
29 USC 997.

"ANTIDISCRIMINATION

"SEC. 808. The Corps shall be open to youth from all parts of the Nation of both sexes and youth of all social, economic, and racial classifications.

29 USC 998.

"TRANSFER OF FUNDS

"SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.".

29 USC 999.

CRIMINAL PROVISIONS

SEC. 3. (a) Section 665 of title 18, United States Code, is amended to read as follows:

"THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT: OBSTRUCTION OF INVESTIGATIONS

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency receiving financial assistance under the Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys,

funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

"(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

29 USC 801 note.

"(c) Any person whoever willfully obstructs or impedes or endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act, or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.".

(b) The analysis of chapter 31 of title 18, United States Code, is amended by striking out the item relating to section 665 and inserting in lieu thereof the following new item:

"665. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations.".

TRANSITIONAL PROVISION

Financial assistance.
29 USC 801 note.

SEC. 4. (a)(1) The Secretary of Labor (hereinafter in this section referred to as the "Secretary") may provide financial assistance, in accordance with the provisions of this section, in the same manner that such assistance was provided under the Comprehensive Employment and Training Act of 1973 (as in effect on the day before the date of the enactment of this Act), to the extent the Secretary considers necessary to provide for the orderly transition of employment and training programs carried out under such Act and to provide continued financial assistance for such programs.

(2) The authority of the Secretary established in paragraph (1) shall expire at the end of March 31, 1979.

(b) The Secretary shall take such action as may be necessary to provide, as soon as possible after the date of the enactment of this Act, for the implementation of provisions of the Comprehensive Employment and Training Act relating to the prohibition of fraud and other abuses in connection with the administration of programs under such Act.

(c)(1) The provisions of the Comprehensive Employment and Training Act relating to supplementation, maximum Federal wage rates, and eligibility shall apply to the provision of financial assistance by the Secretary after the end of the 90-day period beginning on the date of the enactment of this Act.

(2) The eligibility conditions established in section 608 of the Comprehensive Employment and Training Act of 1973 (as in effect on the day before the date of the enactment of this Act) shall apply, during the period specified in paragraph (1), with respect to any individual hired for public service employment on or after such date of enactment.

Waiver of Federal laws or regulations.

(d) The Secretary shall have authority to waive the application of any Federal law, or any regulation or other requirement prescribed or established under any Federal law, which establishes time period limitations or other requirements which relate to notice, hearings, or

similar matters which otherwise would be applicable to the manner in which regulations prescribed by the Secretary may take effect, to the extent the Secretary deems such waiver necessary to carry out the provisions of subsection (b) and subsection (c).

(e) If the Secretary determines that he cannot carry out the provisions of subsection (b) and subsection (c), other than those provisions which require any amendment to comprehensive employment and training plans, at the end of the 90-day period specified in subsection (c)(1), the Secretary shall furnish notice of such determination to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Such notice shall include the reasons for such determination. Notice to congressional committees.

(f) The National Commission for Manpower Policy, as in existence on the day before the date of the enactment of this Act, shall continue in existence until the members of the National Commission for Employment Policy are appointed in accordance with the provisions of title V of the Comprehensive Employment and Training Act.

REPORTS

SEC. 5. (a) Not later than February 1, 1979, the Secretary shall, after consultation with appropriate State and local officials and other interested parties, submit to the Congress a report containing recommendations and suggested legislation with respect to any necessary improvements in the Wagner-Peyser Act (29 U.S.C. 49), including such legislation as may be necessary to assure coordination between such Act and the Comprehensive Employment and Training Act. 29 USC 829 note. 29 USC 801 note.

(b) The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually. 29 USC 829a.

(c)(1) On or before March 1, 1979, the Joint Economic Committee shall report to Congress on the ability of targeted structural employment and training programs to achieve and sustain (A) a decrease in unemployment rates among those segments of the labor force having special difficulties in obtaining employment and (B) a decrease in the national unemployment rate without exacerbating inflation and shall make such recommendations, as the Committee deems appropriate, for improving the ability of targeted structural employment and training programs to achieve such goals. The Joint Economic Committee shall, to the extent feasible, consult with appropriate Federal agencies, the Human Resources Committee of the Senate and the Committee on Education and Labor of the House of Representatives, the Congressional Budget Office, the National Commission for Employment and Training Policy, the Board of Governors of the Federal Reserve, and other appropriate individuals, both public and private, and obtain their assistance in preparing the report. 29 USC 829 note.

(2) The Joint Economic Committee, as part of the report to the Congress required under paragraph (1), is requested to include, with recommendations, if any, an analysis of the subject of incentive grants, or other assistance permissible under this Act, to private employers in reducing unemployment rates among individuals eligible for assistance under this Act, through national priority projects, including, but not limited to better housing, health care, agriculture, and transportation.

29 USC 829 note.

(d) The Secretary shall develop information relating to the number of individuals who have attained 16 years of age and who are members of a family with an income which is equal to or less than 70 percent, 85 percent, and 100 percent of the lower living standard income level for the jurisdiction of each prime sponsor. The Secretary shall prepare and submit as part of the annual report submitted on March 1, 1980, under section 127(a) to the President and to the Congress a report on the information required by this subsection.

ASSISTANCE TO PLANT, AREA, AND INDUSTRYWIDE LABOR MANAGEMENT COMMITTEES

Labor Management Cooperation Act of 1978.
29 USC 175a note.

SEC. 6. (a) This section may be cited as the "Labor Management Cooperation Act of 1978".

(b) It is the purpose of this section—

(1) to improve communication between representatives of labor and management;

(2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area or industry;

(5) to enhance the involvement of workers in making decisions that affect their working lives;

(6) to expand and improve working relationships between workers and managers; and

(7) to encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor management committees.

29 USC 173.

(c)(1) Section 203 of the Labor-Management Relations Act, 1947, is amended by adding at the end thereof the following new subsection:

"(e) The Service is authorized and directed to encourage and support the establishment and operation of joint labor management activities conducted by plant, area, and industrywide committees designed to improve labor management relationships, job security and organizational effectiveness, in accordance with the provisions of section 205A.".

(2) Title II of the Labor-Management Relations Act, 1947, is amended by adding after section 205 the following new section:

29 USC 175a.

"SEC. 205A. (a)(1) The Service is authorized and directed to provide assistance in the establishment and operation of plant, area and industrywide labor management committees which—

"(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

"(B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

Grants and contracts.

"(2) The Service is authorized and directed to enter into contracts and to make grants, where necessary or appropriate, to fulfill its responsibilities under this section.

"(b)(1) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement.

"(2) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to an area or industrywide labor management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such committee. Nothing in this clause shall prohibit participation in an area or industrywide committee by an employer whose employees are not represented by a labor organization.

"(3) No grant may be made under the provisions of this section to any labor management committee which the Service finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157), or the interference with collective bargaining in any plant, or industry.

"(c) The Service shall carry out the provisions of this section through an office established for that purpose.

"(d) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year 1979, and such sums as may be necessary thereafter.". Appropriation authorization.

(d) Section 302(c) of the Labor Management Relations Act, 1947, is amended by striking the word "or" after the semicolon at the end of subparagraph (7) thereof and by inserting the following before the period at the end thereof: "; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978". 29 USC 186. *Ante*, p. 2020.

(e) Nothing in this section or the amendments made by this section shall affect the terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after the date of enactment of this section. 29 USC 175a note.

REPEALER

SEC. 7. Section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567) is hereby repealed. 38 USC 2002 note.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1124 accompanying H.R. 12452 (Comm. on Education and Labor) and No. 95-1765 (Comm. of Conference).

SENATE REPORTS: No. 95-891 (Comm. on Human Resources) and No. 95-1325 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 9, H.R. 12452 considered in House.

Aug. 22, 25, S. 2570 considered and passed Senate.

Sept. 22, H.R. 12452 considered and passed House; passage vacated and S. 2570, amended, passed in lieu.

Oct. 13, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct 27, Presidential statement.

Public Law 95-525
95th Congress

An Act

Oct. 27, 1978
[H.R. 7296]

To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building".

Charles A. Lindbergh Federal Building, N.Y. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the new Terminal Radar Approach Control Federal Building on Steward Avenue, Hempstead, Long Island, New York, shall hereafter be known as the Charles A. Lindbergh Federal Building. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Charles A. Lindbergh Federal Building.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1465 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-526
95th Congress

An Act

To amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes.

Oct. 27, 1978
[H.R. 12116]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Self-Government and Governmental Reorganization Act is amended as follows:

District of Columbia Self-Government and Governmental Reorganization Act, amendment.
D.C. Code note prec. title 1.
D.C. Code 1-144.

(1) Subsection (e) of section 404 is amended—

(A) in the fourth sentence, by striking out the period and inserting in lieu thereof "unless the Council by a recess of 10 days or more prevents its return, in which case it shall not become law."; and

(B) by striking out "be transmitted by the Chairman" in the fifth sentence and all that follows in such subsection and inserting in lieu thereof "become law subject to the provisions of section 602(c).".

D.C. Code 1-147.

(2) Section 602(c)(1) is amended—

(A) in the first sentence—

(i) by striking out "(and with respect to which the President has not sustained the Mayor's veto)";

(ii) by striking out "and every" and inserting in lieu thereof "each"; and

(iii) by striking out the period and inserting in lieu thereof ", and each initiated act and act subject to referendum which has been ratified by a majority of the registered qualified electors voting on the initiative or referendum."; and

(B) in the second sentence, by striking out "either House is not in session" and inserting in lieu thereof "neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days".

D.C. Code 1-141.

(3) Amendment No. 1 (relating to initiative and referendum) to title IV (the District Charter) is amended—

(A) by striking out sections 5 and 6 and inserting in lieu thereof the following:

"SEC. 5. If a majority of the registered qualified electors voting in a referendum approve an act or adopt legislation by initiative, then the adopted initiative or the act approved by referendum shall be an act of the Council upon the certification of the vote on such initiative or act by the District of Columbia Board of Elections and Ethics, and such act shall become law subject to the provisions of section 602(c)."; and

Supra.

(B) by redesignating sections 7 and 8 as sections 6 and 7, respectively.

D.C. Code 1-146.

(4) Section 412(a) is amended by inserting "(other than an act to which section 446 applies)" in the third sentence after "Each proposed act".

Effective dates.

SEC. 2. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by subparagraph (A) of paragraph (1) of the first section of this Act shall apply with respect to acts of the Council of the District of Columbia presented to the Mayor of the District of Columbia after the date of the enactment of this Act.

(2) The amendment made by subparagraph (B) of paragraph (2) of the first section of this Act shall apply with respect to acts of the Council of the District of Columbia transmitted by the Chairman of the Council to the Speaker of the House of Representatives and the President of the Senate under section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act after the date of the enactment of this Act.

Ante, p. 2023.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1104 (Comm. on the District of Columbia).
SENATE REPORT No. 95-1291 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 12, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 95-527
95th Congress

An Act

To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building".

Oct. 27, 1978
[H.R. 7305]

William L. Springer Building, Ill. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Federal building located at 202 West Church Street in Champaign, Illinois, is hereby designated as the "William L. Springer Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the William L. Springer Building.

(b) This Act shall become effective on April 12, 1979.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1466 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 13, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendments.

Public Law 95-528
95th Congress

An Act

Oct. 27, 1978
[H.R. 13808]

To designate the "Omar Burleson Federal Building".

Omar Burleson Federal Building, Tex. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States post office and courthouse located at 341 Pine Street in Abilene, Texas, is hereby designated as the "Omar Burleson Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Omar Burleson Federal Building.

Effective date.

SEC. 2. This Act shall take effect on January 4, 1979.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1514 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-529
95th Congress

An Act

To designate the "George Mahon Federal Building".

Oct. 27, 1978
[H.R. 13809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, United States post office and courthouse located in Midland, Texas, is hereby designated as the "George Mahon Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the George Mahon Federal Building.

George Mahon Federal Building, Tex. Designation.

SEC. 2. This Act shall take effect on January 4, 1979.

Effective date.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1515 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-530
95th Congress

An Act

Oct. 27, 1978
[H.R. 13892]

To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district.

U.S. attorneys and marshals, residence requirement. Exemption.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 545(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.".

SEC. 2. Section 561(c) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any United States marshal appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.".

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1650 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 13, considered and passed Senate.

Public Law 95-531
95th Congress

An Act

To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building".

Oct. 27, 1978
[H.R. 14223]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1511 East Empire Street in Bloomington, Illinois, is hereby designated as the "Leslie C. Arends Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Leslie C. Arends Building.

Leslie C. Arends Building, Ill. Designation.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 14, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-532
95th Congress

An Act

Oct. 27, 1978
[H.R. 14295]

To designate the "Paul G. Rogers Federal Building".

Paul G. Rogers Federal Building, Fla. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 700 Clematis Street, West Palm Beach, Florida, is hereby designated as the "Paul G. Rogers Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Paul G. Rogers Federal Building.

Effective date.

SEC. 2. This Act shall take effect on January 4, 1979.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 14, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-533
95th Congress

Joint Resolution

To consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State.

Oct. 27, 1978
[H.J. Res. 747]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That consent is given to the State of New Mexico to adopt the amendment to the constitution of such State proposed by the legislature in H.J.R. No. 17, section 1, New Mexico Laws 1618 (1967), and approved by the qualified electors of such State at the special election of November 7, 1967, and to amend article XXIV, section 1, of such constitution to read as follows:

New Mexico. Constitution, amendment.

"Leases and other contracts, reserving a royalty to the state, for the development and production of any and all minerals or for the development and operation of geothermal steam and waters on lands granted or confirmed to the state of New Mexico by the act of congress of June 20, 1910, entitled "An Act to enable the people of New Mexico to form a constitution and state government and be admitted into the union on an equal footing with the original states", may be made under such provisions relating to the necessity or requirement for or the mode and manner of appraisement, advertisement and competitive bidding, and containing such terms and provisions, as may be provided by act of the legislature; the rentals, royalties and other proceeds therefrom to be applied and conserved in accordance with the provisions of said act of congress for the support or in aid of the common schools, or for the attainment of the respective purposes for which the several grants were made.".

36 Stat. 557.

SEC. 2. Consent is given to the State of New Mexico to enact laws and establish regulations necessary to carry out the provisions of the amendment to the constitution of such State described in the first section of this Act.

SEC. 3. Nothing in this Act shall be interpreted to limit, modify, supersede, amend, or otherwise affect any provision of Federal law other than section 10 of the Act of June 20, 1910, as amended (36 Stat. 557) or indicate that geothermal steam and associated geothermal resources are not minerals.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1630 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 13, considered and passed Senate.

Public Law 95-534
95th Congress

Joint Resolution

Oct. 27, 1978
[H.J. Res. 816]

To extend the authority of the Federal Reserve banks to buy and sell certain obligations.

Federal Reserve banks.
Authority extension.
12 USC 355.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b) of the Federal Reserve Act is amended by striking out "May 1, 1978" and inserting in lieu thereof "May 1, 1979", and by striking out "April 30, 1978" and inserting in lieu thereof "April 30, 1979".

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1088 (Comm. on Banking, Finance, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 1, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-535
95th Congress

An Act

To establish fees and allow per diem and mileage expenses for witnesses before United States courts.

Oct. 27, 1978
[S. 2049]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1821 of title 28, United States Code, is amended to read as follows:

U.S. Courts. Fees, per diem and mileage expenses for witnesses.

"§ 1821. Per diem and mileage generally; subsistence

"(a)(1) Except as otherwise provided by law, a witness in attendance at any court of the United States, or before a United States Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section.

"(2) As used in this section, the term 'court of the United States' includes, in addition to the courts listed in section 451 of this title, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

"(b) A witness shall be paid an attendance fee of $30 per day for each day's attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of such attendance or at any time during such attendance.

"(c)(1) A witness who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from such witness's residence by the shortest practical route in going to and returning from the place of attendance. Such a witness shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

"(2) A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, pursuant to section 5704 of title 5, for official travel of employees of the Federal Government shall be paid to each witness who travels by privately owned vehicle. Computation of mileage under this paragraph shall be made on the basis of a uniformed table of distances adopted by the Administrator of General Services.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt), shall be paid in full to a witness incurring such expenses.

"(4) All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

"(d)(1) A subsistence allowance shall be paid to a witness (other than a witness who is incarcerated) when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.

39-194 O—80—pt 2——48 · QL3

"(2) A subsistence allowance for a witness shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, pursuant to section 5702(a) of title 5, for official travel in the area of attendance by employees of the Federal Government.

"(3) A subsistence allowance for a witness attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, pursuant to section 5702(c)(B) of title 5, for official travel in such area by employees of the Federal Government.

"(4) When a witness is detained pursuant to section 3149 of title 18 for want of security for his appearance, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee provided by subsection (b) of this section.

"(e) An alien who has been paroled into the United States for prosecution, pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of such Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided by this section.".

Effective date. 28 USC 1821 note.

SEC. 2. The amendments made by this Act shall take effect on October 1, 1978, or on the date of enactment, whichever occurs later.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1651 (Comm. on the Judiciary).
SENATE REPORT No. 95-756 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 27, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 13, Senate concurred in House amendment.

Public Law 95-536
95th Congress

An Act

To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21.

Oct. 27, 1978
[S. 2403]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendments to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such States and are substantially as follows:

New Hampshire-Vermont Interstate School Compact, amendment. Consent of Congress. Financial assistance, construction.

(1) amend article VII-G to read as follows:

"(G) STATE AID PROGRAMS.—As used in this paragraph the term 'initial aid' shall include New Hampshire and Vermont financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195-B with respect to bonds or notes and Vermont construction aid under chapter 123 of 16 V.S.A. As used in this paragraph the term 'long-term aid' shall include New Hampshire and Vermont financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Vermont school building aid under chapter 123 of Title 16 V.S.A. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each State, subject to the following provisions. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a New Hampshire share and a Vermont share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a State guarantee of interstate district bonds or notes under RSA 195-B, the interstate district shall be eligible to apply for and receive an unconditional State guarantee with respect to an amount of its bonds or notes which does not exceed fifty percent of the amount of the New Hampshire share as determined above. Vermont initial aid shall be available with respect to the amount of the Vermont share as though it were funds voted by a Vermont school district. Payments of Vermont initial aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Vermont long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Vermont shares of the amount of indebtedness of the interstate district which is payable in that year and which has been

apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of forty-five percent, if there are three or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Vermont long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Vermont may at any time change their State school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts. Notwithstanding the foregoing, the respective amounts of New Hampshire and Vermont initial and long-term aid, with respect to a capital project of the Dresden School District for which indebtedness is authorized by a vote of the District after July 1, 1977, shall be initially determined for each year for each member district by the manner provided in this paragraph and the aid shall be paid to the Dresden School District, however, the amount of aid for those capital projects received by the Dresden School District on account of each member district shall be used by the District to reduce the sums which would otherwise be required to be raised by taxation within that member district.";

(2) insert the following at the end of article VII:

"(I) Notwithstanding paragraph (G) of this Article, initial and long-term aid may be allocated among the members of an interstate district other than the Dresden School District in the manner which is provided in the articles of agreement of that district, or if not therein provided, in the manner specified in paragraph (G) for all interstate districts other than the Dresden School District."; and

(3) amend Article IX to read as follows:

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement shall be adopted in the manner provided in the articles of agreement, and if no such provision is made in the articles of agreement then amendments shall be adopted by the affirmative vote of two-thirds of those present and voting at an interstate district meeting, except that:

"a. If the amendment proposes the addition of a new member district, the amendment shall be adopted in the same manner provided for the adoption of the original articles of agreement, provided that the planning committee shall consist of all of the members of the interstate district board of directors and all of the members of the school board of the proposed new member district or districts, and provided that the amendment shall be submitted to the voters of the interstate district, the affirmative vote of two-thirds of those present and voting at an interstate district meeting being required for approval of the amendment. The articles of agreement together with the proposed amendment shall then be submitted to the voters of the proposed new member district or districts, and an affirmative vote of a simple majority of those present and voting at each district meeting shall be required for approval of the amendment.

"b. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"c. Amendments to the articles of agreement of the Dresden School District shall be adopted in the following manner: (1) an amendment shall be initially approved upon the affirmative vote of a simple majority of those voters of the Dresden School District who are present and voting at a meeting called for such purpose, (2) the amendment initially approved by the voters of the Dresden School District shall become final and effective upon the expiration of thirty days after the date of that vote, unless a petition is duly filed within that thirty-day period and the amendment is subsequently not approved by the voters of a member district in accordance with the procedure specified in clause (3), (3) if a petition, valid under applicable State law, is filed before the expiration of that thirty-day period with the clerk of any school district which is a member of the Dresden School District, which petition requires the calling of a special meeting of that member district for the purpose of considering the approval of the amendment initially adopted by the voters of the Dresden School District, then the board of school directors of that member district shall thereupon call a special meeting of that district for that purpose, (4) if the amendment as initially approved by the voters of the Dresden School District is approved by more than forty percent of the voters present and voting at the meeting of each member district in which a petition was filed under this section, then the amendment as initially adopted shall become final and effective upon the vote of that member district last to vote. If the amendment as initially approved by the voters of the Dresden School District is not so approved by more than forty percent of the voters present and voting at the meeting of any one member district, then the amendment shall be null and void and of no effect.".

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1722 (Comm. on the Judiciary).
SENATE REPORT No. 95-968 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 14, considered and passed Senate.
Oct. 12, considered and passed House.

Public Law 95-537
95th Congress

An Act

Oct. 27, 1978
[S. 3336]

To enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner.

Contract Services for Drug Dependent Federal Offenders Act of 1978.
18 USC 3651 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Act of 1978".

SEC. 2. Section 3651 of title 18, United States Code, relating to suspension of sentence and probation, is amended by deleting from the second to the last paragraph the colon and everything thereafter, and inserting in lieu thereof a period.

SEC. 3. Section 4255 of title 18, United States Code, relating to supervision in the community of certain convicted offenders, is amended to read as follows:

Jurisdiction.

"An offender who has been conditionally released shall be under the jurisdiction of the United States Parole Commission as if on parole, pursuant to chapter 311 of this title.

"The Director of the Administrative Office of the United States Courts may contract with any appropriate public or private agency or any person for supervisory aftercare of an offender. The Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

Appropriation authorization.
18 USC 4255 note.

SEC. 4. (a) To carry out the purposes of this Act, there are authorized to be appropriated sums not to exceed $3,500,000 for the fiscal year ending September 30, 1980; $3,645,000 for the fiscal year ending September 30, 1981; and $3,750,000 for the fiscal year ending September 30, 1982.

Effective date.
18 USC 3651 note.

(b) The amendments made by this Act shall take effect on October 1, 1979.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1649 (Comm. on the Judiciary).
SENATE REPORT No. 95-1110 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 17, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 13, Senate concurred in House amendments.

Public Law 95-538
95th Congress

An Act

To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building".

Oct. 27, 1978
[S. 3540]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal building and courthouse located at 25 South Third Street in Yakima, Washington, is hereby designated as the "Justice William O. Douglas Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Justice William O. Douglas Federal Building.

Justice William O. Douglas Federal Building, Wash. Designation.

Approved October 27, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1775 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed Senate.
Oct. 12, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:
Oct. 27, Presidential statement.

Public Law 95-539
95th Congress

An Act

Oct. 28, 1978
[S. 1315]

To provide more effectively for the use of interpreters in courts of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Court Interpreters Act".

Court Interpreters Act.
28 USC 1 note.

SEC. 2. (a) Chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

28 USC 1827.

"§ 1827. Interpreters in courts of the United States

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in courts of the United States.

"(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing impaired (whether or not also speech impaired), and in so doing, the Director shall consider the education, training, and experience of those persons. The Director shall maintain a current master list of all interpreters certified by the Director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.

Annual report.

Fee schedule.

"(c) Each United States district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters, including bilingual interpreters and oral or manual interpreters for the hearing impaired (whether or not also speech impaired), by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.

"(d) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, in any criminal or civil action initiated by the United States in a United States district court (including a petition for a writ of habeas corpus initiated in the name of the United States by a relator), if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such action—

"(1) speaks only or primarily a language other than the English language; or

"(2) suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

"(e)(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

"(2) In any criminal or civil action in a United States district court, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

Waiver, approval and consultation.

"(f)(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and after the presiding judicial officer has explained to such individual, utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

"(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of a noncertified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, expenses, and costs of an interpreter appointed under subsection (d) of this section.

Salaries, fees, and expenses.

Post, p. 2042.

"(g)(1) Except as otherwise provided in this subsection or section 1828 of this title, the salaries, fees, expenses, and costs incident to providing the services of interpreters under subsection (d) of this section shall be paid by the Director of the Administrative Office of the United States Courts from sums appropriated to the Federal judiciary.

"(2) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses shall, unless direction is made under paragraph (3) of this subsection, be paid by the Attorney General from sums appropriated to the Department of Justice.

"(3) The presiding judicial officer may in such officer's discretion direct that all or part of such salaries, fees, expenses, and costs shall be apportioned between or among the parties or shall be taxed as costs in a civil action.

"(4) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(h) In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the presiding judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.

"Presiding judicial officer."

"(i) The term 'presiding judicial officer' as used in this section and section 1828 of this title includes a judge of a United States district court, a United States magistrate, and a referee in bankruptcy.

"United States district court." *Infra.*

"(j) The term 'United States district court' as used in this section and section 1828 of this title includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States established by section 132 of this title.

28 USC 132.

"(k) The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a simultaneous or summary interpretation when such officer determines that such interpretation will aid in the efficient administration of justice. The presiding judicial officer on such officer's motion or on the motion of a party may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

28 USC 1828.

"§ 1828. Special interpretation services

Program establishment.

"(a) The Director of the Administrative Office of the United States Courts shall establish a program for the provision of special interpretation services in criminal actions and in civil actions initiated by the United States (including petitions for writs of habeas corpus initiated in the name of the United States by relators) in a United States district court. The program shall provide a capacity for simultaneous interpretation services in multidefendant criminal actions and multidefendant civil actions.

"(b) Upon the request of any person in any action for which special interpretation services established pursuant to subsection (a) are not otherwise provided, the Director, with the approval of the presiding judicial officer, may make such services available to the person requesting the services on a reimbursable basis at rates established in conformity with section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a), but the Director may require the prepayment of the estimated expenses of providing the services by the person requesting them.

Expenses.

"(c) Except as otherwise provided in this subsection, the expenses incident to providing services under subsection (a) of this section shall be paid by the Director from sums appropriated to the Federal judiciary. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action, and any moneys collected as a result of such order may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(d) Appropriations available to the Director shall be available to provide services in accordance with subsection (b) of this section, and moneys collected by the Director under that subsection may be used to reimburse the appropriations charged for such services. A presiding judicial officer, in such officer's discretion, may order that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in the action.".

(b) The table of sections for chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following:

"1827. Interpreters in courts of the United States.
"1828. Special interpretation services.".

SEC. 3. Section 604(a) of title 28, United States Code, is amended—

(a) by striking out paragraph (10) and inserting in lieu thereof:

"(10)(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services for pretrial services agencies, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);";

Ante, p. 2042.

(b) by redesignating paragraph (13) as paragraph (17); and

(c) by inserting after paragraph (12) the following new paragraphs:

Interpreter programs, establishment.

"(13) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

Ante, p. 2040.

"(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

"(15)(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

"(16) In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102 of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;".

SEC. 4. Section 604 of title 28, United States Code, is amended further by inserting after subsection (e) the following new subsections:

"(f) The Director may make, promulgate, issue, rescind, and amend rules and regulations (including regulations prescribing standards of conduct for Administrative Office employees) as may be necessary to carry out the Director's functions, powers, duties, and authority. The Director may publish in the Federal Register such rules, regulations,

Conduct standards, rules and regulations. Publication in Federal Register.

and notices for the judicial branch of Government as the Director determines to be of public interest; and the Director of the Federal Register hereby is authorized to accept and shall publish such materials.

Exchanges or sales, evidence.

"(g) (1) When authorized to exchange personal property, the Director may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired, but any transaction carried out under the authority of this subsection shall be evidenced in writing.

Contracts.

"(2) The Director hereby is authorized to enter into contracts for public utility services and related terminal equipment for periods not exceeding ten years.".

SEC. 5. Section 602 of title 28, United States Code, is amended to read as follows:

"§ 602. Employees

Compensation.

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*, 5331.

Ante, p. 2043.

"(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section 604(a)(15)(B) of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, but the compensation of any person appointed under this subsection shall not exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

"(c) The Director may obtain personal services as authorized by section 3109 of title 5, at rates not to exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

"(d) All functions of other officers and employees of the Administrative Office and all functions of organizational units of the Administrative Office are vested in the Director. The Director may delegate any of the Director's functions, powers, duties, and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as the Director may designate, and subject to such terms and conditions as the Director may consider appropriate; and may authorize the successive redelegation of such functions, powers, duties, and authority as the Director may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the Director in person.".

Authority delegations.

SEC. 6. Section 603 of title 28, United States Code, is amended by striking out the second paragraph thereof.

Taxation of costs.

SEC. 7. Section 1920 of title 28, United States Code, is amended by striking out the period at the end of paragraph (5) and inserting a semicolon in lieu thereof and by inserting after paragraph (5) the following new paragraph:

"(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.".

Repeal.
28 USC 602 note.

SEC. 8. Section 5(b) of the Act of September 23, 1959 (Public Law 86-370, 73 Stat. 652), is repealed.

SEC. 9. There are authorized to be appropriated to the judicial branch of Government such sums as may be necessary to carry out the amendments made by this Act. Appropriation authorization.

SEC. 10. (a) Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act. Effective dates. 28 USC 602 note.

(b) Section 2 of this Act shall take effect ninety days after the date of the enactment of this Act.

SEC. 11. Any contracts entered into under this Act or any of the amendments made by this Act shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts. 28 USC 602 note.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1687 accompanying H.R. 14030 (Comm. on the Judiciary).
SENATE REPORT No. 95-569 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 4, considered and passed Senate.
Vol. 124 (1978): Oct. 10, H.R. 14030 considered and passed House; passage vacated and S. 1315, amended, passed in lieu.
Oct. 13, Senate concurred in House amendment.

Public Law 95-540
95th Congress

An Act

Oct. 28, 1978
[H.R. 4727]

To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Protection for Rape Victims Act of 1978".

Privacy Protection for Rape Victims Act of 1978.
28 USC app.

SEC. 2. (a) Article IV of the Federal Rules of Evidence is amended by adding at the end thereof the following new rule:

28 USC app.

"RULE 412. RAPE CASES; RELEVANCE OF VICTIM'S PAST BEHAVIOR

"(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or of assault with intent to commit rape, reputation or opinion evidence of the past sexual behavior of an alleged victim of such rape or assault is not admissible.

"(b) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or of assault with intent to commit rape, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is—

"(1) admitted in accordance with subdivisions (c)(1) and (c)(2) and is constitutionally required to be admitted; or

"(2) admitted in accordance with subdivision (c) and is evidence of—

"(A) past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or injury; or

"(B) past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which rape or assault is alleged.

"(c)(1) If the person accused of committing rape or assault with intent to commit rape intends to offer under subdivision (b) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

Hearing.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subdivision (b), the court shall order a hearing in chambers to determine if such evidence is admissible.

At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue. 28 USC app.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

"(d) For purposes of this rule, the term 'past sexual behavior' means sexual behavior other than the sexual behavior with respect to which rape or assault with intent to commit rape is alleged.". "Past sexual behavior."

(b) The table of contents for the Federal Rules of Evidence is amended by inserting immediately after the item relating to rule 411 the following new item:

"Rule 412. Rape cases; relevance of victim's past behavior.".

SEC. 3. The amendments made by this Act shall apply to trials which begin more than thirty days after the date of the enactment of this Act. Effective date. 28 USC app.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 12, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Oct. 30, Presidential statement.

Public Law 95-541
95th Congress

An Act

Oct. 28, 1978
[H.R. 7749]

To implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antarctic Conservation Act of 1978".

Antarctic Conservation Act of 1978.
16 USC 2401 note.

SEC. 2. FINDINGS AND PURPOSE.

16 USC 2401.
12 UST 794.
17 UST 991.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation for the continuation of international cooperation and the freedom of scientific investigation in Antarctica; and

(2) the study of Antarctic fauna and flora, their adaptation to their rigorous environment, and their interrelationships with that environment has special scientific importance for all mankind.

(b) PURPOSE.—The purpose of this Act is to provide for the conservation and protection of the fauna and flora of Antarctica, and of the ecosystem upon which such fauna and flora depend, consistent with the Antarctic Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII-3 of the Eighth Antarctic Treaty Consultative Meeting.

16 USC 2402.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreed Measures" means the Agreed Measures for the Conservation of Antarctic Fauna and Flora—

(A) as recommended to the Consultative Parties for approval at the Third Antarctic Treaty Consultative Meeting; and

(B) as amended from time to time in accordance with Article IX(1) of the Treaty.

(2) The term "Antarctica" means the area south of 60 degrees south latitude.

(3) The term "collect" means to cut, sever, or move, or to attempt to engage in any such conduct.

(4) The term "Director" means the Director of the National Science Foundation or an officer or employee of the Foundation designated by the Director.

(5) The term "foreign person" means—

(A) any individual who is a citizen or national of a foreign nation,

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any foreign nation, and

(C) any department, agency, or other instrumentality of any foreign nation and any officer, employee, or agent of any such instrumentality.

(6) The term "native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves

which is designated as a native species by the Director under section 6(b)(1), and includes any part of any such member.

(7) The term "native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, other than any species regulated by the International Whaling Commission, which is designated as a native species by the Director under section 6(b)(1), and includes any part of such member.

(8) The term "native plant" means any member of any species of plant at any stage of its life cycle (including seeds) which is designated as such by the Director under section 6(b)(1), and includes any part of any such member.

(9) The term "pollutant" means any substance designated as such by the Director under section 6(b)(6).

(10) The term "site of special scientific interest" means any area designated as such by the Director under section 6(b)(3).

(11) The term "specially protected area" means any area designated as such by the Director under section 6(b)(4).

(12) The term "specially protected species" means any species of native mammal or native bird designated as such by the Director under section 6(b)(5).

(13) The term "take" means to harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, or capture, or to attempt to engage in any such conduct.

(14) The term "Treaty" means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959. 12 UST 794.

(15) The term "United States" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, including the Government of the Northern Mariana Islands.

(16) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; and

(C) any department, agency, or other instrumentality of the Federal Government or of any State, and any officer, employee, or agent of any such instrumentality.

SEC. 4. PROHIBITED ACTS. 16 USC 2403.

(a) IN GENERAL.—It is unlawful—

(1) for any United States citizen, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

(A) to take within Antarctica any native mammal or native bird,

(B) to collect within any specially protected area any native plant,

(C) to introduce into Antarctica any animal or plant that is not indigenous to Antarctica,

(D) to enter any specially protected area or site of special scientific interest, or

(E) to discharge, or otherwise to dispose of, any pollutant within Antarctica;

(2) for any United States citizen wherever located, or any foreign person while within the United States, unless authorized by regulation prescribed under this Act or a permit issued under section 5—

39-194 O—80—pt. 2——49 : QL3

(A) to possess, sell, offer for sale, deliver, receive, carry, transport, or ship by any means whatsoever, or

(B) to import into the United States, to export from the United States, or to attempt to so import or export,

any native mammal or native bird taken in Antarctica or any native plant collected in any specially protected area;

(3) for any United States citizen wherever located, or any foreign person while within the United States, to violate any regulation prescribed under this Act; or

(4) for any person, whether or not a United States citizen, to violate any term or condition of any permit issued under section 5.

No act described in paragraphs (1) through (4) shall be unlawful if committed, under emergency circumstances, to prevent the loss of human life.

(b) EXCEPTION.—Subsection (a) shall not apply to—

(1) any native mammal, native bird, or native plant which is held in captivity on the date of the enactment of this Act; or

(2) any offspring of any such mammal, bird, or plant.

With respect to any act prohibited by subsection (a) which occurs after the 180th day after such date of enactment, there shall be a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on such date or was not an offspring referred to in paragraph (2).

16 USC 2404.

SEC. 5. PERMITS.

(a) IN GENERAL.—The Director may issue permits which authorize acts otherwise prohibited by section 4(a).

Regulation.

(b) APPLICATIONS FOR PERMITS.—(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Director shall by regulation prescribe.

Publication in Federal Register.

(2) The Director shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a mater of public record.

(c) ACTION BY APPROPRIATE SECRETARIES ON CERTAIN PERMIT APPLICATIONS.—(1) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(A) any native mammal which is a marine mammal within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5));

(B) any native mammal, native bird, or native plant which is an endangered species or threatened species under the Endangered Special Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);

the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate (hereinafter in this subsection referred to respectively as the "appropriate Secretary").

(2) After receiving a copy of any application from the Director under paragraph (1) the appropriate Secretary shall promptly

determine, and notify the Director, whether or not any action proposed in the application also requires a permit or other authorization under any law administered by the appropriate Secretary.

(3) If the appropriate Secretary notifies the Director that any action proposed in the application requires a permit or other authorization under any law administered by the appropriate Secretary, the Director may not issue a permit under this section with respect to such action unless such other required permit or authorization is issued by the appropriate Secretary and a copy thereof is submitted to the Director. The issuance of any permit or other authorization by the appropriate Secretary for the carrying out of any action with respect to any native mammal, native bird, or native plant shall not be deemed to entitle the applicant concerned to the issuance by the Director of a permit under this section.

(d) ISSUANCE OF PERMITS.—As soon as practicable after receiving any application for a permit under this section, or, in the case of any application to which subsection (c) applies, as soon as practicable after the applicable requirements of such subsection are complied with, the Director shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial of a permit under this subsection, the Director shall publish notice of the issuance or denial in the Federal Register.

Publication in Federal Register.

(e) TERMS AND CONDITIONS OF PERMITS.—(1) Each permit issued under this section shall—

(A) if applicable, specify—

(i) the number and species of native mammals, native birds, or native plants to which the permit applies,

(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner (which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such taking must occur, and

(iii) if any such plant is authorized to be collected, the location and manner in which it must be collected;

(B) the period during which the permit is valid; and

(C) such other terms and conditions as the Director deems necessary and appropriate to ensure that any act authorized under the permit is carried out in a manner consistent with the purpose of this Act, the criteria set forth in paragraph (2), if applicable, and the regulations prescribed under this Act.

(2) The terms and conditions imposed by the Director in any permit issued under this section that authorizes any of the following acts shall be consistent with the following criteria:

Criteria.

(A) Permits authorizing the taking within Antarctica (other than within any specially protected area) of any native mammal or native bird (other than a specially protected species of any such mammal or bird)—

(i) may be issued only for the purpose of providing—

(I) specimens for scientific study or scientific information, or

(II) specimens for museums, zoological gardens, or other educational or cultural institutions or uses; and

(ii) shall ensure, as far as possible, that—

(I) no more native mammals and native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season, and

(II) the variety of species and the balance of the natural ecological systems with Antarctica and maintained.

(B) Permits authorizing the taking of specially protected species may be issued only if—

(i) there is a compelling scientific purpose for such taking; and

(ii) the actions allowed under any such permit will not jeopardize any existing natural ecological system, or the survival, of such species.

(C) Permits authorizing the entry into any specially protected area—

(i) may be issued only if—

(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and

(ii) shall not allow the operation of any surface vehicle within such area.

(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 6(b)(3) for such site.

(e) JUDICIAL REVIEW.—Any applicant for a permit may obtain judicial review of the terms and conditions of any permit issued by the Director under this section or of the refusal of the Director to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, United States Code, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the date on which such permit is issued or denied.

5 USC 701 *et seq.*

(f)(1) MODIFICATION, SUSPENSION, AND REVOCATION.—The Director may modify, suspend, or revoke, in whole or part, any permit issued under this section—

(A) in order to make the permit consistent with any change made after the date of issuance of the permit, to any regulation prescribed under section 6;

(B) if there is any change in conditions which makes the permit inconsistent with the purpose of this Act; or

(C) in any case in which there has been any violation of any term or condition of the permit, any regulation prescribed under this Act, or any provision of this Act.

(2) Whenever the Director proposes any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation. Any action taken by the Director after such a hearing is subject to judicial review on the same basis as is provided for with respect to permit applications under subsection (e).

Notice, *publication in* Federal Register.

(3) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the Federal Register within 10 days from the date of the Director's decision.

(g) PERMIT FEES.—The Director may establish and charge fees for processing applications for permits under this section. The amount of such fees shall be commensurate with the administrative costs incurred by the Director in undertaking such processing.

SEC. 6. REGULATIONS. 16 USC 2405.

(a) IN GENERAL.—The Director, after consultation with the Secretary of State and other appropriate Federal officials, shall prescribe such regulations as are necessary and appropriate to implement the provisions of this Act. Consultation.

(b) SPECIFIC REGULATIONS.—The regulations required to be prescribed under subsection (a) shall include, but shall not be limited to, regulations which—

(1) designate, as native species—

(A) each species of the class Aves,

(B) each species of the class Mammalia, and

(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural agencies of dispersal;

(2) specify those actions which must, and those actions which must not, be taken within Antarctica in order to protect, in accordance with the applicable provisions of the Agreed Measures, members of each native species designated under paragraph (1); 17 UST 991.

(3) identify, as a site or special scientific interest, each area approved by the United States in accordance with Recommendation VIII-3 of the Eighth Antarctic Treaty Consultative Meeting as having unique value for scientific investigation and needing protection from interference, and prescribe a management plan for such site which is consistent with any management plan approved by the United States for such site in accordance with such Recommendation;

(4) identify, as a specially protected area, each area designated for special protection under the Agreed Measures because of its outstanding scientific or ecological interest;

(5) designate, as a specially protected species, any native species of mammal or bird which is approved by the United States for special protection under the Agreed Measures;

(6) designate as a pollutant any substance which the Director finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

(7) specify those actions which must, and those actions which must not, be taken in order to prevent or control the discharge or other disposal of pollutants, from any source within Antarctica;

(8) designate those animals and plants, not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which must be observed with respect to any such animals or plants which are allowed to be so introduced;

(9) specify the emergency circumstances with respect to which the exclusion set forth in the last sentence of section 4(a) applies; and

(10) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required incident to the carrying out of any act for which a permit is required under section 5.

Regulations.
16 USC 2406.

SEC. 7. NOTIFICATION OF TRAVEL TO ANTARCTICA.

The Secretary of State shall prescribe such regulations as may be necessary and appropriate to implement, with respect to United States citizens, paragraph 5 of Article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica. For purposes of this section, the term "United States citizen" shall include any foreign person who organizes within the United States any expedition which will proceed to Antarctica from the United States.

12 UST 794.

"United States citizen."

16 USC 2407.

SEC. 8. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTIES.—Any person who is found by the Director, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 4(a) or to have violated any regulation prescribed under section 7 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Director by written notice. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Director may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) REVIEW.—Upon the failure of any person against whom a civil penalty is assessed under subsection (a) to pay such penalty, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain the decision of the Director if it is supported by substantial evidence on the record considered as a whole.

(d) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Migratory Bird Treaty Act.

16 USC 1361 note, 1531 note.
16 USC 710.

16 USC 2408.

SEC. 9. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if he willfully commits any act prohibited by section 4(a).

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of $10,000, or imprisonment for not more than one year, or both.

(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Migratory Bird Treaty Act. 16 USC 1361 note, 1531 note.

SEC. 10. ENFORCEMENT. 16 USC 710. 16 USC 2409.

(a) RESPONSIBILITY.—The provisions of this Act and of any regulation prescribed, or permit issued, under this Act shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties. Cooperation.

(b) POWERS OF AUTHORIZED OFFICERS.—Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Director or any such Secretary under subsection (a)) to enforce the provisions of this Act and of any regulation or permit issued under this Act may—

(1) secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 4(a);

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

(4) offer and pay rewards for services or information which may lead to the apprehension of violators of such provisions;

(5) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(6) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 4(a) if such officer has reasonable grounds to believe that the person to be arrested is committing such act in his presence or view, or has committed such act.

(c) SEIZURE.—Any property or item seized pursuant to subsection (b) shall be held by any person authorized by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating pending the disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such property or item; except that such authorized person may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) FORFEITURE.—(1) Any animal or plant with respect to which an act prohibited by section 4(a) is committed shall be subject to forfeiture to the United States.

(2) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used in the commission of any act prohibited by section 4(a) shall be subject to forfeiture to the United States.

Property disposal, regulation.

(3) Upon the forfeiture to the United States of any property or item described in paragraph (1) or (2), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of the Act, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

(e) APPLICATION OF CUSTOMS LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provision of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this Act, also be exercised or performed by the Director, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, or by such persons as each may designate.

Regulations.

(f) REGULATIONS.—The Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating may prescribe such regulations as may be appropriate to enforce the provisions of this Act and of any regulation prescribed or permit issued under this Act, and charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing native mammals, native birds, native plants, animals and plants not indigenous to Antarctica, and other evidentiary items seized or forfeited under this Act.

16 USC 2410.

SEC. 11. JURISDICTION OF COURTS.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act or of any regulation prescribed, or permit issued, under this Act.

16 USC 2411.

SEC. 12. FEDERAL AGENCY COOPERATION.

Each Federal department or agency whose activities affect Antarctica shall utilize, to the maximum extent practicable, its authorities in furtherance of the purposes of this Act, and shall cooperate with the Director in carrying out the purposes of this Act.

16 USC 2412.

SEC. 13. RELATIONSHIP TO EXISTING TREATIES.

Nothing in this Act shall be construed as contravening or superseding the provisions of any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on the date of the enactment of this Act, or of any statute which implements any such treaty, convention, or agreement.

SEC. 14.

(a) The first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this Act, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 3(8) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(8)), the vessel is commanded by other than a citizen of the United States.".

(b) The amendment made by subsection (a) shall take effect January 1, 1978. Effective date. 22 USC 1971 note.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1031, Parts I and II (Comm. on Merchant Marine and Fisheries. and Comm. on Science and Technology).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 25, considered and passed House.

Oct. 13, considered and passed Senate, amended.

Oct. 14, House concurred in Senate amendment.

Public Law 95-542
95th Congress

An Act

Oct. 28, 1978
[H.R. 11671]

To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building".

C. Bascom Slemp Building, Va. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 322 East Wood Avenue in Big Stone Gap, Virginia, is hereby designated as the "C. Bascom Slemp Building". Any reference in any law, regulation, document, record, map or other paper of the United States to such building shall be considered to be a reference to the C. Bascom Slemp Building.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1469 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-543
95th Congress

An Act

To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center".

Oct. 28, 1978
[H.R. 12634]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Social Security Administration District Office Building located at the intersection of South Broadway and East Adams Streets, in Pittsburg, Kansas, shall hereafter be known and designated as the "Joe Skubitz Social Security Administration Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Joe Skubitz Social Security Administration Center.

Joe Skubitz Social Security Administration Center, Kans. Designation.

SEC. 2. This Act shall take effect on January 4, 1979.

Effective date.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1467 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-544
95th Congress

An Act

Oct. 28, 1978
[H.R. 13187]

To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building".

John J. Flynt, Jr., Federal Building, Ga. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal building located in Griffin, Georgia, is hereby designated as the "John J. Flynt, Jr. Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the "John J. Flynt, Jr. Federal Building".

Effective date.

SEC. 2. This Act shall take effect on January 4, 1979.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1470 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-545
95th Congress

An Act

To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building".

Oct. 28, 1978
[H.R. 13514]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 500 Fannin Street in Shreveport, Louisiana, is hereby designated as the "Joe Waggonner Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Joe Waggonner Federal Building.

Joe Waggonner Federal Building, La. Designation.

SEC. 2. This Act shall take effect on January 4, 1979.

Effective date.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1472 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-546
95th Congress

An Act

Oct. 28, 1978
[H.R. 13972]

To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.

Great Bear Wilderness, Mont. Designation. 16 USC 1132 note. 16 USC 1131 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890), the area generally depicted on a map entitled "Great Bear Wilderness (Proposed)—Bob Marshall Wilderness Addition", dated October 1978, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, is hereby designated as the Great Bear Wilderness (approximately two hundred eighty-five thousand, seven hundred seventy-one acres) within and as part of the Flathead National Forest, Montana, and enlarges the Bob Marshall Wilderness with an area comprising approximately sixty thousand acres within and as part of the Lewis and Clark National Forest, Montana.

Map and description, filing with congressional committees.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Great Bear Wilderness and Bob Marshall Wilderness Addition with the Energy and Natural Resources Committee, United States Senate, and the Interior and Insular Affairs Committee, House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and topographical errors in such legal description and map may be made.

Administration.

SEC. 3. The Great Bear Wilderness and Bob Marshall Addition shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1616 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Oct. 30, Presidential statement.

Public Law 95-547
95th Congress

An Act

To amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

Oct. 28, 1978
[H.R. 13989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1445(b) of the Food and Agriculture Act of 1977 is amended to read as follows:

Food and Agriculture Act of 1977, amendment.
7 USC 3222.
Agricultural research, distribution of funds.
Formula modification.

"(b) Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

"(1) Three per centum shall be available to the Secretary for administration of this section.

"(2) The remainder shall be allotted among the eligible institutions as follows:

"(A) Funds up to the total amount made available to all eligible institutions in the fiscal year ending September 30, 1978, under section 2 of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), shall be allocated among the eligible institutions in the same proportion as funds made available under section 2 of the Act of August 4, 1965, for the fiscal year ending September 30, 1978, are allocated among the eligible institutions.

"(B) Of funds in excess of the amount allocated under subparagraph (A) of this paragraph, 20 per centum shall be allotted among eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census. In computing the distribution of funds allocated under this subparagraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.".

Approved October 28, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1619 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 13, considered and passed Senate.

Public Law 95-548
95th Congress

An Act

Oct. 30, 1978
[S. 3112]

To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

Library of Congress James Madison Memorial Building. Additional authorization. 2 USC 141 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square numbered 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes", approved October 19, 1965 (79 Stat. 986; Public Law 89-260), is amended by striking out "$123,000,000" and inserting in lieu thereof "$130,675,000".

Approved October 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1168 accompanying H.R. 12342 (Comm. on Public Works and Transportation).

SENATE REPORT No. 95-906 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 5, 13, considered and passed Senate.

Oct. 14, considered and passed House, amended in lieu of H.R. 12342.

Oct. 15, Senate concurred in House amendment.

Public Law 95-549
95th Congress

An Act

To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes.

Oct. 30, 1978
[H.R. 12509]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration and Nationality Act, amendment.

TITLE I

SEC. 101. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), relating to general classes of aliens ineligible to receive visas and excluded from admission, is amended—

(1) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(2) by adding immediately after paragraph (32) the following new paragraph:

"(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government in Germany,

"(B) any government in any area occupied by the military forces of the Nazi government of Germany,

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.".

SEC. 102. Section 212(d)(3) of such Act (8 U.S.C. 1182(d)(3)), relating to waiver of exclusions for certain non-immigrants, is amended by striking out "(27) and (29)" and inserting in lieu thereof "(27), (29), and (33)" each place it appears.

SEC. 103. Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)), relating to general classes of deportable aliens, is amended—

(1) by striking out "or" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or"; and

(3) by adding immediately after paragraph (18) the following new paragraph:

"(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(A) the Nazi government of Germany,

"(B) any government in any area occupied by the military forces of the Nazi government of Germany,

39-194 O—80—pt. 2——50 : QL3

"(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.".

SEC. 104. Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), relating to withholding of deportation, is amended by inserting "(other than an alien described in section 241(a)(19))" after "The Attorney General is authorized to withhold deportation of any alien".

SEC. 105. Section 244(e) of the Immigration and Nationality Act (8 U.S.C. 1254(e)), relating to voluntary departure of aliens under deportation proceedings, is amended by striking out "or (18)" and inserting in lieu thereof "(18), or (19)".

TITLE II

22 USC 2601 note.

SEC. 201. Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1979.".

Effective date. 22 USC 2601 note.

SEC. 202. The amendments made by this title shall take effect on October 1, 1978.

Approved October 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1452 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 26, considered and passed House.
Oct. 10, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendment.

Public Law 95-550
95th Congress

An Act

To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico.

Oct. 30, 1978
[S. 1403]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey at fair market value to the University of New Mexico all right, title, and interest of the United States in the following described land comprising approximately one hundred and ten acres:

University of New Mexico. Land conveyance.

Southeast quarter of the southwest quarter; south half of the northeast quarter of the southwest quarter; southwest quarter of the southeast quarter; and the southwest quarter of the northwest quarter of the southeast quarter, section 29, township 23 north, range 11 east, New Mexico principal meridian.

SEC. 2. Conveyance under this Act shall be made only (a) upon the University of New Mexico providing satisfactory assurances to the Secretary that no valid mining claims exist on the described lands, other than the patented mining claims of Doctor Arthur Montgomery; and (b) upon the condition that the described land shall be held and used by the University of New Mexico and shall not be conveyed by the university, and the minerals thereunder shall not be mined and sold in commercial quantities: *Provided*, That if the Secretary of the Interior determines that mining of the minerals contained in the described lands is necessary for the security of the United States, the University of New Mexico shall lease the lands for mining to such person as may be designated by the Secretary under the terms of a lease to be prepared by the Secretary, with any royalties to be paid to the United States. The patent conveying the lands to the University of New Mexico shall contain such provision.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of approval of this Act.

SEC. 4. The Secretary may in his discretion require that he be furnished a perimeter survey of the described lands. All costs of obtaining such survey and any costs of supplying the Secretary with the proof that no valid unpatented mining claims exist on the property, shall be borne by the university.

Perimeter survey.

SEC. 5. No conveyance shall be made under this Act until the university has shown to the satisfaction of the Secretary that all right, title, and interest of Doctor Arthur Montgomery to unpatented mining claims and the existing patented mining claim in the above described lands have been conveyed to the University of New Mexico.

Approved October 30, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-1301 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 13, considered and passed Senate.
Oct. 14, considered and passed House.

Public Law 95-551
95th Congress

An Act

To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes.

Oct. 30, 1978
[H.R. 13416]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4331 of title 10, United States Code, is amended to read as follows:

U.S. Military Academy, N.Y. Permanent faculty structure, modernization.

"§ 4331. Establishment; Superintendent; faculty

"(a) There is in the Department of the Army a United States Military Academy, at West Point, New York, in this chapter called the 'Academy', for the instruction and preparation for military service of selected persons called 'cadets'. The organization of the Academy shall be prescribed by the Secretary of the Army.

"(b) There shall be at the Academy the following:

"(1) A Superintendent.

"(2) A Dean of the Academic Board, who is a permanent professor.

"(3) A Commandant of Cadets.

"(4) Twenty-two permanent professors.

"(5) A chaplain.

"(6) A director of admissions.".

SEC. 2. Sections 3075(b)(2), 3204(2), 3205(a)(3), 3283(a), 3296(a), 3883, 3886, 4333 (c) and (d), 4334(d), and 4336 (b) and (c) of title 10, United States Code, are each amended by striking out "registrar" each place it appears in such sections and inserting in lieu thereof "director of admissions".

SEC. 3. (a) Section 4338 of title 10, United States Code, is repealed.

(b) (1) Section 207 of title 37, United States Code, is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(2) Section 424 of such title is amended by striking out subsection (b) and redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 4. (a) The section heading of section 4336 of title 10, United States Code, is amended to read as follows:

"§ 4336. Permanent professors; director of admissions".

(b) The table of sections at the beginning of chapter 403 of such title is amended—

(1) by striking out the item relating to section 4331 and inserting in lieu thereof the following:

"4331. Establishment; Superintendent; faculty.";

(2) by striking out the item relating to section 4336 and inserting in lieu thereof the following:

"4336. Permanent professors; director of admissions.";

and

(3) by striking out the item relating to section 4338.

Approved October 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1657 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 2, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 95-552
95th Congress

An Act

To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

Oct. 30, 1978
[H.R. 13372]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of such Act of March 16, 1934 (16 U.S.C. 718b) is amended—

Migratory-bird hunting and conservation stamps, price increase.

(1) by inserting "(a)" immediately before the first word thereof;

(2) by striking out "For each such stamp sold under the provisions of this section" in the third sentence and inserting in lieu thereof "Except as provided in subsection (b), for each stamp sold under the provisions of this section for any hunting year"; and

(3) by adding at the end thereof the following new subsection:

"(b) The Postal Service shall collect $7.50 for each stamp sold under the provisions of this section for any hunting year if the Secretary of the Interior determines, at any time before February 1 of the calendar year in which such hunting year begins, that all sums in the migratory bird conservation fund attributable to—

"(1) amounts appropriated pursuant to the Act for the fiscal year ending in the immediately preceding calendar year; and

"(2) the sale of stamps under this section during such fiscal year have been obligated for expenditure. For purposes of this section, the term 'hunting year' means the 12-month period beginning on July 1 of any such year.".

Areas for rental or purchase, consultation.

SEC. 2. Section 4 of the Migratory Bird Conservation Act (16 U.S.C. 715c) is amended to read as follows:

"SEC. 4. The Secretary of the Interior may not recommend any area for purchase or rental under the terms of this Act unless the Secretary of the Interior—

"(1) has determined that such area is necessary for the conservation of migratory birds; and

"(2) has consulted with the county or other unit of local government in which such area is located and with the Governor of the State concerned or the appropriate State agency.".

Approved October 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1518 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 6, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendments.

Public Law 95-553
95th Congress

An Act

Oct. 30, 1978
[S. 3551]

To make technical corrections in the North Pacific Fisheries Act of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Pacific Fisheries Act of 1954 (16 U.S.C. 1021 et seq.) is amended as follows:

16 USC 1030. (1) Paragraph (2) of subsection (b) of section 11 is amended by striking out the word "subsection"; and

16 USC 1034. (2) Paragraph (3) of subsection (a) of section 14 is amended by striking out the period and inserting in lieu thereof a semicolon.

Approved October 30, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 5, considered and passed Senate.
Oct. 14, considered and passed House.

Public Law 95-554
95th Congress

An Act

To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

Oct. 30, 1978
[S. 3189]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Utah to the lease applicant named in preference right lease applications serial numbers U1362, U1363, U1375, U5233, U5234, U5235, U5236, and U5237 upon surrender and relinquishment by the applicant of such preference right lease applications and all right to lease the lands covered by such applications, such surrender and relinquishment to be made in exchange for the lease or leases to be issued by the Secretary.

Mineral Leasing Act of 1920, amendment. Coal lease authorizations.

(b) Notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Wyoming to the owner or owners of Federal coal leases serial numbers W0313666, W0111833, W073289, W0312311, and W0313668, B025369, W0256663, W5035, W0322794 covering lands in the State of Wyoming upon the surrender and relinquishment of such leases or portions thereof.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof or rights to leases to be exchanged therefor shall be of equal value. If such leases or portions thereof or rights to leases are not of equal value, the Secretary is authorized to receive, or pay out of funds available for that purpose, cash in an amount up to 25 per centum of the value of the coal lease or leases to be issued by the Secretary in order to equalize the value of the lease or lease rights to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered, or in case of a surrendered lease right, the same terms and conditions as those to which the lease applicant would be entitled.

(e) This subsection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided*, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the

exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 203), is further amended by adding after the word "contiguous", the words "or cornering", and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease or extension thereof which became effective prior to the effective date of this Act has expired.".

30 USC 202a.

SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–8), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

Evaluation and review.

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake DeSmet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

Acquisition authorization.

(b) If the Secretary determines that the Lake DeSmet property shall be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

Exchanges.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management. Any conveyance to the State of Wyoming shall contain a reservation of all minerals to the United States and shall provide that, if the State ceases to use the property conveyed for fish propagation and wildlife management, title to such property shall revert to the United States.

Appropriation authorization.

SEC. 7. Effective October 1, 1979, there are authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this Act.

Short title.
30 USC 181 note.

SEC. 8. The title of the Federal Coal Leasing Amendments Act of 1975 (Public Law 94-377) is hereby changed to the Federal Coal Leasing Amendments Act of 1976.

Approved October 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1635 accompanying H.R. 13553 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-1169 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 20, considered and passed Senate.

Oct. 3, H.R. 13553 considered and passed House; passage vacated, and S. 3189, amended, passed in lieu.

Oct. 13, Senate concurred in House amendment.

Public Law 95-555
95th Congress

An Act

Oct. 31, 1978
[S. 995]

To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

Pregnancy, sex discrimination, prohibition.
42 USC 2000e.
Definitions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 701 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.".

42 USC 2000e-2.

Effective date.
42 USC 2000e note.

SEC. 2. (a) Except as provided in subsection (b), the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by the first section of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act until 180 days after enactment of this Act.

42 USC 2000e note.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by

making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

Approved October 31, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-948 accompanying H.R. 6075 (Comm. on Education and Labor) and No. 95-1786 (Comm. of Conference).
SENATE REPORT No. 95-331 (Comm. on Human Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 15, 16, considered and passed Senate.
Vol. 124 (1978): July 18, H.R. 6075 considered and passed House; proceedings vacated and S. 995, amended, passed in lieu.
Oct. 13, Senate agreed to conference report.
Oct. 15, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 44 (1978): Oct. 31, Presidential statement.

Public Law 95-556
95th Congress

An Act

Oct. 31, 1978
[H.R. 13702]

To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Territory of American Samoa shall be represented in the United States Congress by a nonvoting Delegate to the House of Representatives, elected as hereinafter provided.

Territory of American Somoa.
Nonvoting Delegate to U.S. House of Representatives.
48 USC 1731.

SEC. 2. (a) The Delegate shall be elected by the people qualified to vote for the popularly elected officials of the Territory of American Samoa at the general Federal election of 1980, and thereafter at such general election every second year thereafter. The Delegate shall be elected at large, by separate ballot, and by a majority of the votes cast for the office of Delegate. If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.

Election.
48 USC 1732.

Term.

(b) The term of the Delegate shall commence on the third day of January following the date of the election.

Eligibility.
48 USC 1733.

SEC. 3. To be eligible for the office of Delegate a candidate shall—

(a) be at least twenty-five years of age on the date of the election;

(b) have been a United States citizen for at least seven years prior to the date of the election;

(c) be an inhabitant of the Territory of American Samoa; and

(d) not be, on the date of the election, a candidate for any other office.

48 USC 1734.

SEC. 4. Acting pursuant to legislation enacted in accordance with section 9, article II of the American Samoan Revised Constitution, the territorial government will determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for herein.

Compensation.
48 USC 1735.

SEC. 5. Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from American Samoa shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges

and immunities that are, or hereinafter may be, granted to the nonvoting Delegate from the Territory of Guam: *Provided*, That the clerk hire allowance for the Delegate from American Samoa shall be a single per annum gross rate that is 50 per centum of the clerk hire allowance of a Member of the House of Representatives.

Approved October 31, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1458 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, considered and passed House.
Oct. 13, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Oct. 31, Presidential statement.

Public Law 95-557
95th Congress

An Act

Oct. 31, 1978
[S. 3084]

To amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing and Community Development Amendments of 1978.
42 USC 5301 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Amendments of 1978".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS AND LOAN INSURANCE

42 USC 1452b.

SEC. 101. (a) Section 312 of the Housing Act of 1964 is amended—

(1) by striking out the undesignated paragraph which follows subsection (a)(3) and inserting in lieu thereof the following new undesignated paragraph:

"The Secretary shall, in making loans under this section, give priority to applications by low- and moderate-income persons who own the property to be rehabilitated and will occupy such property upon completion of the rehabilitation, including applications by condominiums and cooperatives in which the residents are principally of low and moderate income. For the purpose of the preceding sentence, the term 'low and moderate income' means income which does not exceed 95 per centum of the median income for the area.";

(2) by striking out subsection (c)(3) and inserting in lieu thereof the following:

Interest rate.

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum for loans to families with adjusted incomes of not more than 80 per centum of the median income for the area. For loans to families with adjusted incomes above 80 per centum of the median income for the area, as determined by the Secretary, the Secretary may establish interest rates based on adjusted family income, ranging from above 3 per centum to a rate determined by the Secretary, but in no case may any such rate exceed the current average market yield on outstanding marketable securities of the United States with remaining periods to maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eighth of 1 per centum. The Secretary may prescribe such other charges adequate in the judgment of the Secretary to cover administrative costs and possible losses under the program.";

(3) by inserting the following before the semicolon at the end of subsection (c)(4)(A): ", or if such refinancing is deemed necessary by the Secretary to minimize displacement of existing tenants of a multifamily property";

(4) by striking out "$50,000" in subsection (c)(4)(B) and inserting in lieu thereof "$100,000";

(5) by striking out "and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977" in subsection (d) and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978";

(6) by adding at the end of subsection (d) the following: "Of the amounts available for loans under this section during the fiscal year beginning October 1, 1978, the Secretary may utilize not more than $60,000,000 for rehabilitation loans for multifamily properties."; and

(7) by adding at the end thereof the following new subsection:

"(i) The Secretary may not, after 270 days following the date of the enactment of this subsection, make any loan under this section with respect to any property unless the Secretary has determined that the improvements to such property, upon completion of the rehabilitation, will meet cost-effective energy conservation standards prescribed by the Secretary.".

(b) Section 312 of such Act is amended by adding at the end thereof the following: 42 USC 1452b.

"(i) Rehabilitation loans under this section for multifamily properties shall be subject to the following additional limitations and conditions:

"(1) The property must meet the requirements of subsection (a) and—

"(A) be located in a low- or moderate-income neighborhood; or

"(B) have a majority of tenants of low and moderate income.

All such loans must be consistent with an overall community development strategy developed pursuant to title I of the Housing and Community Development Act of 1974. 42 USC 5301.

"(2) The property must have fewer than 100 units, except where the Secretary determines that a loan under this section is essential to meet the community development needs of a neighborhood and alternative sources of financing are not available.

"(3) The Secretary shall enter into an agreement with the investor-owner of a multifamily property which is to be rehabilitated with a loan under this section to limit, for a period of at least five years, the increased rent caused by the rehabilitation.

"(4) The Secretary shall minimize involuntary displacement caused by rehabilitation loans under this section with respect to multifamily properties.

"(j) In conjunction with the annual report required under section 113(a) of the Housing and Community Development Act of 1974, the Secretary shall submit to the Congress a report on the rehabilitation loan program under this section. Such report shall include a summary of the use of funds under this section, particularly with regard to the types of neighborhoods and persons aided under this section, and an evaluation of progress made toward community development goals under this section. As soon as feasible, but not later than December 1, 1979, the Secretary shall submit to Congress an interim report evaluating the use of funds under this section for multifamily properties, with legislative recommendations for improving the overall effectiveness of Federal assistance for the rehabilitation of multifamily properties.". Reports to Congress. 42 USC 5313.

(c)(1) Section 203(k) of the National Housing Act is amended to read as follows: 12 USC 1709.

Commitments to insure loans.

"(k) (1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions on and after 180 days following the date of the enactment of the Housing and Community Development Amendments of 1978. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i), and (j) of this section, except as modified by the provisions of this subsection.

Ante, p. 2080.

"(2) For the purpose of this subsection—

"Rehabilitation loan."

"(A) the term 'rehabilitation loan' means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

"(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

"(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

"(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

"Rehabilitation."

"(B) the term 'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project.

Eligibility.

"(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

"(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b) (2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

"(B) bear interest at a rate permitted by the Secretary for mortgages insured under this section; except that the Secretary may permit a higher rate of interest to be applied to the loan with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as the Secretary may determine;

"(C) be an acceptable risk, as determined by the Secretary; and

"(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

"(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional

amount or term which exceeds the maximum provided for in this subsection.

"(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the General Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that any reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.". 12 USC 1715k.

(2) Section 203(c) of such Act is amended— 12 USC 1709.

(A) by striking out "subsection (n) is" in the first proviso and inserting in lieu thereof "subsections (n) and (k) are"; and

(B) by inserting "or (k)" after "subsection (n)" the second time it appears in such proviso.

(3) The proviso in the first sentence of section 302(b)(1) of such Act is amended by inserting "or section 203(k)" after "title VIII" in clause (3). 12 USC 1717.

URBAN HOMESTEADING

SEC. 102. (a) Section 810(f) of the Housing and Community Development Act of 1974 is amended— 12 USC 1706e.

(1) by inserting "and the Administrator of Veterans' Affairs" after "Secretary" the first place it appears; and

(2) by inserting "or the Administrator" after "Secretary" the second place it appears.

(b) The first sentence of section 810(g) of such Act is amended—

(1) by striking out "and" immediately following "fiscal year 1977,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $26,000,000 for the fiscal year 1979".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENTS

SEC. 103. (a) Section 104(a)(4)(A) of the Housing and Community Development Act of 1974 is amended by inserting "owners of homes requiring rehabilitation assistance," after "large families," 42 USC 5304.

(b) Section 104(a)(4)(B)(i) of such Act is amended by inserting "including existing rental and owner occupied dwelling units to be upgraded and thereby preserved," after "existing dwelling units,".

(c) Section 104(a) of such Act is amended by inserting after "expected to reside in the community" in paragraphs (3)(C) and (4)(A) the following: "as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary,".

(d) Section 104(c) of such Act is amended by adding the following new sentence at the end thereof:

"The Secretary may not disapprove an application on the basis that such application addresses any one of the primary purposes described in paragraph (3) to a greater or lesser degree than any other, except that such application may be disapproved if the Secretary determines that the extent to which a primary purpose is addressed is plainly inappropriate to meeting the needs and objectives which are consistent with the community's efforts to achieve the primary objective of this title.".

Relocation payments.
42 USC 5305.

(e) Section 105(a)(11) of such Act is amended to read as follows:
"(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate to the community development program;".

Technical assistance.
42 USC 5307.

(f) The last sentence of section 107(a)(8) of such Act is amended to read as follows: "The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out its Community Development Program.".

42 USC 5318.

(g) Section 119(c) of such Act is amended—
(1) by striking out "and" at the end of clause (4);
(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and
(3) by adding at the end thereof the following:
"(6) include a statement analyzing the impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located.".

(h) Section 119(e) of such Act is amended by inserting before "and feasibility" the following: "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located;".

(i) Title I of such Act is amended by adding at the end thereof the following new section:

"FAIR PARTICIPATION FOR SMALL COMMUNITIES

42 USC 5319.

"SEC. 120. No community shall be barred from participating in any program authorized under this title solely on the basis of population, except as expressly authorized by statute.".

EFFECTIVE DATE

12 USC 1709 note.

SEC. 104. The amendments made by this title shall become effective October 1, 1978.

TITLE II—HOUSING ASSISTANCE PROGRAMS

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

12 USC 1715z-1a.

SEC. 201. (a) The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965.

12 USC 1701.
12 USC 1701 note.

(b) The Secretary of Housing and Urban Development (hereinafter referred to in this section as the "Secretary") may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section.

(c) a rental or cooperative housing project is eligible for assistance under this section only if such project—

(1) (A) is assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965; except that, in the case of any such project which is not insured under the National Housing Act such assistance may not be provided before October 1, 1979; or

12 USC 1715z-1, 1715l.
79 Stat. 451.
12 USC 1701.

(B) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial soundness of the project and maintain the low- and moderate-income character of the project;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary; and

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine.

(e) Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that— Consultation.

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

(f)(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(6) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items; and

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year.

(2) The estimated revenues for any project under paragraph (1)(C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act;

12 USC 1715z-1.

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 221(d)(5) or section 236 of the National Housing Act during such year; and

12 USC 1715l, 1715z-1.

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii)

which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act for such tenant; and 12 USC 1715z-1.

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

Estimated operated expenses, computation.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to, taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

Annual assistance payments.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

Review.

Rules and regulations.

(g) The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided.

Appropriation authorization.

(h) There is authorized to be appropriated, for the purpose of providing financial assistance under this section, an amount (in addition to any amount appropriated for use under this section pursuant to section 236(f)(3)(B) of the National Housing Act, not to exceed $74,000,000 for the fiscal year 1979. Any amounts appropriated under this section shall remain available until expended.

Effective date. 12 USC 1715z-1.

(i) Effective October 1, 1978, section 236 of the National Housing Act is amended—

(1) in subsection (f)(3)—

(A) by inserting "(A)" after "(3)";

(B) by striking out "The" in the second sentence and inserting in lieu thereof "For each fiscal year prior to the fiscal year 1979, the"; and

(C) by adding at the end thereof the following:

"(B) The Secretary shall utilize amounts credited to the fund described in subsection (g) on or after October 1, 1978, for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1979."; and

(2) by striking out the third and fourth sentences of subsection (g).

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

12 USC 1715z-1b.

SEC. 202. (a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which is eligible for assistance as described in section 201(c) of this Act.

"Multifamily housing project."

(b) The Secretary shall assure that—

(1) where the Secretary's written approval is required with respect to an owner's action and the Secretary deems it appropriate, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

Regulations.

(c) The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after the date of enactment of this Act.

MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

12 USC 1701z-11.

SEC. 203. (a) It is the policy of the United States that the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the National Housing Act and this section. The purpose of the property management and disposition program of the Department of Housing and Urban Development shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government

12 USC 1701.

than other reasonable alternatives by which the Secretary can further the goals of—

(1) preserving the housing units so that they can remain available to and affordable by low- and moderate-income families;

(2) preserving and revitalizing residential neighborhoods;

(3) maintaining the existing housing stock in a decent, safe, and sanitary condition;

(4) minimizing the involuntary displacement of tenants; and

(5) minimizing the need to demolish projects.

The Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals relating to individual projects in a manner which will further the achievement of the overall purpose of this section.

(b) The Secretary is authorized, in carrying out this section—

(1) to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project and the requirements of subsection (a) of this section, to a purchaser determined by the Secretary to be capable of (A) satisfying the conditions of the disposition; (B) implementing a sound financial and physical management program; (C) responding to the needs of the tenants and working cooperatively with resident organizations; (D) providing adequate organizational, staff and financial resources to the project; and (E) meeting such other requirements as the Secretary may determine; and

(2) to contract for management services for a multifamily housing project, owned by the Secretary, on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of (A) implementing a sound financial and physical management program, (B) responding to the needs of the tenants and working cooperatively with resident organizations, (C) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary, and (D) meeting such other requirements as the Secretary may determine.

(c) Except where the Secretary has determined on a case-by-case basis that it would be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of pursuant to subsection (a) of this section, the Secretary shall seek to—

(1) maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition; and

(2) to the greatest extent possible, maintain full occupancy in all multifamily housing projects owned by the Secretary.

Tenant displacement, notification.

(d)(1) Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project owned by the Secretary, the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available.

(2) The Secretary shall seek to assure the maximum opportunity for any such tenant—

(A) to return, whenever possible, to a repaired unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937; or

42 USC 1437 note.

(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

(e) Notwithstanding any other provision of law, whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary which covers a multifamily housing project, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low- and moderate-income character of the project, the Secretary may request the mortgagee in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Secretary may determine. As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

"Multifamily housing project."

(f) For the purpose of this section, the term "multifamily housing project" means a multifamily project which is, or prior to acquisition by the Secretary was, assisted under section 236, the proviso of section 221(d)(5) of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965, and which is insured under the National Housing Act.

12 USC 1715z-1, 12 USC 1715l. 12 USC 1701.

Rules and regulations.

(g) The Secretary shall issue such rules and regulations as may be necessary to carry out the provisions of this section within 90 days after the date of enactment of this Act.

HOUSING ACCESS

12 USC 1701z-12.

SEC. 204. The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

42 USC 1437f.

HOUSING FOR THE HANDICAPPED

12 USC 1701q.

SEC. 205. (a) Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following new subsection:

"(h) Of the amounts made available in appropriation Acts for loans pursuant to subsection (a)(4)(C) for the fiscal year commencing on October 1, 1978, not less than $50,000,000 shall be available for loans for the development of rental housing and related facilities specifically designed to meet the needs of handicapped (primarily nonelderly) persons. The Secretary shall take such steps as may be necessary to assure that—

"(1) funds made available pursuant to this subsection will be used to support innovative methods of meeting the needs of handicapped persons by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(2) housing and related facilities assisted under this subsection will provide handicapped persons occupying units within such housing with an assured range of services specified under subsection (f) and the opportunity for optimal independent living and participation in normal daily activities, and will facilitate access by such persons to the community at large and to suitable employment opportunities within such community.".

(b) The second sentence of section 202(a)(4)(C) of such Act is amended— 12 USC 1701q.

(1) by striking out "in any fiscal year" immediately after "under this section"; and

(2) by striking out "for such year" immediately after "authority established".

(c) Section 202(d)(3) of such Act is amended by inserting "the cost of movables necessary to the basic operation of the project as determined by the Secretary," immediately after "related facilities,".

(d) Section 202(d)(2) of such Act is amended to read as follows:

"(2) The term 'corporation' means any incorporated private institution or foundation— "Corporation."

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such project is located, and (ii) which is responsible for the operation of the housing project assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.".

LOW-INCOME HOUSING

SEC. 206. (a) Section 5(c) of the United States Housing Act of 1937 is amended— 42 USC 1437c.

(1) by striking out "and" immediately after "October 1, 1976," in the first sentence;

(2) by inserting immediately after "on October 1, 1977," in the first sentence the following: "and by $1,195,043,000 on October 1, 1978";

(3) by striking out the second and fourth sentences; and

(4) by inserting "and on and after October 1, 1978," immediately after "October 1, 1976," in the third sentence.

(b) Section 5(c) of such Act is amended by inserting after the fourth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects.".

(c) Section 3(2)(D) of such Act is amended by striking out "10" in the first proviso and inserting in lieu thereof "15". 42 USC 1437a.

(d)(1) Section 8 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 1437f.

"(i) In entering into contracts under this section with respect to substantially rehabilitated dwelling units, the Secretary shall provide that— Contracts.

"(1) the maximum monthly rent permitted for the assisted units be not greater than the amount permitted under subsection (c) or a lesser amount which the Secretary determines is appropriate taking into consideration the investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant;

"(2) the assisted units be rehabilitated to a level which meets but does not exceed applicable codes and standards for decent, safe, and sanitary housing which are prescribed by the Secretary;

"(3) all the dwelling units in the housing structure in which the assisted units are located meet applicable codes and standards prescribed by the Secretary for decent, safe, and sanitary housing;

"(4) the term of any such contract does not exceed the maxi-

mum term permitted under subsection (e)(1) or a shorter term which the Secretary determines is appropriate taking into consideration the amount of investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant; and

"(5) the assisted units meet cost-effective energy efficiency standards prescribed by the Secretary.".

Effective date. 42 USC 1437f note.

(2) The amendment made by this subsection shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act.

42 USC 1437f.

(e) Section 8(e) of such Act is amended by adding at the end thereof the following:

"(5) For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading.".

Terms and conditions.

(f) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

Annual contributions contracts.

"(j)(1) The Secretary may enter into annual contributions contracts under this subsection for the purpose of assisting lower income families by making rental assistance payments with respect to real property on which is located a mobile home which is owned by any such family and utilized by such family as its principal place of residence. In carrying out this subsection, the Secretary may (A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or (B) enter into such contracts directly with the owners of such real property.

"(2) Contracts entered into pursuant to this subsection shall establish the maximum monthy rent (including maintenance and management charges) which the owner is entitled to receive for each space on which a mobile home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subsection. The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

"(3) The amount of any monthly assistance payment with respect to any family assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(A) the monthly payment made by such family to amortize the cost of purchasing the mobile home;

"(B) monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(C) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its mobile home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) Each contract entered into under this subsection shall be for a term of not less than one month and not more than 180 months.

"(5) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.". Terms and conditions.

(g) Section 9(c) of such Act is amended— 42 USC 1437g.

(1) by striking out "and" immediately following "on or after October 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $729,000,000 on or after October 1, 1978".

(h) The amendments made by this section, except the amendment made by subsection (d), shall become effective on October 1, 1978. Effective date. 42 USC 1437c note.

PUBLIC HOUSING SECURITY

SEC. 207. (a) This section may be cited as the "Public Housing Security Demonstration Act of 1978". Public Housing Security Demonstration Act of 1978. 12 USC 1701z-6 note.

(b)(1) The Congress finds that—

(A) low-income and elderly public housing residents of the Nation have suffered substantially from rising crime and violence, and are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

(B) older persons generally regard the fear of crime as the most serious problem in their lives, to the extent that one-fourth of all Americans over 65 voluntarily restrict their mobility because of it;

(C) crime and the fear of crime have led some residents to move from public housing projects;

(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure;

(E) local public housing authorities may have inadequate security arrangements for the prevention of crime and vandalism; and

(F) action is needed to provide for the security of public housing residents and to preserve the Nation's investment in its public housing stock.

(2) It is, therefore, declared to be the policy of the United States to provide for a demonstration and evaluation of effective means of mitigating crime and vandalism in public housing projects, in order to provide a safe living environment for the residents, particularly the elderly residents, of such projects.

(c)(1) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1978, to the extent approved in appropriation Acts, a pro-

gram for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

(2) In selecting public housing projects to receive assistance under this section, the Secretary shall assure that a broad spectrum of project types, locations and tenant populations are represented and shall consider at least the following: the extent of crime and vandalism currently existing in the projects; the extent, nature and quality of community anticrime efforts in the projects and surrounding areas; the extent, nature and quality of police and other protective services available to the projects and their tenants; the demand for public housing units in the locality, the vacancy rate, and extent of abandonment of such units; and the characteristics and needs of the public housing tenants.

(3) In selecting the anticrime and security methods, concepts and techniques to be demonstrated under this section, the Secretary shall consider the improvement of physical security equipment or dwelling units in those projects, social and environmental design improvements, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary. Particular attention shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which (i) provide for coordination between public housing management and local law enforcement officials, or (ii) coordinate resources available to the community through programs funded by the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION, or other Federal or State agencies.

Comprehensive community anticrime and security plans, consideration.

(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION.

(d) The Secretary shall initiate and carry out a survey of crime and vandalism existing in the Nation's public housing projects. The survey shall include the nature, extent and impact of crime and vandalism and the nature and extent of resources currently available and employed to alleviate crime and vandalism in public housing.

Crime and vandalism, survey.

(e) The Secretary shall report to the Congress not later than eighteen months after the date of enactment of this Act. Such report shall include the results of the survey on crime and vandalism in public housing; findings from the demonstration and evaluation of various methods of reducing the level of crime; and legislative recommendations, if appropriate for (A) a comprehensive program to increase security in public housing projects and (B) increasing the coordination between anticrime programs of other State and Federal agencies that may be used by public housing authorities. Any recommendations shall include estimated costs of such programs.

Report to Congress.

(f) Of the additional authority approved in appropriation Acts with respect to entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 for the fiscal year beginning on October 1, 1978, the Secretary may utilize up to $12,000,000 of such authority in the fiscal year beginning on October 1, 1978, for the establishment of the public housing security demonstration program authorized by this section.

42 USC 1437c.

SECTION 8 HOUSING FOR LARGE FAMILIES

SEC. 208. (a) The Secretary of Housing and Urban Development shall conduct a study for the purpose of examining alternative means of encouraging the development of housing to be assisted under section 8 of the United States Housing Act of 1937 for occupancy by large families which reside in areas with a low-vacancy rate in rental housing. 42 USC 1437f note. 42 USC 1437f.

(b) The Secretary shall report to the Congress no later than one year after the date of enactment of this Act, for the purpose of providing legislative recommendations with respect to the study described in subsection (a). Report to Congress.

SOLAR ENERGY SYSTEMS

SEC. 209. (a) It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units. 12 USC 1701z-13.

(b) (1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar energy systems which are cost-effective and economically feasible. 42 USC 1452b. 12 USC 1701q.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy. "Solar energy system."

(c) In carrying out subsection (b), the Secretary shall take such steps as may be necessary to encourage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to current or potential recipients of assistance under such programs and activities.

(d) The Secretary shall, in conjuction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth— Joint report to Congress.

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b) (1) of this section during the first twelve full calendar months after the date of enactment of this Act; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "November 1, 1978" in the first sentence and inserting in lieu thereof "October 1, 1979". 12 USC 1703.

12 USC 1715h. (b) Section 217 of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

12 USC 1715*l*. (c) Section 221(f) of such Act is amended by striking out "October 31, 1978" in the fifth sentence and inserting in lieu thereof "September 30, 1979".

12 USC 1715z. (d) Section 235(m) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

12 USC 1715z-1. (e) Section 236(n) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979".

12 USC 1715z-9. (f) Section 244(d) of such Act is amended—

(1) by striking out "October 31, 1978" in the first sentence and inserting in lieu thereof "September 30, 1979"; and

(2) by striking out "November 1, 1978" in the second sentence and inserting in lieu thereof "October 1, 1979".

12 USC 1715z-10. (g) Section 245 of such Act is amended by striking out "October 31, 1978" in the third sentence and inserting in lieu thereof "September 30, 1979".

12 USC 1748h-1. (h) Section 809(f) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

12 USC 1748h-2. (i) Section 810(k) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

12 USC 1749bb. (j) Section 1002(a) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

12 USC 1749aaa. (k) Section 1101(a) of such Act is amended by striking out "October 31, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended, is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979".

12 USC 1709-1.

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979".

12 USC 1723e note.

COMPREHENSIVE PLANNING

SEC. 304. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $75,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $75,000,000 for the fiscal year 1978, and not to exceed $57,000,000 for the fiscal year 1979".

40 USC 461.

(b) The second sentence of section 701(c) of such Act is amended by striking out "biennially" and inserting in lieu thereof "triennially".

(c) Section 701(d)(2) of such Act is amended by striking out "biennially" and inserting in lieu thereof "at least triennially" and by striking out "two" and inserting in lieu thereof "three".

(d) Section 701(m) of such Act is amended by adding at the end thereof the following: 40 USC 461.

"(5) The term 'Indian tribal group or body' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).". "Indian tribal group or body." 25 USC 450 note. 31 USC 1221 note.

RESEARCH AUTHORIZATIONS

SEC. 305. (a) Title V of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence of section 501 "and not to exceed $60,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year 1978, and not to exceed $62,000,000 for the fiscal year 1979". 12 USC 1701z-1.

(b) Such title is further amended by adding at the end thereof the following new section:

"CONVERSIONS

"SEC. 510. In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.". Demonstration. 12 USC 1701z-9.

(c) The Secretary of Housing and Urban Development shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a final report no later than one year after the date of enactment of this Act to the Congress containing the findings and conclusions made as a result of such study, along with any legislative recommendations which the Secretary determines should be enacted with respect to the subject of such study. Study. 12 USC 1701z-9 note. Report to Congress.

NEW COMMUNITIES

SEC. 306. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979". 42 USC 4521.

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 307. (a) Section 1201 of the National Housing Act is amended— 12 USC 1749bbb.

(1) by striking out, in subsection (b)(1), "October 31, 1978" and inserting in lieu thereof "September 30, 1980";

(2) by striking out, in subsection (b)(1)(A), "October 31, 1981" and inserting in lieu thereof "September 30, 1983"; and

(3) by striking out, in subsection (b)(2), "October 31, 1978" and inserting in lieu thereof "September 30, 1981".

(b) Section 1211 of such Act is amended by adding the following new subsection at the end thereof: 12 USC 1749bbb-3.

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsec-

tion (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.".

12 USC 1749bbb-3. (c) Section 1211(b) of such Act is amended by striking out "and" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(11) Notwithstanding any other provision of this section, on and after January 31, 1979, no risk within the plan shall be insured at a rate higher than the rates or advisory rates set by the principal State-licensed rating organization for essential property insurance in the voluntary market; except that this provision shall not be deemed to prohibit the application to any such risk, on a nondiscriminatory basis, of condition charges for substandard physical conditions within the control of the applicant for insurance as set by the principal State-licensed rating organization for the voluntary market.".

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

42 USC 4026. SEC. 308. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1980".

42 USC 4056. (b) Section 1336(a) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1980".

FLOOD INSURANCE STUDIES

42 USC 4127. SEC. 309. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $108,000,000 for the fiscal year 1978" and inserting in lieu thereof the following: ", not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979.".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

12 USC 1735c. SEC. 310. Section 519(f) of the National Housing Act is amended by inserting the following before the period: ", which amount shall be increased by $165,000,000 on October 1, 1978".

MULTIFAMILY MORTGAGE INSURANCE

12 USC 1713. SEC. 311. (a) The last sentence of section 207(c) of the National Housing Act is amended by striking out "eight" and inserting in lieu thereof "five".

12 USC 1715z-6. (b) Section 241(d) of such Act is amended by adding at the end thereof the following: "At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may

deem appropriate to preserve or protect the Secretary's interest in the project or facility.".

MORTGAGE INSURANCE FOR NONRESIDENT CARE FACILITIES

SEC. 312. (a) Section 232(a) of the National Housing Act is amended— 12 USC 1715w.

(1) by inserting the following immediately before the period at the end of paragraph (1): ", including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day"; and

(2) by inserting the following immediately before the period at the end of paragraph (2): ", including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day".

(b) Section 232(b)(2) of such Act is amended by inserting immediately after "nursing services;" in the first sentence the following: "(3) a 'nursing home' or 'intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;". "Nursing home" or "intermediate care facility."

CONDOMINIUM MORTGAGE INSURANCE

SEC. 313. (a) The first sentence of section 234(c) of the National Housing Act is amended by inserting immediately after "less units" in the proviso of clause (2) the following: ", or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance,". 12 USC 1715y.

(b) The third sentence of section 234(c) of such Act is amended by inserting "(100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)" after "centum" in clause (A)(i).

PURCHASE OF FEE SIMPLE TITLE

SEC. 314. Section 240(c)(2) of the National Housing Act is amended by adding "($30,000, if the property is located in Hawaii)" immediately after "$10,000". 12 USC 1715z-5.

NATIONAL NEIGHBORHOOD POLICY ACT

SEC. 315. The National Neighborhood Policy Act is amended by striking out "one year" in section 204(c) and inserting in lieu thereof "fifteen months". 42 USC 1441 note.

HOUSING AND URBAN DEVELOPMENT DAY CARE CENTER FACILITIES

SEC. 316. Section 7(n) of the Department of Housing and Urban Development Act is amended to read as follows: 42 USC 3535.

"(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be

chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.".

SALE OF SURPLUS FEDERAL LAND FOR HOUSING

40 USC 484b. Federal surplus real property, transfer to Secretary of Housing and Urban Development. 40 USC 471 note.

SEC. 317. (a) The first and second sentences of section 414(a) of the Housing and Urban Development Act of 1969 are amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development at the Secretary's request for sale or lease by the Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low and moderate income, assisted under a Federal housing assistance program administered by the Secretary or under a State or local program found by the Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any disposition of Federal surplus real property to an entity other than a public body, the Secretary shall notify the governing body of the locality where such property is located of the proposed disposition and no such disposition shall be made if the local governing body, within ninety days of such notification, formally advises the Secretary that it objects to the proposed disposition, unless the Secretary determines (1) that the proposed disposition would be consistent with any approved housing assistance and community development plans developed by such body pursuant to the Housing and Community Development Act of 1974, or (2) in cases where such plans are not available, that there is a need for low- and moderate-income housing taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve any housing proposed in conjunction with the proposed disposition.".

42 USC 5301 note.

(b) Subsection (b) of section 414 of such Act is amended to read as follows:

"(b) As a condition of any disposition by the Secretary of Federal surplus real property under this section to an entity other than a public body, the Secretary shall obtain such undertakings as the Secretary may consider appropriate to assure that the property will be used, to the maximum practicable extent, in the provision of housing and related facilities to be occupied by families or individuals of low and moderate income for a period of not less than thirty years. If during such period the property is used for any purpose other than the purpose for which it was disposed of, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator, after the expiration of the first twenty years of such period, have approved the use of the property for such other purposes.".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY AND LIMITS

12 USC 1717.

SEC. 318. (a) The third clause of the proviso in section 302(b)(1) of the National Housing Act is amended by striking "if the original principal obligation thereof exceeds or exceeded $33,000 (or such

higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)" and inserting in lieu thereof "if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence; or $68,750 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use".

(b) Section 305(c) of such Act is amended by striking out "and by $2,000,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969, and subject to approval in an appropriation Act, by $500,000,000 on October 1, 1978". 12 USC 1720.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 319. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting after "1978" the following: ", and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1982". 12 USC 1701j-2.

TITLE I HOME IMPROVEMENT LOANS FOR MULTIFAMILY DWELLINGS

SEC. 320. The first sentence of section 2(b) of the National Housing Act is amended by striking out "$25,000", "$5,000", and "twelve years" in the third proviso in clause (3) and inserting in lieu thereof "$37,500", "$7,500", and "fifteen years", respectively. 12 USC 1703.

AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 321. (a) Paragraph (1) of subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence thereof: "or from any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act". 12 USC 1454. 12 USC 1701.

(b) Paragraph (1) of subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentences: "The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or servicers, and for such purposes the Corporation is authorized to classify sellers or servicers according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basis or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this Act. The Corporation may specify requirements concerning among other things, (A) minimum net worth; (B) supervisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior origination and servicing experience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases 12 USC 1454.

during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its programs by each type of eligible seller.".

Effective date. 12 USC 1454 note.

(c) The amendments made by this section shall become effective at the end of the two hundred and ten calendar days after enactment of this Act, but not before January 31, 1979, or on such earlier date as the Federal Home Loan Mortgage Corporation may prescribe.

SALE OF ACQUIRED PROPERTY TO COOPERATIVES

12 USC 1715z-11.

SEC. 322. Section 246 of the National Housing Act is amended to read as follows:

"SALE OF ACQUIRED PROPERTY TO COOPERATIVES

"SEC. 246. In any case which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provisions for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.".

SECONDARY MORTGAGES ON INSURED PROPERTIES

12 USC 1731a.

SEC. 323. Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"SECONDARY MORTGAGES ON INSURED PROPERTIES

12 USC 1735f-6. 12 USC 1707.

"SEC. 528. In carrying out the provisions of title II of this Act with respect to insuring mortgages secured by a one- to four-family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit which secures such mortgage will be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by any State or local governmental agency or instrumentality under terms and conditions approved by the Secretary.".

LEGISLATIVE REVIEW

SEC. 324. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection: 42 USC 3535.

"(o)(1) Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of the date of enactment of this subsection and at least semiannually thereafter. Rules or regulations agenda, transmittal to congressional committees.

"(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the first period of 15 calendar days of continuous session of Congress which occurs after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session prior to its being published for comment in the Federal Register. Notification.

"(B) Any rule or regulation which has not been published for comment before the date of enactment of this subsection and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days of continuous session of Congress prior to its being published for comment.

"(3) No rule or regulation may become effective until after the first period of 20 calendar days of continuous session of Congress which occurs after the day on which such rule or regulation is published as final. If within such 20-day period, either Committee has reported out or been discharged from further consideration of a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, the rule or regulation or portion thereof so addressed shall not become effective for a period of 90 calendar days from the date of Committee action or discharge unless the House to which such Committee reports has rejected such resolution or legislation, in which case the rule or regulation may go into effect only after the expiration of the 20 calendar days described in the first sentence of this paragraph if the other House does not have such a resolution or legislation pending or adopted, and if the requirements of section 553 of title 5, United States Code, are met.

"(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees. Waiver.

"(5) Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved.

"(6) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die;

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress; and

"(C) the term 'rule or regulation' does not include the setting of interest rates pursuant to section 3 of Public Law 90-301.". "Rule or regulation." 12 USC 1709-1.

INCREASED MORTGAGE CEILINGS FOR MORTGAGE INSURANCE PROGRAMS

12 USC 1715*l*.

SEC. 325. (a) Section 221(d)(3)(ii) of the National Housing Act is amended—

(1) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$21,563", "$24,662", "$29,984", "$38,379", and "$42,756", respectively; and

(2) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$22,692", "$26,012", "$31,631", "$40,919", and "$44,917", respectively.

(b) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$19,406", "$22,028", "$26,625", "$33,420", and "$37,870", respectively.

FHA-INSURED MORTGAGE REFINANCING OF HOSPITALS

12 USC 1715n.

SEC. 326. Section 223(f) of the National Housing Act is amended by—

(1) inserting before the period at the end of the first sentence thereof the following: "or the refinancing of existing debt of an existing hospital.";

(2) striking out "property" in the second sentence and inserting in lieu thereof "multifamily housing project"; and

(3) adding at the end thereof the following new sentence: "In the case of refinancing of an existing hospital the Secretary shall prescribe such terms and conditions as the Secretary deems necessary to assure that—

"(A) the refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital;

"(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on such existing hospital;

"(C) such existing hospital is economically viable; and

"(D) such existing hospital has received such certifications from a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under section 242 of this Act and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to section 1523(a)(6) of the Public Health Service Act.".

42 USC 291d, 300m.

12 USC 1715z-7.

42 USC 300m-2.

TITLE IV—CONGREGATE SERVICES

Congregate Housing Services Act of 1978.

SHORT TITLE

42 USC 8001 note.

SEC. 401. This title may be cited as the "Congregate Housing Services Act of 1978".

FINDINGS

42 USC 8001.

SEC. 402. The Congress finds that—

(1) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling temporarily disabled or handicapped indi-

viduals to maintain their dignity and independence and to avoid costly and unnecessary institutionalization;

(2) a large and growing number of elderly and handicapped residents of public housing projects and of nonprofit projects for the elderly and handicapped face premature and unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate housing projects; and

(3) supplemental supportive services, available on a secure and continuing basis, are essential to a successful congregate housing program.

DEFINITIONS

SEC. 403. For the purpose of this title— 42 USC 8002.

(1) the term "congregate housing" means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants;

(2) the term "congregate services programs" means programs to be undertaken by a public housing agency or a nonprofit corporation to provide assistance, including personal assistance and nutritional meals, to eligible project residents who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(3) the term "elderly" means sixty-two years of age or over;

(4) the term "eligible project resident" means elderly handicapped individuals, nonelderly handicapped individuals, or temporarily disabled individuals, who are residents of congregate housing projects administered by a public housing agency or by a nonprofit corporation;

(5) the term "handicapped" means having an impairment which (A) is expected to be of long-continued and indefinite duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services; such impairment may include a functional disability or frailty which is a normal consequence of the human aging process;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons appointed by a local public housing agency or a nonprofit corporation and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons, or both, in relation to the performance of the normal tasks of daily living;

(8) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services: and

(9) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

12 USC 1701q.

AUTHORIZATION TO ENTER INTO CONTRACTS

42 USC 8003.

SEC. 404. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies under the United States Housing Act of 1937 (hereinafter referred to as "public housing agencies") and with nonprofit corporations, utilizing sums appropriated under this title, to provide congregate services programs for eligible project residents in order to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive congregate services. Each contract between the Secretary and a public housing agency or nonprofit corporation shall be for a term of not less than three years or more than five years and shall be renewable at the expiration of such term. Each public housing agency or nonprofit corporation entering into such a contract shall be reserved a sum equal to its total approved contract amount from the moneys authorized and appropriated for the fiscal year in which the notification date of funding approval falls.

42 USC 1437 note.

CONGREGATE SERVICES PROGRAM

42 USC 8004.

SEC. 405. (a) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

Nondiscrimination.

(b) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Federal Government or any other public or private department, agency, or organization.

Application, consultation.

(c) A public housing agency or nonprofit corporation applying for assistance shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under this title and in identifying alternative available sources of funding for such services.

42 USC 3001 note.

Copy. Review and comment.

(d) Prior to the submission of a final application for either new or renewed funding under this title, a public housing agency and a nonprofit corporation shall present a copy of a proposed application to the Area Agency on Aging (or, where no Area Agency on Aging exists to the appropriate State agency under the Older Americans Act of 1965) for review and comment. Such agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title.

(e)(1) When nonelderly handicapped individuals are included among the eligible project residents, the public housing agency and nonprofit corporation shall consult with the appropriate local agency, if any, designated by applicable State law as having responsibility for the development, provision, or identification of social services to permanently disabled adults, for the purpose of determining the means of providing services under this title and of identifying alternative available sources of funding for such services.

(2) Such public housing agency and nonprofit corporation shall also, prior to the submission of a final application for either new or renewed funding under this title, present a copy of the proposed application to such appropriate local agency for review and comment. The public housing agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this title. Copy. Review and comment.

(f) Any nonprofit corporation or public housing agency receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(g) Nonprofit corporations and public housing agencies receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title before the date of the submission of the application for such assistance unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to subsection (f) of this section provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(h) Each nonprofit corporation and public housing agency shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees. When meal services are provided to other project residents, fees shall be reasonable and may not exceed the cost of providing the meal service. Fees.

(i) The Secretary shall establish standards for the provision of services under this title, and, in developing such service standards, the Secretary shall consult with the Secretary of the Department of Health, Education, and Welfare and with appropriate organizations representing the elderly and handicapped, as determined by the Secretary. Standards, consultation.

ELIGIBILITY FOR SERVICES

SEC. 406. (a) The identification of project residents eligible to participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual functional abilities and needs, shall be made by a professional assessment committee. Such committee shall utilize procedures which insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process and a right of appeal of such determination of eligibility, and shall also assure the confidentiality of personal and medical records. 42 USC 8005.

(b) Other residents may participate in a congregate meal service program assisted under this title if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

(c) Any public housing agency or nonprofit corporation receiving assistance under this title shall notify the Secretary of any change in the membership of the professional assessment committee within thirty Recipients membership change, notification.

days of such change. Such notification shall list the names and professional qualifications of new members of the committee.

Procedures.

(d) Procedures shall be established to insure that changes in the membership of the professional assessment committee are consistent with the requirements of section 403(7) of this title.

APPLICATION PROCEDURES

42 USC 8006.

SEC. 407. (a) An application for assistance under this title shall include—

(1) a plan specifying the types and priorities of the basic services the public housing agency or nonprofit corporation proposes to provide during the term of the contract; such plan must be related to the needs and characteristics of the eligible project residents and, to the maximum extent practicable, provide for the changing needs and characteristics of all project residents; such plan shall be determined after consultation with eligible project residents and with the professional assessment committee;

(2) a list of names and professional qualifications of the members of the professional assessment committee;

(3) the fee schedule established pursuant to section 405(h) of this title;

(4) any comment received in connection with any review of a proposed application pursuant to section 405(d) or 405(e)(2); and

(5) a statement affirming (A) that the nonprofit corporation or public housing agency has followed the consultation procedures required in subsections (c), (d), and (e) of section 405, and (B) that such application complies with subsection (b) of such section.

Submission deadlines and notification.

(b) The Secretary shall establish appropriate deadlines for each fiscal year for the submission of applications for funding under this title and shall notify any public housing agency and nonprofit corporation applying for assistance under this title of acceptance or rejection of its application within ninety days of such submission.

Review.

(c) Within twelve months prior to the submission of an application for renewed funding under this title, each nonprofit corporation and public housing agency shall review the performance, appropriateness, and fee schedules of their congregate services program with eligible project residents and with the professional assessment committee. The results of such review shall be included in any application for renewal and shall be considered in the development of the application for renewal by the nonprofit corporation or public housing agency and in its evaluation by the Secretary.

EVALUATION OF APPLICATION AND PROGRAMS

42 USC 8007.

SEC. 408. (a) In evaluating applications for assistance under this title, the Secretary shall consider—

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee; and

(5) the reasonableness of fee schedules established for each congregate service.

(b) In evaluating programs receiving assistance under this title, the Secretary shall—

(1) establish procedures for the review and evaluation of the performance of nonprofit corporations and public housing agencies receiving assistance under this title, including provisions for the submission of an annual report, by each such nonprofit corporation and public housing agency, which evaluates the impact and effectiveness of its congregate services program; and Procedures.

(2) publish annually and submit to the Congress, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the evaluations required to be submitted pursuant to paragraph (1). Report, annual publication and submittal to Congress.

FUNDING PROCEDURES

SEC. 409. (a) The Secretary shall establish procedures— 42 USC 8008.

(1) to assure timely payments to nonprofit corporations and public housing agencies for approved assisted congregate services programs with provision made for advance funding sufficient to meet necessary startup costs;

(2) to permit reallocation of funds approved for the establishment of congregate services in existing public housing projects and projects assisted under section 202 of the Housing Act of 1959 if the services are not established within six months of the notification date of funding approval;

(3) to assure that where such funding has been approved for the establishment of congregate services for public housing projects and projects assisted under section 202 of the Housing Act of 1959 under construction or approved for construction, these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living; 12 USC 1701q.

(4) to establish accounting and other standards in order to prevent any fraudulent or inappropriate use of funds under this title; and

(5) to assure that no more than 1 per centum of the funds appropriated under this title for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes as required by section 408(b)(1).

(b) The Secretary shall establish a reserve fund, not to exceed 10 per centum of the funds appropriated in each fiscal year for the provision of services under this title, in order to supplement grants awarded to public housing agencies and nonprofit corporations under this title when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible project residents. Reserve fund, establishment.

MISCELLANEOUS PROVISIONS

SEC. 410. (a) Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of public housing projects or projects assisted under section 202 of the Housing Act of 1959, but who are not eligible project residents, to participate in pro- 42 USC 8009.

viding the services assisted under this title. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

29 USC 201.
29 USC 206.
29 USC 213.

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(b) No service provided to a public housing resident or to a resident of a housing project assisted under section 202 of the Housing Act of 1959 under this title, except for wages paid under subsection (a) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

12 USC 1701q.

(c) Individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(d) The Secretary may issue regulations to carry out the provisions of this title.

Regulations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 411. (a) To carry out the provisions of this title, there are authorized to be appropriated—

42 USC 8010.

(1) for fiscal year 1979, not to exceed $20,000,000;
(2) for fiscal year 1980, not to exceed $25,000,000;
(3) for fiscal year 1981, not to exceed $35,000,000; and
(4) for fiscal year 1982, not to exceed $40,000,000.

(b) Sums appropriated pursuant to this section shall remain available until expended.

AMENDMENT TO THE UNITED STATES HOUSING ACT OF 1937

SEC. 412. Section 7 of the United States Housing Act of 1937 is amended by striking out the second sentence and inserting in lieu thereof the following: "As used in this section, the term 'congregate housing' means (1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978.".

"Congregate housing."
42 USC 1437e.

Ante, p. 2104.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513(b) of the Housing Act of 1949 is amended by inserting after "October 31, 1978" the following: ", and not to exceed $48,000,000 for the fiscal year ending September 30, 1979".

42 USC 1483.

(b) Section 513(c) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and not to exceed $38,000,000 for the fiscal year ending September 30, 1979".

(c) Section 513 of such Act is amended by striking out clause (d) and inserting in lieu thereof the following: "(d) not to exceed $10,000,000 for research and study programs pursuant to subsections (b), (c), and (d) of section 506 for the fiscal year ending September 30, 1979;". 42 USC 1483.

(d) Section 514 of such Act is amended by striking out "$25,000,000" in subsection (d) and inserting in lieu thereof "$38,000,000 (subject to approval in an appropriation Act)". 42 USC 1484.

(e) Section 515(b)(5) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979". 42 USC 1485.

(f) Section 517(a)(1) of such Act is amended by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979". 42 USC 1487.

(g) Section 523(f) of such Act is amended— 42 USC 1490c.

(1) by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(h) Section 523(g) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and not to exceed $3.000,000 for the fiscal year ending September 30, 1979".

(i) Section 525(c) of such Act is amended by inserting after the first sentence the following new sentence: "There are also authorized to be appropriated for the fiscal year ending September 30, 1979, not to exceed $5,000,000 for the purposes of subsection (a) and not to exceed $5,000,000 for the purposes of subsection (b).". 42 USC 1490e.

RURAL HOUSING RESEARCH

SEC. 502. (a) Subsection (b) of section 506 of the Housing Act of 1949 is amended to read as follows: Buildings and repairs.

"(b) The Secretary is further authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of the Farmers Home Administration and the national housing goals defined in section 2 of this Act. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing, with particular attention to the housing needs of the elderly, handicapped, migrant and seasonal farmworkers, Indians and other identifiable groups with special needs. The Secretary shall conduct such activities for the purposes of stimulating construction and improving the architectural design and utility of dwellings and buildings.". 42 USC 1476. 42 USC 1441.

(b) Section 506 of such Act is amended by adding the following new subsection at the end thereof: Study.

"(f)(1) The Secretary shall conduct a study of housing which is available for migrant and settled farmworkers. In conducting such study, the Secretary shall—

"(A) determine the location, number, quality, and condition of housing units which are available to such farmworkers and the cost assessed such farmworkers for occupying such units;

"(B) recommend legislative, administrative, and other action (including the need for new authority for such action) which may be taken for the purpose of improving both the availability and the condition of such housing units; and

"(C) determine the possible roles which individual farmworkers, farmworker associations, individual farmers, farmer

associations, and public and private nonprofit agencies can perform in improving the housing conditions of farmworkers.

Results to House and Senate.

"(2) The Secretary shall transmit the results of the study described in paragraph (1) to each House of the Congress within one year after the date of the enactment of this subsection.".

APPEALS PROCEDURES

Rules and regulations.
42 USC 1480.

SEC. 503. Section 510 of the Housing Act of 1949 is amended by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), respectively, and by inserting the following new paragraph after paragraph (f):

"(g) issue rules and regulations which assure that applicants denied assistance under this title or persons or organizations whose assistance under this title is being substantially reduced or terminated are given written notice of the reasons for denial, reduction or termination and are provided at least an opportunity to appeal an adverse decision and to present additional information relevant to that decision to a person, other than the person making the original determination, who has authority to reverse the decision;".

DOMESTIC FARM LABOR HOUSING

Waiver.
42 USC 1484.

SEC. 504. Section 514 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g) The Secretary may waive the interest rate limitation contained in subsection (a)(2) and the requirement of section 501(c)(3) in any case in which the Secretary determines that qualified public or private nonprofit sponsors are not currently available and are not likely to become available within a reasonable period of time and such waiver is necessary to permit farmers to provide housing and related facilities for migrant domestic farm laborers, except that the benefits resulting from such waiver shall accrue to the tenants, and the interest rate on a loan insured under this section and for which the Secretary permits such waiver shall be no less than one-eighth of 1 per centum above the average interest rate on notes or other obligations which are issued under section 511 and have maturities comparable to such a loan.".

42 USC 1471.

42 USC 1481.

SPONSORS PRIORITY

42 USC 1486.

SEC. 505. Section 516(e) of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.".

ASSISTANCE TO PERSONS RECEIVING LOANS TO PROVIDE OCCUPANT-OWNED, RENTAL, AND COOPERATIVE HOUSING

42 USC 1490a.

SEC. 506. (a) Section 521(a)(1) of the Housing Act of 1949 is amended—

(1) by inserting "(A)" after "SEC. 521. (a)(1)";

(2) by striking out everything in the first sentence after "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(3) by inserting the following at the end thereof:

"(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per

annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) who the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) and when the Secretary determines that assisted rental housing programs (as authorized under this title, the National Housing Act, and the United States Housing Act of 1937) would be unsuitable in the area in which such persons reside, the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant. 42 USC 1472, 1487. 12 USC 1701. 42 USC 1437 note.

"(D) With respect to borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance. Recapture. Maintenance incentives.

"(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

"(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the appplicant for necessary housing cannot be met with financial assistance from other sources including assistance under the National Housing Act and the United States Housing Act of 1937.

"(G) Interest on loans under section 502 or 517(a) to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.

"(H) The aggregate principal amount of loans made to borrowers receiving assistance pursuant to subparagraph (C) shall not exceed $440,000,000.".

(b) Section 517(j) of such Act is amended by striking out "(2)" in paragraph (4). 42 USC 1487.

RURAL RENTAL ASSISTANCE

SEC. 507. Section 521(a)(2)(A) of the Housing Act of 1949 is amended— 42 USC 1490a.

(1) by striking out "the owners" in the first sentence and inserting in lieu thereof "public and private nonprofit owners";

(2) by inserting "congregate, or cooperative" after "rental" the second time it appears in the first sentence; and

(3) by inserting ", by a loan under section 514," immediately after "section 515 for elderly or handicapped housing" in clause (i) of the second sentence.

STUDY OF EMERGENCY POTABLE WATER AND SEWAGE PROGRAM

42 USC 1476 note.

SEC. 508. (a) The Secretary of Agriculture shall—

(1) carry out a study to determine the approximate number of rural housing units without access to sanitary toilet facilities, potable water, or access to both sanitary toilet facilities and potable water, as defined under regulations established by the Secretary; and

(2) prepare a projection of the cost of implementing an emergency program to provide sanitary toilet facilities and potable water supplies for all such housing units over a two-year period.

Report to Congress.

(b) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall report to the Congress the results of the study and projection under subsection (a).

STUDY OF PROBLEMS CAUSED BY REMOTE CLAIMS

42 USC 1480 note.

SEC. 509. (a) The Secretary of Agriculture (hereafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit of assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered, after consulting with the Secretary of Housing and Urban Development.

Reports to Congress.

(b) Not later than March 1, 1979, the Secretary shall transmit to the Congress an interim report on the study conducted under this section. In addition, the Secretary shall, not later than one year after the date of the enactment of this Act, transmit a final report to the Congress. Such final report shall contain the findings and conclusions of the Secretary with respect to the study made under this section. In addition, such final report shall include—

Legislative recommendations.

(1) recommendations for Federal legislative actions necessary to implement reasonable remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

Neighborhood Reinvestment Corporation Act.

SHORT TITLE

SEC. 601. This title may be cited as the "Neighborhood Reinvestment Corporation Act". 42 USC 8101 note.

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds that— 42 USC 8101.

(1) the neighborhood housing services demonstration of the Urban Reinvestment Task Force has proven its worth as a successful program to revitalize older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present Urban Reinvestment Task Force.

(b) The purpose of this title is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF CORPORATION

SEC. 603. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein. 42 USC 8102.

(b) The corporation shall implement and expand the demonstration activities carried out by the Urban Reinvestment Task Force. Duties.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe. Offices.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 604. (a) The corporation shall be under the direction of a board of directors made up of the following members: Membership. 42 USC 8103.

(1) the Chairman of the Federal Home Loan Bank Board;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

Chairman.

(b) The Board shall elect from among its members a chairman who shall serve for a term of two years, except that the Chairman of the Federal Home Loan Bank Board shall serve as Chairman of the Board of Directors for the first such two-year term.

(c) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

Compensation and expenses.

(d) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(e) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation and consistent with the provisions of this title.

Quorum.

(f) The presence of a majority of the board members shall constitute a quorum.

(g) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(h) All meetings of the board of directors will be conducted in accordance with the provisions of section 552b of title 5, United States Code.

OFFICERS AND EMPLOYEES

42 USC 8104.

SEC. 605. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to approval by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States, and the corporation shall not be considered a department, agency, or instrumentality of the Federal Government. The corporation shall be subject to administrative and cost standards issued by the Office of Management and Budget similar to standards applicable to non-profit grantees and educational institutions.

POWERS AND DUTIES

SEC. 606. (a)(1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods throughout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered non-profit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

Housing services programs, continuation.
42 USC 8105.

(2) The corporation shall continue the work of the Urban Reinvestment Task Force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

Preservation projects.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the Urban Reinvestment Task Force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with support which may include technical assistance and grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) The corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corportion such information as may be necessary to determine compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation is authorized—

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 608(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole

or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

Contracts and grants.

(c)(1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the Urban Reinvestment Task Force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

Services and facilities.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d)(1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

Transmittal to President and Congress.
42 USC 8106.

SEC. 607. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States. The financial transactions of the corporation shall be audited by the General Accounting Office at least once during each three years.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 608. (a) There are authorized to be appropriated to the corporation to carry out this title not to exceed $12,500,000 for fiscal year 1979. Appropriation authorization. 42 USC 8107.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time. Annual budget submittal. Transmittal to Congress. 31 USC 1.

TITLE VII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

Neighborhood Self-Help Development Act of 1978.

SHORT TITLE

SEC. 701. This title may be cited as the "Neighborhood Self-Help Development Act of 1978". 42 USC 8121 note.

FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds and declares that— 42 USC 8121.

(1) existing urban neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote governmental and private programs and activities that further that objective;

(2) to be effective, neighborhood conservation and revitalization efforts must involve the fullest possible support and participation of those most directly affected at the neighborhood levels; and

(3) an effective way to obtain such support and participation at the neighborhood level is through neighborhood organizations accountable to residents of a particular neighborhood with a demonstrable capacity for developing, assessing, and carrying out projects for neighborhood conservation and revitalization.

(b) Therefore, the purposes of this title are (1) to provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, which are in need of preservation and revitalization, and (2) in the process of pro-

viding such assistance, to increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.

DEFINITIONS

42 USC 8122.

SEC. 703. As used in this title—

(1) the term "neighborhood organization" means a voluntary, nonprofit organization which (A) is broadly representative of the neighborhood in which the project will be located (and may include representatives of local business, financial and other governmental and nongovernmental entities), (B) is accountable to neighborhood residents with respect to the project being proposed, (C) has an objective the preservation and revitalization of such neighborhood, and (D) is found by the Secretary to have a proven record or demonstrable capacity for developing resources for, and effectively implementing neighborhood conservation and revitalization programs and projects;

(2) the term "neighborhood conservation and revitalization projects" includes, but is not limited to, (A) locally initiated programs for housing rehabilitation or the creative reuse or improvement of existing housing; (B) conservation and revitalization of neighborhood retail business areas and the recycling of vacant or underutilized industrial sites, public facilities, and privately-owned businesses for the purpose of expanding employment opportunities and neighborhood economic development; and (C) energy conservation and weatherization projects; and

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

AUTHORITY TO PROVIDE ASSISTANCE

Grants.
42 USC 8123.

SEC. 704. (a) The Secretary is authorized to make grants and to provide other forms of assistance to neighborhood organizations for effectively preparing and implementing specific housing, economic and community development, and other appropriate neighborhood conservation and revitalization projects within a particular neighborhood, and to assist such organizations in implementing such projects in partnership with local government and other public and private entities.

(b) Grants and other forms of assistance may be made available under this section only if—

(1) the assistance will be used for a specific project which is related to and supportive of a conservation or revitalization strategy for the neighborhood in which the project will be located;

(2) the project will, to the extent feasible, include a self-help component which involves a contribution of time or resources by neighborhood residents;

(3) the project will directly benefit the residents of a low- or moderate-income neighborhood;

(4) the project will, to the extent feasible, involve leveraging of resources available from the private sector;

(5) the project will, to the extent feasible, involve the coordination of resources available from the local, State, or Federal Government;

(6) the applicant demonstrates that the residents of the neighborhood where the project will be located, and particularly residents who will be directly affected by the project, have been actively involved in and supportive of the selection of the project, and will continue to be involved in project development, implementation, and evaluation through an effective and continuing participation mechanism; and

(7) the applicant provides evidence that identified funding sources support the project and can make funds available contingent on the progress of the project.

(c) Grants and other forms of assistance made available under this section shall be used primarily for preparing and the implementation of specific neighborhood housing, economic, and community development projects. No grant or other assistance or portion thereof shall be made available under this section for (1) planning functions which are not directly combined with project implementation, (2) a public works project such as street repair which is not associated with the specific project being funded under this section, (3) operation of a social service program which is not associated with the specific project being funded under this section, (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located, (5) operating costs of a community group which are not associated with the specific project being funded under this section, or (6) other purposes which the Secretary may determine are not consistent with the purposes of this title.

(d) Grants and other forms of assistance may be made available under this title only if the application contains a certification by the unit of general local government within which the neighborhood to be assisted is located that such assistance is consistent with, and supportive of the specific objectives of that unit of government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by such unit.

Consultation and coordination.

(e) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this title, including the Community Services Administration, with respect to (1) general standards, policies, and procedures to be followed in the administration of this title, and (2) particular assistance actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies. The Secretary shall ensure the close coordination of activities assisted under this title with other related Federal, State, and local assistance programs, including the programs of the Community Services Administration, and, with respect to particular assistance actions or approvals, ensure a maximum commitment by the neighborhood organization of its own financial and other resources toward the assisted project.

APPROPRIATIONS

42 USC 8124.

SEC. 705. There are authorized to be appropriated for the purpose of carrying out this title not to exceed $15,000,000 for each of the fiscal years 1979 and 1980. Any amount appropriated pursuant to this section shall remain available until expended.

Livable Cities Act of 1978.

TITLE VIII—LIVABLE CITIES

SHORT TITLE

42 USC 8141 note.

SEC. 801. This title may be cited as the "Livable Cities Act of 1978".

FINDINGS

42 USC 8141.

SEC. 802. The Congress finds and declares—

(1) that artistic, cultural, and historic resources, including urban design, constitute an integral part of a suitable living environment for the residents of the Nation's urban areas, and should be available to all residents of such areas, regardless of income;

(2) that the development or preservation of such resources is a significant and necessary factor in restoring and maintaining the vitality of the urban environment, and can serve as a catalyst for improving decaying or deteriorated urban communities and expanding economic opportunities, and for creating a sense of community identity, spirit, and pride; and

(3) that the encouragement and support of local initiatives to develop or preserve such resources, particularly in connection with federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate function of the Federal Government.

PURPOSE

42 USC 8142.

SEC. 803. The primary purpose of this title is to assist the efforts of States, local governments, neighborhood and other organizations to provide a more suitable living environment, expand cultural opportunities, and to the extent practicable, stimulate economic opportunities, primarily for the low and moderate income residents of communities and neighborhoods in need of conservation and revitalization, through the utilization, design or development of artistic, cultural, or historic resources.

DEFINITIONS

42 USC 8143.

SEC. 804. For the purpose of this title—

(1) the terms "art" and "arts" include, but are not limited to, architecture (including preservation, restoration, or adaptive use of existing structures), landscape architecture, urban design, interior design, graphic arts, fine arts (including painting and sculpture), performing arts (including music, drama, and dance), literature, crafts, photography, communications media and film, as well as other similar activities which reflect the cultural heritage of the Nation's communities and their citizens;

(2) the term "nonprofit organization" means an organization in which no part of its net earnings inures to the benefit of any private stockholder or stockholders, individual or individuals and, if a private entity, which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation and does not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office; such organizations may include States and units of local government (including public agencies or special authorities thereof), regional organizations of local gov-

26 USC 501.

ernments and nonprofit societies, neighborhood groups, institutions, organizations, associations or museums;

(3) the term "project" means a program or activity intended to carry out the purposes of this title, including programs for neighborhood and community-based arts programs, urban design, user needs design, and the encouragement of the preservation of historic or other structures which have neighborhood or community significance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(6) the term "Department" means the Department of Housing and Urban Development; and

(7) the term "Endowment" means the National Endowment for the Arts.

GRANTS TO OR CONTRACTS WITH ORGANIZATIONS

SEC. 805. (a) The Secretary is authorized to make grants to, or enter into contracts with, nonprofit organizations for the purpose of enabling such organizations to undertake or support in cities, urban communities, or neighborhoods, projects which the Secretary, in consultation with the Chairman, determines will carry out the purposes of this title and which— 42 USC 8144.

(1) have substantial artistic, cultural, historical, or design merit,

(2) represent community or neighborhood initiatives which have a significant potential for conserving or revitalizing communities or neighborhoods, and for enhancing community or neighborhood identity and pride, and

(3) meet the criteria established jointly by the Secretary and the Chairman pursuant to this section.

(b) The Secretary and the Chairman shall establish jointly criteria and procedures for evaluating and selecting projects to be assisted under this title. Such criteria shall address, but need not be limited to— Assistance, criteria and procedures, joint establishment.

(1) artistic, cultural, historical, or design quality;

(2) the degree of broadly based, active involvement of neighborhood residents, community groups, local officials, and persons with expertise in the arts with the proposed project;

(3) the degree of or the potential for utilization or stimulation of assistance or cooperation from other Federal, State, and local public and private sources, including arts organizations;

(4) the feasibility of project implementation, including the capability of the sponsor organization;

(5) the potential contribution to neighborhood revitalization and the creation of a sense of community identity and pride;

(6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of persons of low and moderate income; and

(7) the potential of utilization of the project by neighborhood residents, particularly residents of low and moderate income, senior citizens, and handicapped persons.

(c) No assistance shall be made under this title except upon application therefor submitted to the Secretary in accordance with regulations and procedures established jointly by the Secretary and the Chairman.

Consultation.

(d) Prior to the approval of any application for assistance under this title, the Secretary shall consult with the Chairman and, in accordance with regulations and procedures established jointly by the Secretary and the Chairman, seek the recommendations of State and local officials and private citizens who have broad knowledge of, or experience or expertise in, community and economic development and revitalization, and of such officials and citizens who have broad knowledge of, or expertise in, the arts.

Regulations.

(e) The Secretary, in cooperation with the Chairman, shall prescribe regulations which require that specific portions of the cost of any projects assisted under this title shall be provided from sources other than funds made available under this title. Such matching requirements may vary depending on the type of applicant, and the Secretary may reduce or waive such requirements solely in order to take account of the financial capacity of the applicant.

Reduction or waiver.

Certification.

(f) Grants and other assistance may be made available under this title only if the application contains a certification by the unit of general local government in which the project will be located that the project is consistent with and supportive of the objectives of that government for the area in which the project is located.

(g) Funds made available under this title shall not be used to supplant other public or private funds.

(h) No more than 10 per centum of the funds appropriated for any fiscal year under section 807 shall be available for administrative expenses.

COORDINATION AND DEVELOPMENT OF PROGRAM WITH OTHER FEDERAL AND NONFEDERAL PROGRAMS

42 USC 8145.

SEC. 806. The Secretary shall coordinate the administration of the provisions of this title in cooperation with other Federal agencies and assure that projects assisted under this title are coordinated with efforts undertaken by State and local public and private entities, including arts organizations.

AUTHORIZATION OF APPROPRIATIONS

42 USC 8146.

SEC. 807. There are authorized to be appropriated for carrying out the purposes of this title not to exceed $5,000,000 for fiscal year 1979, and not to exceed $10,000,000 for fiscal year 1980. Any amounts appropriated under this section shall remain available until expended.

TITLE IX—MISCELLANEOUS

REPORT ON MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

42 USC 5425.

SEC. 901. (a) The first sentence of section 626(a) of the National Mobile Home Construction and Safety Standards Act of 1974 is amended—

(1) by striking out "March 1 of each year" and inserting in lieu thereof "July 1 of every other year beginning with calendar year 1978"; and

(2) by striking out "preceding calendar year" and inserting in lieu thereof "two preceding calendar years".

(b) The second sentence of section 626(a) of such Act is amended by striking out "such year" in clauses (1), (2), and (5) and "the year" in clause (6) and inserting in lieu thereof "such years" in each such clause.

STATEMENT OF POLICY AND STUDY ON HOUSING DISPLACEMENT

SEC. 902. The Congress declares that in the administration of Federal housing and community development programs, consistent with other program goals and objectives involuntary displacement of persons from their homes and neighborhoods should be minimized. In furtherance of the objective stated in the preceding sentence, the Secretary of Housing and Urban Development shall conduct a study on the nature and extent of such displacement, and, not later than January 31, 1979, shall report to the Congress on recommendations for the formulation of a national policy to minimize involuntary displacement caused by the implementation of the Department's programs, and to alleviate the problems caused by displacement of residents of the Nation's cities due to residential and commercial development and housing rehabilitation, both publicly and privately financed. In carrying out such study, the Secretary shall (1) consult with representatives of affected public interest groups, government, and the development and lending industries; (2) provide data on the nature and scope of the displacement problem, both past and projected, and identify steps needed to improve the availability of such data; and (3) report fully on the current legal and regulatory powers and policies of the Department to prevent or compensate for displacement caused by its own programs.

42 USC 5313 note.

Report to Congress.

REHABILITATION GUIDELINES

SEC. 903. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"REHABILITATION GUIDELINES

"SEC. 511. (a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

12 USC 1701z-10.

"(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

Consultation.

"(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

Publication.

"(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

"(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.".

Report to Congress.

ALASKA HOUSING PROGRAM

SEC. 904. (a) Subsection (a) of section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended to read as follows:

Loans and grants. 42 USC 3371.

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') may make loans and grants on

the basis of need to the regional native housing authorities duly constituted under the laws of the State of Alaska for the purpose of providing planning assistance, housing rehabilitation, and maintaining an adequate administrative structure in conjunction with the provision of housing and related facilities for Alaska residents.".

(b) Subsection (b) of such section is amended by inserting before the period at the end thereof the following: ", except that the Secretary may make a grant in excess of such limitation in any case, after consultation with State officials".

PAPERWORK REDUCTION

42 USC 3541.

SEC. 905. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage forms;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(F) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extent permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section

if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93-556. Implementation, report to Congress.

HOUSING PRODUCTION REPORT

SEC. 906. Section 1603 of the Housing and Urban Development Act of 1968 is amended to read as follows: 42 USC 1441c.

"REPORT ON GOALS

"SEC. 1603. Not later than January 20 of each year, the President shall transmit to the Congress a report which— Transmittal to Congress.

"(1) reviews the progress made in achieving housing production objectives during the preceding year, and in the event that proposed objectives are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources;

"(3) specifies Federal programs and policies to be implemented or recommended in order to achieve the objective;

"(4) updates estimates of the housing needs of lower income families, analyzing these needs, insofar as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(6) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(7) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

AMENDMENTS TO INTERSTATE LAND SALES FULL DISCLOSURE ACT

SEC. 907. (a) Section 1403(a) of the Interstate Land Sales Full Disclosure Act is amended— 15 USC 1702.

(1) by inserting "condominium," after "commercial." in clause (3);

(2) by inserting after "'adverse claims' do not refer to" in clause (10) the following: "United States land patents or Federal grants and reservations similar to United States land patents, nor to"; and

(3) by striking out the matter which precedes "when—" in clause (11) and inserting in lieu thereof the following:

"(11) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located,".

15 USC 1702.

(b) Section 1403 of such Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) thereof the following:

15 USC 1704–1707.

"(b) Unless the method of disposition is adopted by the purpose of evasion of this title, the requirements of sections 1405 through 1408 shall not apply to the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(1) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(2) the lot is situated on a paved, public street or highway which has been built to a standard acceptable to the unit of local government in which the subdivision is located or a bond or other surety acceptable to the municipality or county in the full amount of the cost of the improvements has been posted to assure completion to such standards and the unit of local government has accepted or is obligated to accept the responsibility of maintaining the public street or highway;

"(3) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within 180 days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

"(4) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days after the signing of the sales contract;

"(5) a policy of title insurance is issued in connection with the transaction showing that, at the time of closing, title to the lot purchased or leased is vested in the seller or lessor subject only to such exceptions as may be approved in writing by the purchaser or lessee prior to recordation of the deed or execution of the lease;

"(6) each and every purchaser or spouse has made a personal, on the lot inspection of the lot purchased or leased, prior to signing of a contract to purchase or lease; and

"(7) there are no direct mail or telephone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot.".

COST-BENEFIT ANALYSIS OF FIELD REORGANIZATIONS

SEC. 908. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following: 42 USC 3535.

"(p) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization;

"(3) a study of the impact on the local economy; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

Approved October 31, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1161 accompanying H.R. 12433 (Comm. on Banking, Finance, and Urban Affairs) and No. 95-1792 (Comm. of Conference).

SENATE REPORT No. 95-871 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 19, 20, considered and passed Senate.

June 23, 28, 29, July 20, 21, H.R. 12433 considered and passed House.

July 24, considered and passed House, amended, in lieu of H.R. 12433.

Oct. 14, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

39-194 O—80—pt. 2——54 : QL3

Public Law 95-558
95th Congress

An Act

Nov. 1, 1978
[S. 3595]

To amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

Rulemaking procedures report.
Filing deadline, extension.
15 USC 57a note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act is amended by striking out "July 5, 1978", and inserting in lieu thereof "June 30, 1979".

Approved November 1, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 12, considered and passed Senate.
Oct. 13, considered and passed House.

Public Law 95-559
95th Congress

An Act

To amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations.

Nov. 1, 1978
[S. 2534]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Maintenance Organization Amendments of 1978.

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1978". 42 USC 201 note.

(b) Whenever in this Act (other than in section 14) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act. 42 USC 201 note.

EXTENSION OF PROGRAM

SEC. 2. (a) Section 1304(j) is amended (1) by striking out "may be made through September 30, 1978;", and (2) by striking out "1979" and inserting in lieu thereof "1981". 42 USC 300e-3.

(b) Section 1305(d) is amended by striking out "1980" and inserting in lieu thereof "1981". 42 USC 300e-4.

(c) Section 1309(a) is amended (1) by striking out "and" after "1977,", and (2) by striking out the semicolon and all that follows in that section and inserting in lieu thereof the following: ", $31,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $68,000,000 for the fiscal year ending September 30, 1981.". 42 USC 300e-8.

INITIAL DEVELOPMENT

SEC. 3. (a) The first sentence of section 1304(b)(2) is amended by striking out "includes" and inserting in lieu thereof "means the establishment of a health maintenance organization, the expansion of the services of a health maintenance organization, or the". 42 USC 300e-3.

(b)(1) The first sentence of section 1304(b)(3) is amended by striking out "in the one-year period beginning on" and inserting in lieu thereof "incurred in a period not to exceed three years from".

(2) The second sentence of such section is repealed.

(c)(1) Subparagraph (A) of section 1304(f)(2) is amended to read as follows:

"(A) $1,000,000 through September 30, 1979, and $2,000,000 thereafter, or".

(2) Section 1304(f) is amended—

(A) by striking out "The amount" in paragraph (2) and inserting in lieu thereof "Except as provided in paragraph (3), the amount";

(B) by striking out "(except as provided in paragraph (3))" in paragraph (2); and

(C) by inserting after "(3)" in paragraph (3) the following: "The cumulative total of grants made to, contracts entered into with, and principal of loans guaranteed for, a health maintenance

organization under subsection (b) of this section may not exceed $1,000,000 through September 30, 1979, or $2,000,000 thereafter.".

Effective date. 42 USC 300e-3 note.

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978.

INITIAL OPERATING LOANS AND LOAN GUARANTEES

42 USC 300e-4.

SEC. 4. (a) Section 1305(b)(1) is amended by—

(1) striking out "$2,500,000" and inserting in lieu thereof "$2,500,000 (or $4,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and, within 30 days of the making of such loans or loan guarantees, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the loans or loan guarantees and a copy of the written determination made with respect to the loans or loan guarantees and the reasons for the determination) through September 30, 1979, and $4,000,000 thereafter"; and

(2) striking out "$1,000,000" and inserting in lieu thereof "$1,000,000 (or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and, within 30 days of such disbursement, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the disbursement and a copy of the written determination made with respect to it and the reasons for the determination) through September 30, 1979, and $2,000,000 thereafter".

(b)(1) Section 1305(a) is amended by striking out "operating costs" each place it occurs and inserting in lieu thereof "costs of operation".

(2) The second sentence of section 1305(b)(1) is amended by striking out "any fiscal year" and inserting in lieu thereof "any twelve-month period".

(3) The title of section 1305 is amended by striking out "OPERATION COSTS" and inserting in lieu thereof "COSTS OF OPERATION".

42 USC 300e-7.

(c)(1) Section 1308 is amended by adding at the end the following new subsection:

"(f) The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this title, including taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.".

(2)(A) Subsection (d) of section 1308 is amended (i) by inserting before the period in the first sentence of paragraph (1) the following: "and to take the action authorized by subsection (f)", and (ii) by inserting after "under this title" in the first sentence of paragraph (2) the following: "and to take the action authorized by subsection (f)".

(B) The first sentence of subsection (e) of section 1308 is amended by inserting before the period the following: "and to take the action authorized by subsection (f)".

(d) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978. Effective date. 42 USC 300e-4 note

LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

SEC. 5. (a) Title XIII is amended by inserting after section 1305 the following new section: 42 USC 300e.

"LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY HEALTH CARE FACILITIES

"SEC. 1305A. (a) The Secretary may— 42 USC 300e-4a. 42 USC 300e-7.

"(1) make loans, from the fund established under section 1308 (e), to public and nonprofit private health maintenance organizations for projects for the acquisition or construction of ambulatory health care facilities and for the acquisition of equipment for facilities acquired or constructed under a loan made under this paragraph; and

"(2) guarantee to—

"(A) non-Federal lenders for their loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations, and

"(B) the Federal Financing Bank for its loans to nonprofit private health maintenance organizations for projects described in paragraph (1) and to private health maintenance organizations for such projects which will serve medically underserved populations,

the payment of principal and interest on such loans.

"(b) (1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for an ambulatory health care facility may not exceed $2,500,000. Principal of loans, limitation.

"(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts. Cumulative total, limitation.

"(3) The authority of the Secretary to make loans under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(c) For purposes of this section—

"(1) The term 'ambulatory health care facility' means a health care facility for the provision of diagnostic, treatment, and prevention services to ambulatory patients; and "Ambulatory health care facility."

"(2) the term 'construction' means the (A) construction of new facilities, (B) alterations, expansion, remodeling, replacement, and renovation of existing facilities, (C) cost of offsite improvements in connection with an activity described in clause (A) or (B), and (D) cost of the acquisition of land in connection with an activity described in clause (A), (B), or (C).". "Construction."

(b) Section 1313(4) is amended by inserting before the period the following: "or in meeting the costs of such organizations in acquiring or constructing ambulatory health care facilities". 42 USC 300e-12.

CONTINUING DEVELOPMENT ASSISTANCE

42 USC 300e-3.

SEC. 6. Section 1304(b) is amended by adding after paragraph (3) the following new paragraph:

"(4) A health maintenance organization which is a qualified health maintenance organization within the meaning of section 1310(d) may receive, in accordance with paragraph (1), a grant, contract, or loan guarantee for the expansion of its services or the significant expansion of its membership or the area served by it.".

42 USC 300e-9.

TRAINING AND TECHNICAL ASSISTANCE

42 USC 300e.

SEC. 7. (a) Title XIII is amended by adding at the end thereof the following new section:

"TRAINING AND TECHNICAL ASSISTANCE

National Health Maintenance Organization Intern Program. Establishment. 42 USC 300e-16.

"SEC. 1317. (a)(1) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter in this subsection referred to as the 'Program') for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. Under the Program the Secretary may directly provide internships for such training and may make grants to or enter into contracts with health maintenance organizations and other entities to provide such internships.

"(2) No internship may be provided by the Secretary and no grant may be made or contract entered into by the Secretary for the provision of internships unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form and contain such information, and be submitted to the Secretary in such manner, as the Secretary shall prescribe. Section 1306 does not apply to an application submitted under this section.

Travel and other expenses. Payments to organization or other entity.

"(3) Internships under the Program shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the internships as the Secretary deems necessary. An internship provided an individual for training at a health maintenance organization or any other entity shall also provide for payments to be made to the organization or other entity for the cost of support services (including the cost of salaries, supplies, equipment, and related items) provided such individual by such organization or other entity. The amount of any such payments to any organization or other entity shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the organization or other entity for establishing and maintaining its training programs.

"(4) Payments under grants under the Program may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

Technical assistance. 42 USC 300e-2, 300e-3. 42 USC 300e-9.

"(b) The Secretary shall provide technical assistance (1) to entities in connection with projects for which assistance is being provided under section 1303 or 1304, (2) to entities intending to become a qualified health maintenance organization within the meaning of section 1310(d), and (3) to health maintenance organizations. The Secretary may provide such technical assistance through grants to public and nonprofit private entities and contracts with public and private entities.

"(c) The authority of the Secretary to enter into contracts under subsections (a) and (b) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) Section 1309(a) is amended by striking out "and 1304(b)" and inserting in lieu thereof "1304(b), and 1317". 42 USC 300e-8. *Ante* p. 2134.

(c) The amendments made by this section shall only be effective for fiscal years beginning on or after October 1, 1978. 42 USC 300e-16 note.

EMPLOYEE HEALTH BENEFIT PLANS

SEC. 8. (a) Section 1310(c) is amended by adding at the end the following: "Each employer which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required and which is required by subsection (a) to offer his employees the option of membership in a qualified health maintenance organization shall, with the consent of an employee who exercises such option, arrange for the employee's contribution for such membership to be paid through payroll deductions.". 42 USC 300e-9.

(b) Clauses (1) and (2) of section 1310(b) are amended to read as follows:

"(1) one or more of such organizations provides basic health services through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups), and

"(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), or (B) a combination of such association (or associations), medical group (or groups), staff, and individual physicians and other health professionals under contract with the organization,".

FINANCIAL DISCLOSURE; ENROLLMENT PROTECTION

SEC. 9. (a) Title XIII as amended by section 7 is amended by adding at the end the following new section: 42 USC 300e.

"FINANCIAL DISCLOSURE

"SEC. 1318. (a) Each health maintenance organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following: 42 USC 300e-17.

"(1) Such information as the Secretary may require demonstrating that the health maintenance organization has a fiscally sound operation.

"(2) The information required to be reported under section 1124 of the Social Security Act by disclosing entities and the information required to be supplied under section 1902(a)(38) of such Act. 42 USC 1320a-3. 42 USC 1396a.

"(3) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

"(A) any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

"(B) any furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical group (or groups), individual practice association (or associations), or any combination thereof), or facilities between the health maintenance organization and a party in interest; and

"(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

Consolidated financial statement.

The Secretary may require that information reported respecting a health maintenance organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"Party in interest."

"(b) For the purposes of this section the term 'party in interest' means:

"(1) any director, officer, partner, or employee of a health maintenance organization, any person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the health maintenance organization, and, in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(2) any entity in which a person described in paragraph (1)—

"(A) is an officer or director;

"(B) is a partner (if such entity is organized as a partnership);

"(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

"(D) has a mortgage, deed of trust, note, on other interest valuing more than 5 per centum of the assets of such entity;

"(3) any person directly or indirectly controlling, controlled by, or under common control with a health maintenance organization; and

"(4) any member of the immediate family of an individual described in paragraph (1).

Information, availability.

"(c) Each health maintenance organization shall make the information reported pursuant to subsection (a) available to its enrollees upon reasonable request.

Evaluation of transactions.

"(d) The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(3) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(3).

Number of organizations.

Report to Congress.

"(e) The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d);

"(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) with such standards and norms; Conformity, or nonconformity.

"(3) what action, if any, the Secretary considers necessary under section 1312 with respect to health maintenance organizations evaluated under subsection (d). 42 USC 300e-11.

"(f) Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization. Rates.

"(g) Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this title until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 1310. Annual financial statement, filing. 42 USC 300e-9.

"(h) Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.". False statement or representation of material fact, penalty.

(b) Section 1301(c)(3) is amended (1) by inserting "(A)" after "(3)", and (2) by inserting before the semicolon a comma and the following: "and (B) carry out enrollment of members who are entitled to medical assistance under a State plan approved under title XIX of the Social Security Act in accordance with procedures approved under regulations promulgated by the Secretary". 42 USC 300e. 42 USC 1396.

ORGANIZATION REQUIREMENTS

SEC. 10. (a) Section 1301(b) is amended (1) by inserting "except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "(C)" in paragraph (1), and (2) by inserting "unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "community rating system" in the second sentence of paragraph (2). 42 USC 300e,

(b) Section 1301(c)(1) is amended (1) by inserting "(A)" after "(1)", and (2) by inserting before the semicolon a comma and the following: "and (B) have administrative and managerial arrangements satisfactory to the Secretary".

(c) Section 1301(c)(6) is amended (1) by striking out "(6)" and inserting in lieu thereof "(6)(A) in the case of a private health maintenance organization,", (2) by redesignating clauses (A) and (B) as subclauses (i) and (ii), respectively, and (3) by inserting before the semicolon a comma and the following: "and (B) in the case of a public health maintenance organization, have an advisory board to the policymaking body of the public entity operating the organization which board meets the requirements of clause (A) of this paragraph and to which may be delegated policymaking authority for the organization."

REQUIREMENTS FOR THE PROVISION OF SERVICES

42 USC 300e.

SEC. 11. (a) Paragraph (3) of section 1310(b) is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), the services of a physician which are provided as basic health services shall be provided through—

"(i) members of the staff of the health maintenance organization,

"(ii) a medical group (or groups),

"(iii) an individual practice association (or associations),

"(iv) subject to subparagraph (C), physicians or other health professionals who have contracted with the health maintenance organization for the provision of such services, or

"(v) any combination of such staff, medical group (or groups), individual practice association (or associations) or physicians or other health professionals under contract with the organization.

"(B)(i) Subparagraph (A) does not apply to the provision of the services of a physician—

"(I) which the health maintenance organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or

"(II) which are provided a member of the organization in a manner other than that prescribed by subparagraph (A) because of an emergency which made it medically necessary that the service be provided to the member before it could be provided in a manner prescribed by subparagraph (A).

"(ii) In a forty-eight-month period beginning after the month in which a health maintenance organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), the organization may provide the services of physicians through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for the purposes of this title. After the expiration of such period, the organization may provide physician services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity.

42 USC 300e-1.

Contracts with other than staff physicians, prohibition.

"(C) After the expiration of the first four fiscal years of a health maintenance organization beginning after the month in which it became a qualified health maintenance organization (within the meaning of section 1310(d)), the organization may not enter into contracts with physicians other than members of staff, medical groups, or individual practice associations if the amounts paid under such contracts for basic and supplemental health services provided by physicians exceed 15 per centum of the total estimated amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services by physicians, or, if the health maintenance organization principally serves a rural area, 30 per centum of such amount, except that this subparagraph does not apply to the entering into contracts for the purchase of physician services through an entity which, but for the requirements of

section 1302(4)(C)(i), would be a medical group for the purposes of this title. 42 USC 300e-1.

"(D) Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).

"(E) For purposes of this paragraph the term 'health professional' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.". "Health professional."

(b) Section 1301(b)(1) is amended by adding at the end the following: "The requirements of this paragraph respecting the basic health services payment shall not apply to the provision of basic health services to a member for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or an insurance policy but only to the extent such benefits apply to such services. For the provision of such services for an illness or injury for which a member is entitled to benefits under such a law, the health maintenance organization may, if authorized by such law, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, the insurance carrier, employer, or other entity which under such law is to pay for the provision of such services or, to the extent that such member has been paid under such law for such services, such member. For the provision of such services for an illness or injury for which a member is entitled to benefits under an insurance policy, a health maintenance organization may charge or authorize the provider of such services to charge the insurance carrier under such policy or, to the extent that such member has been paid under such policy for such services, such member.". 42 USC 300e. Basic health service payment. Charges by health maintenance organization or provider of services.

(c) The second sentence of section 1301(b)(4) is amended to read as follows: "A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic and supplemental health services other than through the organization if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition.". Reimbursement.

(d) Section 1301(b) is amended by adding at the end the following new paragraph:

"(5) To the extent that a natural disaster, war, riot, civil insurrection, or any other similar event not within the control of a health maintenance organization (as determined under regulations of the Secretary) results in the facilities, personnel, or financial resources of a health maintenance organization not being available to provide or arrange for the provision of a basic or supplemental health service in accordance with the requirements of paragraphs (1) through (4) of this subsection, such requirements only require the organization to make a good-faith effort to provide or arrange for the provision of such service within such limitation on its facilities, personnel, or resources.". Natural disaster, war, riot, or other similar event.

(e) Section 1302(1) is amended by inserting before the second sentence the following: "Such term does not include a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not neces- 42 USC 300e-1.

sary for the protection of individual health. The Secretary shall publish in the Federal Register each determination made by him under the preceding sentence.".

Publication in Federal Register.

ADMINISTRATION OF PROGRAM

SEC. 12. (a)(1) Subsection (h) of section 1310 is repealed.

Repeal. 42 USC 300e-9.

(2) Subsection (c) of section 1312 is repealed.

Repeal. 42 USC 300e-11.

(b) Section 1306(b)(2) is amended by inserting "in the case of an application for assistance under section 1304, 1305, or 1305A," before "he determines".

42 USC 300e-5.

(c) Section 1306(b) is amended by adding at the end the following new sentence: "In determining, for purposes of paragraph (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary shall not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.".

PROGRAM MANAGEMENT EVALUATION

42 USC 300e-13.

SEC. 13. Section 1314 is amended by adding at the end thereof the following new subsection:

Grant and loan programs.

"(d) The Comptroller General shall evaluate the adequacy and effectiveness of the policies and procedures of the Secretary for the management of the grant and loan programs established by this title and the adequacy of the amounts of assistance available under such programs and shall report to the Congress the results of such evaluation not later than May 1, 1979.".

Report to Congress.

AMENDMENTS TO THE SOCIAL SECURITY ACT

42 USC 1396a.

SEC. 14. (a)(1) Section 1902(a)(4) of the Social Security Act is amended (A) by striking out "and" at the end of clause (A), and (B) by inserting before the semicolon a comma and the following: "and (C) that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code".

Effective date. 42 USC 1396a note.

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the requirement added by the amendments made by paragraph (1), such amendments shall not apply with respect to such State plan before ninety days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) Section 1122 of the Social Security Act is amended— 42 USC 1320a-1.

(1) by striking out "or health maintenance organizations" each place it occurs,

(2) by striking out "or health maintenance organizations" each place it occurs, and

(3) by striking out "or organization, or of any facility of such organization," in subsection (d)(2).

(c) Section 1903(m)(1)(B) of the Social Security Act is amended by striking out "shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions". 42 USC 1396b.

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1479 accompanying H.R. 13655 (Comm. on Interstate and Foreign Commerce) and No. 95-1784 (Comm. of Conference).

SENATE REPORT No. 95-837 (Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 21, considered and passed Senate.

Sept. 25, H.R. 13655 considered and passed House; passage vacated and S. 2534, amended, passed in lieu.

Oct. 13, House agreed to conference report.

Oct. 14, Senate agreed to conference report.

Public Law 95-560
95th Congress

An Act

Nov. 1, 1978
[H.R. 8389]

Authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.

Mrs. Robert F. Kennedy. Gold medal presentation, authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to present, in the name of Congress, an appropriate gold medal to Mrs. Robert F. Kennedy, in recognition of the distinguished and dedicated service which her late husband gave to the Government and to the people of the United States. For such purposes, the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary. There is authorized to be appropriated the sum of $3,000 to carry out the provisions of this section.

Appropriation authorization.

SEC. 2. The Secretary of the Treasury is authorized to strike and make available for sale to the public—

(1) full-sized duplicates in bronze, and

(2) replicas in bronze, one and five-sixteenths inches in diameter,

of the medal authorized by section 1.

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1601 (Comm. on Banking, Finance, and Urban Affairs).
SENATE REPORT No. 95-1316 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 26, considered and passed House.

Oct. 15, considered and passed Senate, amended; House disagreed to Senate amendment; Senate subsequently receded from amendment.

Public Law 95-561
95th Congress

An Act

To extend and amend expiring elementary and secondary education programs, and for other purposes.

Nov. 1, 1978
[H.R. 15]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1978".

Education Amendments of 1978.
20 USC 2701 note.

TABLE OF CONTENTS

TITLE I—AMENDMENT TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 101. Special educational programs and projects for educationally deprived children.

"TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"Sec. 101. Declaration of policy.
"Sec. 102. Duration of assistance.

"PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Grants

"Sec. 111. Grants—Amount and eligibility.
"Sec. 112. Treatment of earnings for purposes of aid to families with dependent children.

"Subpart 2—Special Grants

"Sec. 116. Special incentive grants.
"Sec. 117. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

"Subpart 3—Program Requirements and Applications

"Sec. 121. Local program application.
"Sec. 122. Designating school attendance areas.
"Sec. 123. Children to be served.
"Sec. 124. Requirements for design and implementation of programs.
"Sec. 125. Parental involvement.
"Sec. 126. Funds allocation.
"Sec. 127. Accountability.
"Sec. 128. Complaint resolution.
"Sec. 129. Individualized plans.
"Sec. 130. Participation of children enrolled in private schools.

"Subpart 4—Exemptions From Certain Program Requirements

"Sec. 131. Exclusions from excess costs and comparability provisions for certain special State and local programs.
"Sec. 132. Limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded.
"Sec. 133. Schoolwide projects.
"Sec. 134. Noninstructional duties.

"PART B—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

"Sec. 141. Grants—Entitlement and amount.
"Sec. 142. Program requirements.
"Sec. 143. Coordination of migrant education activities.

"Subpart 2—Programs for Handicapped Children

"Sec. 146. Amount and eligibility.
"Sec. 147. Program requirements.

"Subpart 3—Programs for Neglected and Delinquent Children

"Sec. 151. Amount and entitlement.
"Sec. 152. Program requirement.
"Sec. 153. Transition services.

"Subpart 4—General Provisions for State Operated Programs

"Sec. 156. Reservation of funds for territories.
"Sec. 157. Minimum payments for State operated programs.

"PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

"Subpart 1—Applicability; State Applications

"Sec. 161. Applicability.
"Sec. 162. State applications.

"Subpart 2—Duties Imposed on State Educational Agencies

"Sec. 164. Application approval.
"Sec. 165. State rulemaking.
"Sec. 166. Technical assistance and dissemination of information.
"Sec. 167. Monitoring.
"Sec. 168. Complaint resolution.
"Sec. 169. Withholding of payments.
"Sec. 170. Audits and audit resolution.

"Subpart 3—Responsibilities of State Educational Agencies to Commissioner

"Sec. 171. State monitoring and enforcement plans.
"Sec. 172. Reporting.
"Sec. 173. Recordkeeping, fiscal control, and fund accounting.
"Sec. 174. Prohibition of consideration of Federal aid in determining State aid.

"PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

"Sec. 181. Applicability.
"Sec. 182. Approval of applications.
"Sec. 183. Program evaluation.
"Sec. 184. Complaint resolution.
"Sec. 185. Audits and audit resolution.
"Sec. 186. Withholding of payments.
"Sec. 187. Policy manual.
"Sec. 188. Enforcement report.

"PART E—PAYMENTS

"Sec. 191. Payment methods.
"Sec. 192. Amount of payments to local educational agencies.
"Sec. 193. Adjustments where necessitated by appropriations.
"Sec. 194. Payments for State administration.

"PART F—GENERAL PROVISIONS

"Sec. 195. Judicial review.
"Sec. 196. National Advisory Council.

"Sec. 197. Limitation on grant to Puerto Rico.
"Sec. 198. Definitions.".
Sec. 102. Study of alternatives for demonstrating comparability.

TITLE II—ESTABLISHMENT OF A NEW TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 201. Basic skills.

"TITLE II—BASIC SKILLS IMPROVEMENT

"PART A—NATIONAL PROGRAM

"Sec. 201. Purpose.
"Sec. 202. Applications.
"Sec. 203. Acceptance of gifts.
"Sec. 204. Grants and contracts.
"Sec. 205. Instruction in basic skills.
"Sec. 206. Parental participation in basic skills instruction.
"Sec. 207. Use of technology in basic skills instruction.
"Sec. 208. Involvement of educational agencies and private organizations.
"Sec. 209. Collection and dissemination of information relating to basic skills programs.
"Sec. 210. Coordination.

"PART B—STATE BASIC SKILLS IMPROVEMENT PROGRAM

"Sec. 221. Statement of purpose.
"Sec. 222. Agreements with State educational agencies.
"Sec. 223. Distribution of funds.
"Sec. 224. State leadership program.

"PART C—SPECIAL PROGRAMS FOR IMPROVING BASIC SKILLS

"Sec. 231. Inexpensive book distribution program for reading motivation.
"Sec. 232. Special mathematics program.

"PART D—GENERAL PROVISIONS

"Sec. 241. Authorization of appropriations.
"Sec. 242. Apportionment of appropriations.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 301. Special projects.

"TITLE III—SPECIAL PROJECTS

"PART A—GENERAL PROVISIONS

"Sec. 301. Statement of purpose.
"Sec. 302. Grants and contracts authorized.
"Sec. 303. Commissioner's discretionary projects.

"PART B—METRIC EDUCATION

"Sec. 311. Short title; declaration of purpose.
"Sec. 312. Program authorized.
"Sec. 313. Application.
"Sec. 314. Authorization of appropriations.

"PART C—ARTS IN EDUCATION

"Sec. 321. Short title; statement of findings.
"Sec. 322. Program authorized.
"Sec. 323. Authorization of appropriations.

39-194 O—80—pt. 2——55 : QL3

"PART D—PRESCHOOL PARTNERSHIP PROGRAMS

"Sec. 325. Establishment of program.

"PART E—CONSUMER EDUCATION

"Sec. 331. Short title; statement of findings.
"Sec. 332. Office of Consumers' Education.
"Sec. 333. Program authorized.
"Sec. 334. Application.
"Sec. 335. Reports and evaluations.
"Sec. 336. Reservation of funds.

"PART F—YOUTH EMPLOYMENT

"Sec. 341. Program authorized.
"Sec. 342. Authorization of appropriations.

"PART G—LAW-RELATED EDUCATION

"Sec. 346. Short title; declaration of findings.
"Sec. 347. Program authorized.
"Sec. 348. Authorization of appropriations.

"PART H—ENVIRONMENTAL EDUCATION

"Sec. 351. Short title; declaration of findings; purpose.
"Sec. 352. Office of Environmental Education.
"Sec. 353. Program authorized.
"Sec. 354. Application.
"Sec. 355. Technical assistance.
"Sec. 356. Special grants.
"Sec. 357. Administration.
"Sec. 358. Authorization of appropriations.

"PART I—HEALTH EDUCATION

"Sec. 361. Short title; declaration of purpose.
"Sec. 362. Program authorized.
"Sec. 363. Application.
"Sec. 364. Authorization of appropriations.

"PART J—CORRECTION EDUCATION

"Sec. 371. Short title.
"Sec. 372. Program authorized.
"Sec. 373. Technical assistance.
"Sec. 374. Authorization of appropriations.

"PART K—DISSEMINATION OF INFORMATION

"Sec. 376. Dissemination of information.

"PART L—BIOMEDICAL SCIENCES

"Sec. 381. Findings and purpose.
"Sec. 382. Definitions.
"Sec. 383. Projects for economically disadvantaged students.
"Sec. 384. Project activities.
"Sec. 385. Applications.
"Sec. 386. Use of funds.
"Sec. 387. Appropriations authorized.

"PART M—POPULATION EDUCATION

"Sec. 391. Short title.
"Sec. 392. Program authorized.".

TITLE IV—AMENDMENT TO TITLE IV OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 401. Libraries, learning resources, educational innovation and support.

"TITLE IV—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

"PART A—GENERAL PROVISIONS

"Sec. 401. Purpose.
"Sec. 402. Authorization of appropriations.
"Sec. 403. Allotments to States.
"Sec. 404. State plans.
"Sec. 405. Payments to States.
"Sec. 406. Participation of children enrolled in private schools.

"PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

"Sec. 421. Activities authorized.
"Sec. 422. Program requirements.

"PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICES

"Sec. 431. Activities authorized.
"Sec. 432. Program requirements.

"PART D—GUIDANCE, COUNSELING, AND TESTING

"Sec. 441. Program authorized.
"Sec. 442. Program requirements.
"Sec. 443. Administration.".

TITLE V—ESTABLISHMENT OF NEW TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 501. State leadership.

"TITLE V—STATE LEADERSHIP

"PART A—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY

"Sec. 501. Single State application.
"Sec. 502. Single local educational agency application.
"Sec. 503. Application approval.
"Sec. 504. State rulemaking.
"Sec. 505. Technical assistance and dissemination of information.
"Sec. 506. Monitoring.
"Sec. 507. Complaint resolution.
"Sec. 508. Withholding of payments.
"Sec. 509. Audits and audit resolution.
"Sec. 510. Payments; authorization.

"PART B—STRENGTHENING STATE EDUCATIONAL MANAGEMENT

"Sec. 521. Activities authorized.
"Sec. 522. Program requirements.
"Sec. 523. Authorization of appropriations.

"PART C—COUNCILS ON QUALITY IN EDUCATION

"Sec. 531. National and State advisory councils.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 601. Emergency school aid.

"TITLE VI—EMERGENCY SCHOOL AID

"Sec. 601. Short title.
"Sec. 602. Findings and purpose.

"Sec. 603. Policy with respect to the application of certain provisions of Federal law.
"Sec. 604. Authorization.
"Sec. 605. Apportionment among States.
"Sec. 606. Eligibility for assistance.
"Sec. 607. Authorized activities.
"Sec. 608. Special programs and projects.
"Sec. 609. Metropolitan area projects.
"Sec. 610. Applications.
"Sec. 611. Educational television and radio.
"Sec. 612. Payments.
"Sec. 613. Evaluations.
"Sec. 614. Joint funding.
"Sec. 615. Attorney fees.
"Sec. 616. Neighborhood schools.
"Sec. 617. Definitions.".

TITLE VII—AMENDMENT TO TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 701. Amendment.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"Sec. 701. Short title.
"Sec. 702. Policy; appropriations.
"Sec. 703. Definitions; regulations.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"Sec. 721. Bilingual education programs.
"Sec. 722. Indian children in schools.
"Sec. 723. Training.

"PART B—ADMINISTRATION

"Sec. 731. Office of Bilingual Education.
"Sec. 732. National Advisory Council on Bilingual Education.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"Sec. 741. Administration.
"Sec. 742. Bilingual education research and development.

"PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

"Sec. 751. Assistance to local educational agencies eligible under the Emergency School Aid Act.".

TITLE VIII—ESTABLISHMENT OF A NEW TITLE VIII AND A NEW TITLE IX OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 801. Community education program authorized.

"TITLE VIII—COMMUNITY SCHOOLS

"Sec. 801. Short title.
"Sec. 802. Statement of findings and policy.
"Sec. 803. Definition of community education program.
"Sec. 804. State programs for community education.
"Sec. 805. Allotment.
"Sec. 806. Use of community education programs for non-Federal contribution in certain Federal programs.
"Sec. 807. Uses of funds.
"Sec. 808. State plan.
"Sec. 809. Grants to local educational agencies.
"Sec. 810. Grants to public agencies and nonprofit organizations for delivery of community services through community education.

"Sec. 811. National leadership and planning.
"Sec. 812. Training of community education personnel.
"Sec. 813. Research.
"Sec. 814. Administration.
"Sec. 815. Federal share.".
Sec. 802. Additional programs authorized.

"TITLE IX—ADDITIONAL PROGRAMS

"PART A—GIFTED AND TALENTED CHILDREN

"Sec. 901. Short title; purpose.
"Sec. 902. Definition.
"Sec. 903. Authorization of appropriations; apportionment of appropriations.
"Sec. 904. State programs.
"Sec. 905. Discretionary programs.
"Sec. 906. State allotments.
"Sec. 907. Administration.
"Sec. 908. Federal share.

"PART B—EDUCATIONAL PROFICIENCY STANDARDS

"Sec. 921. Grants to implement educational proficiency standards.
"Sec. 922. Achievement testing assistance.

"PART C—WOMEN'S EDUCATIONAL EQUITY

"Sec. 931. Short title; purpose.
"Sec. 932. Grant and contract authority.
"Sec. 933. Application; participation.
"Sec. 934. Small grants.
"Sec. 935. Criteria and priorities.
"Sec. 936. National Advisory Council on Women's Educational Programs.
"Sec. 937. Report.
"Sec. 938. Authorization of appropriations.

"PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

"Sec. 941. Purpose.
"Sec. 942. Authorization of appropriations.
"Sec. 943. Allotments to local educational agencies.
"Sec. 944. Application.

"PART E—ETHNIC HERITAGE PROGRAM

"Sec. 951. Statement of policy.
"Sec. 952. Ethnic heritage studies programs.
"Sec. 953. Authorized activities.
"Sec. 954. Applications.
"Sec. 955. Administrative provisions.
"Sec. 956. National Advisory Council.
"Sec. 957. Authorization of appropriations.".

TITLE IX—AMENDMENTS RELATING TO GENERAL PROVISIONS OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 901. Revision of title VIII—general provisions.

TITLE X—IMPACT AID AMENDMENTS

PART A—PUBLIC LAW 874

Sec. 1001. General extensions of Public Law 874.
Sec. 1002. Revision of jurisdictional limits on locations of Federal property.
Sec. 1003. Provisions regarding heavily impacted school districts.
Sec. 1004. Absorption.
Sec. 1005. Early payments on the basis of estimates.
Sec. 1006. State equalization.
Sec. 1007. Adjustments necessitated by appropriations.
Sec. 1008. Hearings.

Sec. 1009. Children for whom local agencies are unable to provide education.
Sec. 1010. Prompt consideration for applications.
Sec. 1011. Property owned by foreign governments and international organizations.
Sec. 1012. Definition of local educational agency.
Sec. 1013. Handicapped children.
Sec. 1014. Use of average daily membership.
Sec. 1015. Impact aid study.

PART B—PUBLIC LAW 815

Sec. 1021. General extensions of Public Law 815.
Sec. 1022. Determination of number of children.
Sec. 1023. Construction arrangements.
Sec. 1024. Disaster assistance.

PART C—GENERAL PROVISIONS

Sec. 1031. Northern Mariana Islands.
Sec. 1032. Effective Date.

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

Sec. 1101. Amendment to Public Law 874.
Sec. 1102. Funding provision.
Sec. 1103. Basic educational support.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

Sec. 1121. Standards for the basic education of Indian children in Bureau of Indian Affairs schools.
Sec. 1122. National criteria for dormitory situations.
Sec. 1123. Regulations.
Sec. 1124. Studies.
Sec. 1125. Facilities construction.
Sec. 1126. Bureau of Indian Affairs education functions.
Sec. 1127. Implementation.
Sec. 1128. Allotment formula.
Sec. 1129. Uniform direct funding and support.
Sec. 1130. Policy for Indian control of Indian education.
Sec. 1131. Education personnel.
Sec. 1132. Management information system.
Sec. 1133. Bureau education policies.
Sec. 1134. Uniform education procedures and practices.
Sec. 1135. Recruitment of Indian educators.
Sec. 1136. Annual report.
Sec. 1137. Rights of Indian students.
Sec. 1138. Regulations.
Sec. 1139. Definitions.

PART C—INDIAN EDUCATION PROVISIONS

Sec. 1141. Extension of authorization.
Sec. 1142. Culturally related academic needs.
Sec. 1143. Demonstration projects.
Sec. 1144. Parent committees.
Sec. 1145. Allocation adjustment.
Sec. 1146. Tribal schools.
Sec. 1147. Definition study.
Sec. 1148. Data collection.
Sec. 1149. Program monitoring.
Sec. 1150. Amendments to title X of the Elementary and Secondary Education Act of 1965.
Sec. 1151. Definition of Indian.
Sec. 1152. Teacher training and fellowships.

TITLE XII—ADMINISTRATIVE PROVISIONS

PART A—EQUALIZATION

Sec. 1201. Data collection.
Sec. 1202. Equalization assistance.
Sec. 1203. School finance.

PART B—PAPERWORK CONTROL

Sec. 1211. Short title.
Sec. 1212. General Education Provisions Act amendment.
Sec. 1213. Applications.

PART C—FEDERAL, STATE AND LOCAL RESPONSIBILITIES

Sec. 1231. State and local administration.
Sec. 1232. Enforcement.

PART D—GENERAL ADMINISTRATIVE PROVISIONS

Sec. 1241. Office of Non-Public Education.
Sec. 1242. National assessment of educational progress.
Sec. 1243. National Center for Education Statistics.
Sec. 1244. General authority of administrative heads of education agencies.
Sec. 1245. Availability of appropriations.
Sec. 1246. Evaluation.
Sec. 1247. Review of applications.
Sec. 1248. Technical assistance; dissemination.
Sec. 1249. Maintenance of effort.
Sec. 1250. Protection of pupil rights.

PART E—EFFECTIVE DATE

Sec. 1261. Effective Dates.

TITLE XIII—REVISION OF OTHER EDUCATION PROGRAMS

PART A—ADULT EDUCATION

Sec. 1301. Statement of purpose.
Sec. 1302. Definition of adult education.
Sec. 1303. Grants to States.
Sec. 1304. Northern Mariana Islands.
Sec. 1305. State plans.
Sec. 1306. Payments.
Sec. 1307. Research, evaluation, and clearinghouse.
Sec. 1308. Special projects for the elderly.
Sec. 1309. National Advisory Council.
Sec. 1310. Authorization of appropriations.
Sec. 1311. Educational opportunities for adult Indians.
Sec. 1312. Indochina refugees.
Sec. 1313. Adult education program for immigrants.

PART B—HIGHER EDUCATION

Sec. 1321. Teacher training programs.
Sec. 1322. Amendment for advances for reserved funds of State loan insurance programs.
Sec. 1323. Direct loans to students; conforming amendment.

PART C—INDOCHINESE REFUGEE CHILDREN

Sec. 1331. Extension of program.

PART D—EDUCATION OF THE HANDICAPPED

Sec. 1341. Technical amendment.

PART E—GUIDANCE AND COUNSELING

Sec. 1351. Extension of program.

TITLE XIV—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

Sec. 1401. Short title.
Sec. 1402. Establishment of defense dependents' education system.
Sec. 1403. Office of Dependents' Education.
Sec. 1404. Tuition-paying students.
Sec. 1405. Annual educational assessment.
Sec. 1406. School construction by the Director of Dependents' Education.
Sec. 1407. School system for dependents in overseas areas.
Sec. 1408. Eligibility for school lunch and breakfast programs.
Sec. 1409. Allotment formula.
Sec. 1410. School advisory committees.
Sec. 1411. Advisory Council on Dependents' Education.
Sec. 1412. Study of defense dependents' education system.
Sec. 1413. Regulations.
Sec. 1414. Definitions.
Sec. 1415. Effective dates.

TITLE XV—MISCELLANEOUS PROVISIONS

PART A—INTERNATIONAL YEAR OF THE CHILD

Sec. 1501. Declaration of purpose of the International Year of the Child.
Sec. 1502. Establishment of a National Commission.
Sec. 1503. Functions of the Commission.
Sec. 1504. Coordination and administration.
Sec. 1505. Waivers of certain other provisions of law.
Sec. 1506. Termination date.
Sec. 1507. Authorization of appropriations.

PART B—NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

Sec. 1511. Establishment.
Sec. 1512. Duties of Commission.
Sec. 1513. Membership.
Sec. 1514. Director and staff of Commission; experts and consultants.
Sec. 1515. Powers of Commission.
Sec. 1516. Reports.
Sec. 1517. Termination.
Sec. 1518. Authorization of appropriations.
Sec. 1519. Definitions.

PART C—MISCELLANEOUS AMENDMENTS; EFFECTIVE DATES

Sec. 1521. Preparation of census data.
Sec. 1522. Authorization of appropriations for racially isolated school districts.
Sec. 1523. Availability of education reports.
Sec. 1524. General assistance for the Virgin Islands.
Sec. 1525. Territorial teacher training assistance.
Sec. 1526. Study of evaluation practices and procedures.
Sec. 1527. Television program assistance.
Sec. 1528. Limitation on contracting authority.
Sec. 1529. Repeal.
Sec. 1530. General effective date.

TITLE I—AMENDMENT TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

SEC. 101. (a) Title I of the Act entitled "An Act to strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools", approved April 11, 1965, as amended (Public Law 89-10, also known as the Elementary and Secondary Education Act of 1965), is amended to read as follows:

20 USC 821 note.

"TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"DECLARATION OF POLICY

"SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children and of handicapped, neglected, and delinquent children, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children. 20 USC 2701.

"DURATION OF ASSISTANCE

"SEC. 102. During the period beginning October 1, 1978, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title. 20 USC 2702.

"PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Grants

"GRANTS—AMOUNT AND ELIGIBILITY

"SEC. 111. (a) AMOUNT OF GRANTS.—(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term 'State' by this subsection, and payments pursuant to section 156), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1976 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust

Appropriation authorization. 20 USC 2711.

Post, p. 2195.

Post, p. 2182.

Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

"(2) (A) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

Grants for Puerto Rico.

"(C) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year (exclusive of any amount received under paragraph (3)(D) shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence, and

"(ii) 32 per centum of the average per pupil expenditure in the United States.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educa-

tional agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this part (other than section 117) directly to local educational agencies without regard to the counties. If the Commissioner approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Commissioner for a final determination.

"(D) (i) From one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979, there shall be alloted to each State an amount which bears the same ratio to such excess as the product of—

"(I) the number of children in such State aged five to seventeen, inclusive, from families below 50 per centum of the median national income for four-person families from the 1975 survey of income and education conducted by the Bureau of the Census,

multiplied by—

"(II) 40 per centum of the amount determined under the second sentence of pragraph (2) (A) and, in the case of Puerto Rico, the product determined under subparagraph (C) (i) and (ii) of this paragraph.

bears to the sum of such products for all the States.

"(ii) In any case in which the Commissioner finds that a State's percentage decrease in children from low-income families exceeds 25 per centum between the 1970 decennial census, as adjusted, and the 1975 survey of income and education, the Commissioner shall allocate funds based on the most current valid data available or based on a resurvey of the affected State by the Bureau of the Census.

"(iii) From the amount allotted to each State under division (i), the amount which each local educational agency in that State shall be eligible to receive under this subparagraph shall be an amount which bears the same ratio to the total amount allotted to such State under this subparagraph as the amount such local educational agency receives under paragraph (2) bears to the total amount of funds made available to local educational agencies in such State under such paragraph.

"(E) From the remaining one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979 after the application of subparagraph (D), there shall be allotted to each State an amount determined in accordance with paragraph (2) of this subsection.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under

this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

"(c) CHILDREN TO BE COUNTED.—(1)(A) The number of children to be counted for purposes of this section, other than for subsection (a)(3)(D), is the aggregate of—

"(i) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(ii) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), subject to subparagraph (B) of this paragraph, and

"(iii) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(B) For the purpose of division (ii) of subparagraph (A) of this paragraph the number of children aged five through seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B) shall be reduced by one-third for fiscal year 1979; except that such reduction shall not be applicable with respect to determinations made under section 117(b) of the number of children to be counted under this subsection.

"(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current cri-

teria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. 42 USC 601.

"(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—(1) From the amount allotted for payments to the Secretary of Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Inte- Agreement.

rior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 171 and 172.

Post, pp. 2161, 2187.

"TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

20 USC 2712. 42 USC 601. 42 USC 602.

"SEC. 112. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

"Subpart 2—Special Grants

"SPECIAL INCENTIVE GRANTS

20 USC 2721.

"SEC. 116. (a) ELIGIBILITY.—(1) Each local educational agency that is eligible to receive a payment under section 111 for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.

"(2) A State program meets the requirements of this subsection if, under State law—

"(A) the program meets the requirements of section 131(c); and

"(B) not less than 50 per centum of the funds expanded under the program in any school district of any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.

"(b) AMOUNT OF GRANTS.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

"(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to such State under subsection (o) of this section as the amount allocated to such local educational agency under section 111 of this title for such fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under section 111 for such fiscal year.

"(3) The aggregate amount which the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local

educational agencies in such State are eligible to receive under section 111 of this title for such fiscal year.

"(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and required by paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

Information, submittal to Commissioner.

"(c) PAYMENTS; USE OF FUNDS.—(1) Except as provided in paragraph (3), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in such State are entitled under subsection (b) after any ratable reductions under subsection (d).

"(2) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 191 for such year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under subsection (b)(2).

Post, p. 2195.

"(3) Whenever the expenditures made by a State in accordance with subsection (a) in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to such State under this section shall, subject to subsection (d), not be less than the amount paid to such State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which such State is entitled for such fiscal year under paragraph (1) of subsection (b).

"(4) The amount paid to a local educational agency under this part shall be used by such agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to all other requirements in subpart 3 of this part.

"(d) RATABLE REDUCTIONS.—If the sums appropriated pursuant to subsection (e) for a fiscal year are not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under this section, the amount to be paid such agencies shall be ratably reduced to the extent necessary to bring such payments within the limits of the amounts so appropriated. In case additional funds become available for making payments under this section for that year, such reduced amounts shall be increased on the same basis that they were reduced.

"(e) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.

"GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

"SEC. 117. (a) PURPOSE.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with

20 USC 2722.

especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

"(b) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(A) the number of children counted under section 111(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

"(B) the number of children counted under section 111(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year,

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) for such section for such fiscal year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

"(A) the number of children in excess of five thousand counted under section 111(c) for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for that preceding fiscal year, whichever is greater, and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 111(a)(2) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 111(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Commissioner shall determine the number of children counted under section 111(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement for such county is determined under section 111.

"(5) Funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with

the purposes of this title) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families, except that in determining the number of such children in any local educational agency in which less than 20 per centum of the children are from low-income families, each such child shall be counted as a fraction in which the numerator is the percentage of low-income children in the school district of that agency and the denominator is 20.

"(c) PAYMENTS; USE OF FUNDS.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 191 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section. *Post*, p. 2195.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to the other requirements in subpart 3 of this part.

"(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

"Subpart 3—Program Requirements and Applications

"LOCAL PROGRAM APPLICATION

"SEC. 121. A local educational agency may receive a grant under this title for any fiscal year if it has on file with the State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this title for a period of not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application. An application or amendment thereto shall be approved by the State educational agency upon its determination that the application provides for the use of such funds in a manner which meets the requirements of this subpart and is consistent with the assurances contained in the general application required by section 436 of the General Education Provisions Act, subject to such basic criteria as the Commissioner may prescribe. 20 USC 2731. 20 USC 1232e.

"DESIGNATING SCHOOL ATTENDANCE AREAS

"SEC. 122. (a) GENERAL PROVISIONS.—(1) Except as provided in paragraph (2) and subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this title in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this title are insufficent to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children 20 USC 2732.

from low-income families. A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher under the first sentence. A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this title and under a State program meeting the requirements of section 131(c) in that fiscal year in each school attendance area of that agency in which projects assisted under this title were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year. The same measure of low income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(2)(A) Notwithstanding the provisions of paragraph (1), in the selection of eligible school attendance areas, a local educational agency may, subject to the requirements of subparagraph (B), choose to rank all its school attendance areas as provided in paragraph (1) and also rank all its school attendance areas according to educational deprivation, and then serve all its school attendance areas ranked according to paragraph (1) in the order of their ranking under such paragraph unless another school attendance area ranked according to education deprivation has a substantially greater number or a substantially greater percentage of educationally deprived children, in which case such school attendance area may be served before service is provided to other school attendance areas ranked pursuant to paragraph (1) which have a substantially smaller number or substantially smaller percentage of educationally deprived children. In the event that a local educational agency chooses to exercise the option provided under this paragraph, it shall not serve any more school attendance areas than the number identified pursuant to paragraph (1).

"(B) Any local educational agency desiring to use the alternative ranking system described in subparagraph (A) shall, with the consent of the district-wide parent advisory council of that agency, apply for permission to use such system to the State educational agency of the State wherein such local educational agency is located. Such application shall be approved by such State educational agency only if such State educational agency finds that the use of such alternative ranking system will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by such local educational agency. Whenever a school district exercises the option under this paragraph and actually serves one or more school attendance areas ranked under this paragraph, none of the areas so ranked but not served shall be considered to be eligible school attendance areas under this title.

"(b) USE OF ENROLLMENT DATA IN CERTAIN SCHOOLS.—A local educational agency may use funds received under this title for educationally deprived children who are in a school of such agency which is not located in an eligible school attendance area, but at which the proportion of children in actual average daily attendance who are

from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an 'eligible school').

"(c) CONTINUATION OF ELIGIBILITY FOR CERTAIN SCHOOL ATTENDANCE AREAS OR SCHOOLS.—An eligible school attendance area or an eligible school may be designated a project area under subsection (a) or a project school under subsection (b) for a fiscal year, even though it does not qualify under such subsections for that fiscal year, if such area or school was so designated in either of the two preceding fiscal years.

"(d) LOWER RANKED SCHOOL ATTENDANCE AREAS OR SCHOOLS HAVING SUBSTANTIALLY GREATER INCIDENCES OF EDUCATIONALLY DEPRIVED CHILDREN THAN HIGHER RANKED AREAS OR SCHOOLS.—The Commissioner shall issue regulations providing for an exception to subsection (a) permitting children in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsections (a) or (b) to receive assistance before such children in higher ranked areas or schools receive such assistance. Regulations.

"(e) SKIPPING HIGHER RANKED SCHOOL ATTENDANCE AREAS OR SCHOOLS RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) permitting local educational agencies to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title. Whenever children residing in eligible areas and attending private elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources, such children shall be selected for programs and projects under this title without regard to the provisions of this subsection. The number of children receiving services under this title who attend private elementary and secondary schools shall be determined in each local educational agency receiving assistance under this title without regard to non-Federal compensatory education funds which serve children in public elementary and secondary schools who are also eligible for assistance under this title. Children attending private elementary and secondary schools who receive assistance under this title shall be identified in accordance with this section and without regard to skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources. Regulations.

"CHILDREN TO BE SERVED

"SEC. 123. (a) GENERAL PROVISIONS.—Except as provided in subsections (b), (c), and (d) of this section and section 133, a local educational agency must use funds received under this title for educationally deprived children, identified in accordance with section 124(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 122. 20 USC 2733.

"(b) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN WHO ARE NO LONGER IN GREATEST NEED OF ASSISTANCE.—Whenever for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 122, does not meet the requirement of subsection (a) requiring that he be

in greatest need of special assistance, but did not meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.

"(c) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN TRANSFERRED TO INELIGIBLE AREAS OR SCHOOLS IN THE SAME YEAR.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may, if the local agency so determines, continue to participate in a program or project funded under this title for the duration of that same school year.

"(d) SKIPPING CHILDREN DETERMINED TO BE IN GREATEST NEED OF ASSISTANCE WHO ARE RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies, in providing services under this title, to skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.

Regulations.

"REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS

20 USC 2734.

"SEC. 124. (a) PURPOSE OF PROGRAM.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 123. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

"(c) PLANNING.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 111 or $2,000, whichever is greater.

"(d) SUFFICIENT SIZE, SCOPE, AND QUALITY.—A local educational agency may use funds received under this title only for programs and

projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, and to this end such programs and projects must involve an expenditure of not less than $2,500, except that a State educational agency may reduce such $2,500 requirement for a local educational agency if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for such local educational agency to join effectively with other local educational agencies for the purpose of meeting the requirement.

"(e) EXPENDITURES RELATED TO RANKING OF PROJECT AREAS AND SCHOOLS.—A local educational agency may receive funds under this title only if such funds are allocated among project areas or schools for programs and projects assisted under this title on the basis of the number and needs of children to be served as determined in accordance with section 123.

"(f) COORDINATION WITH OTHER PROGRAMS.—(1) A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to ensure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

"(2) A local educational agency may use funds received under this title for health, social, or nutrition services for participating children under this title only if such agency has requested from the State educational agency assistance in locating and utilizing other Federal and State programs to provide such services.

"(g) EVALUATIONS.—A local educational agency may receive funds under this title only if—

"(1) effective procedures are adopted for evaluating, in accordance with the evaluation schedule promulgated by the Commissioner under section 183(g), the effectiveness of the programs assisted under this title in meeting the special educational needs of educationally deprived children; *Post*, p. 2189.

"(2) such evaluations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, including the requirements of section 130, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

"(3) the evaluation will address the purposes of the programs, including the requirements of section 130, and the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

"(h) INFORMATION DISSEMINATION.—A local educational agency may receive funds under this title only if effective procedures are in existence for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

"(i) TEACHER AND SCHOOL BOARD PARTICIPATION.—A local educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title, and school boards or comparable authority responsible to the public with jurisdiction over the schools, have been involved in planning for those programs and will be involved in the evaluation thereof.

"(j) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title are permitted to participate in the establishment of such programs and are informed of, and permitted to make recommendations with respect to, the instructional goals of the program and the progress of their children in such program, and such parents are afforded opportunities to assist their children in achieving such goals.

"(k) SUSTAINING GAINS.—A local educational agency may receive funds under this title only if, in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as summer programs and intermediate and secondary level programs.

"(l) TRAINING OF EDUCATION AIDES.—A local educational agency may receive funds under this title for programs and projects involving education aides, including volunteers, only if it has in effect well-developed plans providing for coordinated programs of training in which education aides, including volunteers, and the professional staff whom they are assisting will participate together.

Administration by public agency.

"(m) CONTROL OF FUNDS.—A local educational agency may receive funds under this title only if control of such funds, and title to property derived therefrom, is in a public agency for the uses and purposes provided in this title, and only if a public agency will administer such funds and property.

"(n) CONSTRUCTION.—A local educational agency may use funds received under this title for projects for construction of school facilities only if—

"(1) the project is not inconsistent with overall State plans for the construction of school facilities and the requirements of section 433 of the General Education Provisions Act are complied with on all such projects,

20 USC 1232b.

"(2) in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this title are, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by, handicapped persons, and

"(3) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(o) JOINTLY OPERATED PROGRAMS.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

"PARENTAL INVOLVEMENT

"SEC. 125. (a) ESTABLISHMENT OF ADVISORY COUNCILS.—(1) A local educational agency may receive funds under this title only if it establishes an advisory council for its entire school district which—

Advisory council for entire school district.
20 USC 2735.
Membership.

"(A) has a majority of members who are parents of children to be served by projects assisted under this title;

"(B) is composed of members elected by the parents in each district; and

"(C) includes representatives of children and schools eligible to be served by, but not currently participating in, programs assisted with funds provided under this title.

"(2)(A) A local educational agency may receive funds under this title only if it establishes an advisory council for each project area or project school, except as provided in subparagraph (B), which—

Advisory council for project area or project school.

"(i) has a majority of members who are parents of children to be served by programs assisted under this title, and

Membership.

"(ii) is composed of members elected by the parents in each project area or project school.

"(B) In the case of any project area or project school in which not more than one full-time equivalent staff member is paid with funds provided under this title, and in which not more than forty students participate in such programs, the requirements of subparagraph (A) shall be waived.

Waiver.

"(C) In the case of any project area or project school in which 75 or more students are served by programs assisted by funds provided under this title, each such project area or project school advisory council, in addition to meeting the requirements of subparagraph (A), shall—

Additional requirements.

"(i) be composed of not less than 8 members, who shall serve for terms of two years, after which time they may be re-elected;

"(ii) elect officers of the council after it has been fully constituted; and

"(iii) meet a sufficient number of times per year, according to a schedule and at locations to be determined by such council.

"(3) Any individual who is a teacher at a school serving a project area or is a parent of a child residing in an eligible school attendance area or attending an eligible school shall be eligible to be elected as a member of the district-wide advisory councils established pursuant to paragraph (1), but nothing in this sentence shall preclude the eligibility of other individuals who are residents in that district. No individual who is a teacher at a project school or a school serving a project area shall be ineligible to be elected as a member of a district-wide or project area or school advisory council on the basis of residency outside such area or district.

"(b) RESPONSIBILITIES OF ADVISORY COUNCILS.—Each local educational agency shall give each advisory council which it establishes under subsection (a) responsibility for advising it in planning for, and implementation and evaluation of, its programs and projects assisted under this title.

"(c) ACCESS TO INFORMATION.—(1) Each local educational agency shall provide without charge to each member of an advisory council established by such an agency under subsection (a) of this section—

"(A) a copy of the text of this title,

"(B) a copy of any Federal regulations and guidelines issued under such title; and

"(C) a copy of appropriate State regulations and guidelines associated with this title.

"(2) Each State educational agency shall provide a copy of any report resulting from State or Federal auditing, monitoring, or evaluation activities in any district to the parent advisory council established pursuant to subsection (a)(1) in such district.

"(d) TRAINING PROGRAMS.—Each local educational agency application for funding under this title shall describe a program for training the members of advisory councils established pursuant to subsection (a) to carry out their responsibilities as described in subsection (b). Such training program—

"(1) shall be planned in full consultation with the members of such advisory councils;

"(2) shall provide each member of each such council with appropriate training materials; and

"(3) may permit the use of funds under this title for expenses associated with such training, including expenses associated with the attendance of such members at training sessions.

"(e) WORKSHOPS ON PARENTAL INVOLVEMENT.—For each fiscal year for which payments are made to State educational agencies under this title, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with and provide training to parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this title. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop.

Report to Congress and the public.

"(f) ASSESSMENT OF PARENTAL INVOLVEMENT AND TRAINING.—The National Institute of Education shall assess the effectiveness of (1) various forms of parental involvement, including parent advisory councils, on school governance, student achievement, and other purposes of this title, and (2) various methods of training the members of parent advisory councils, and shall report the results of such assessments to the Congress and the public.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

"FUNDS ALLOCATION

20 USC 2736.

"SEC. 126. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

"(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver

would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under paragraph (1), for years subsequent to the year covered by such waiver. Such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

"(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection. Criteria.

"(b) USE OF FUNDS LIMITED TO EXCESS COSTS.—Subject to the provisions of section 131, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 124(a). As used in this subsection, the term 'excess costs' means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects. "Excess costs."

"(c) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(b) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"(d) FEDERAL FUNDS REQUIRED TO SUPPLEMENT, NOT SUPPLANT NON-FEDERAL FUNDS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS.—(1) Subject to section 132, a local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsection (b) of section 131 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources.

"(2) It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsection (b) of section 131, to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this title.

"(3) For purposes of this subsection, the level of funds that, in the absence of funds under this title would have been made available to

such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such object criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

"(e) COMPARABILITY OF SERVICES.—Subject to the provisions of section 131, a local educational agency may receive funds under this title only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Commissioner, in each project area. Each local educational agency shall report on or before July 1 of each year with respect to its compliance with this subsection, except for local educational agencies which were not required to report upon the date of enactment of the Education Amendments of 1978, unless the Commissioner otherwise provides by regulation.

Ante, p. 2143.

"ACCOUNTABILITY

20 USC 2737.

"SEC. 127. (a) RECORDKEEPING.—Each local educational agency which receives funds under this title shall keep such records and afford such access thereto as the State educational agency shall prescribe, including records which fully disclose the amount and disposition of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of the portion of the cost of the program or project supplied by other sources, and such other records as will facilitate an effective audit. Whenever a local educational agency carries on a single compensatory education program paid for out of funds under this title as well as State or local funds which meets all of the requirements of this title and whenever, under section 131, the local educational agency excludes expenditures from State and local sources in determining compliance with section 126 (b) and (e), the State educational agency need not require the Federal funds to be accounted for separately. In any proceeding, State or Federal, for the recoupment of any such funds which were misspent or misapplied, the percentage of the funds so misspent or misapplied which shall be

deemed to be Federal funds shall be equal to the percentage of the funds used, or intended for use, for the program or project which were Federal funds.

"(b) REPORTING.—Each local educational agency which receives funds under this title shall make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs and projects assisted under this title.

"(c) ACCESS TO INFORMATION.—Each local educational agency which applies for or receives funds under this title shall make the application and all pertinent documents related thereto available to parents, teachers, and other members of the general public.

"COMPLAINT RESOLUTION

"SEC. 128. Each local educational agency which receives funds under this title shall develop and implement, in accordance with criteria prescribed by the Commissioner, written procedures for the resolution of complaints made to that agency by parent advisory councils, parents, teachers, or other concerned organizations or individuals concerning violations of this title, or of applicable provisions of the General Education Provisions Act in connection with programs under this title. Such procedures shall— Written procedures. 20 USC 2738.

"(1) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days unless a longer period of time is provided by the State educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner; Time limits.

"(2) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved; Presentation of evidence.

"(3) provide the right to appeal the final resolution of the local educational agency to the State educational agency within thirty days after receipt of the written decision; and Appeal of final resolution.

"(4) provide for the dissemination of information concerning these procedures to interested parties, including all district and school parent advisory councils. Dissemination of information.

"INDIVIDUALIZED PLANS

"SEC. 129. It is the intent of the Congress to encourage, whenever feasible, the development for each educationally deprived child participating in a program under this title of an individualized educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, the teacher, a parent or guardian of the child, and, when appropriate, the child. 20 USC 2739.

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 130. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private 20 USC 2740.

elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of sections 122 and 123, and subsections (a), (b), (d), and (l) of section 124, and subsection (c) of section 126. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BY-PASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this title.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

"(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

Written notice.

"(4)(A) The Commissioner shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why such action should not be taken.

Petition.

"(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. Jurisdiction.

"Subpart 4—Exemptions From Certain Program Requirements

"EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

"SEC. 131. (a) IN GENERAL.—For the purpose of determining compliance with the requirement of section 126(b) (relating to use of funds only for excess costs of programs and projects) and of section 126(e) (relating to comparability of services), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program. 20 USC 2751.

"(b) SPECIAL PROGRAM AND STATE PHASE-IN PROGRAM DEFINED.—For purposes of this section—

"(1) a special program is limited to—

"(A) a State compensatory education program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (c) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c);

"(B) a State compensatory education program which the Commissioner has determined in advance under subsection (e) does not satisfy the requirements of subsection (c), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c); or

"(C) a local compensatory education program which the State educational agency has determined in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines is being implemented in accordance with subsection (c); and

"(D) a bilingual program for children of limited English proficiency or special educational program for handicapped children or children with specific learning disabilities; and

"(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (d) and which the State educational agency determines will be implemented by local educational agencies in accordance with subsection (d).

"(c) STATE AND LOCAL COMPENSATORY EDUCATION PROGRAMS SIMILAR TO TITLE I PROGRAMS.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this part. The Commissioner shall consider a State or local program to be similar to programs assisted under this part if—

"(1) all children participating in the program are educationally deprived,

"(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

"(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

"(5) the State educational agency monitors performance under the program to assure that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

"(d) CERTAIN STATE PHASE-IN PROGRAMS.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

"(1) the program is authorized and governed specifically by the provisions of State law;

"(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(5) the program will benefit all children in a particular school or grade-span within a school;

"(6) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education Amendments of 1978 shall be deemed to begin on the date of enactment of such Amendments;

Ante, p. 2143.

"(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program; and

"(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

"(e) ADVANCE DETERMINATIONS BY THE COMMISSIONER.—The Commissioner shall make an advance determination of whether or not a State Program described in subsection (b)(1) (A) or (B) or (b)(2) meets the requirements of subsection (c) or meets the requirements of subsection (d). The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

"(f) ADVANCE DETERMINATION BY THE STATE EDUCATIONAL AGENCY.—The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) meets the requirements of subsection (c). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"LIMITED EXEMPTION TO SUPPLEMENT, NOT SUPPLANT, REQUIREMENT WHERE CERTAIN SPECIAL PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN ARE FULLY FUNDED

"SEC. 132. Whenever for a fiscal year— 20 USC 2752.

"(1) a local educational agency provides special State and local funds for programs for educationally deprived children which qualify under clause (A), (B), or (C) of section 131(b)(1) for an exception from the comparability and excess costs provisions under such section 131, and

"(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the amount such agency is eligible to receive for such fiscal year under section 111(a)(2) (without regard to adjustments under section 193), *Post*, p. 2195.

then the local educational agency may, without being considered in violation of section 126(d), utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under

this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas, provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

"SCHOOLWIDE PROJECTS

20 USC 2753.

"SEC. 133. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 75 per centum of the children are from low-income families (in accordance with criteria established by the Commissioner), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

"(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

"(B) an instructional program designed to meet the special needs of all students in the school;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

"(3) the plan provides for consultation among those individuals as to the educational progress of all students;

"(4) the plan has been approved by the advisory council for that school established under section 125;

"(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

"(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;

"(7)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools;

"(B) the local educational agency makes special supplementary State and local funds available for the children in schools described in subsection (a) in amounts which, per child served who is not educationally deprived, equal or exceed the amount of Federal funds provided under this part which, per educationally

deprived child served, are made available for children in such schools; and

"(C) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year.

"(c) APPROVAL OF SCHOOL; OPERATION OF PROJECT.—(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this title with respect to the commingling of funds provided under this title with funds available for regular programs;

"(B) shall not be required to identify particular children as being eligible to participate in programs assisted under this title; and

"(C) shall not be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.

"NONINSTRUCTIONAL DUTIES

"SEC. 134. Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under this title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties may include only those to which similarly situated personnel not hired with funds made available under the title are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less. 20 USC 2754. *Ante*, p. 2161.

"PART B—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

"GRANTS—ENTITLEMENT AND AMOUNT

"SEC. 141. (a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 142. 20 USC 2761.

"(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expendi-

ture in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 142, the Commissioner shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 per centum of the average per pupil expenditure in the United States.

"PROGRAM REQUIREMENTS

20 USC 2762.

"SEC. 142. (a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Commissioner may approve an application submitted under section 141(a) only upon his determination—

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964 and under section 303 of the Comprehensive Employment and Training Act;

42 USC 2861.
Ante, p. 1964.

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of subpart 3 of part A, other than sections 122, 123, 126(d), and 130 thereof;

"(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a)); and

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this paragraph will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

"(c) BY-PASS PROVISION.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"COORDINATION OF MIGRANT EDUCATION ACTIVITIES

"SEC. 143. (a) ACTIVITIES AUTHORIZED.—The Commissioner is authorized to make grants to, or enter into contracts with, State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Contracts. 20 USC 2763.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section not more than 5 per centum of the total amount paid for the preceding fiscal year to State educational agencies under section 141.

"Subpart 2—Programs for Handicapped Children

"AMOUNT AND ELIGIBILITY

20 USC 2771.

"SEC. 146. (a) ELIGIBILITY FOR GRANT.—A State agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 602(1) of the Education of the Handicapped Act), shall be eligible to receive a grant under this subpart for any fiscal year.

"(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the grant which a State agency referred to in subsection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such handicapped children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

Grants to Puerto Rico.

"(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 per centum of the average per pupil expenditure in the United States.

"(c) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where a child described in subsection (a) leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 147.

"PROGRAM REQUIREMENTS

20 USC 2772.

"SEC. 147. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which

are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 146 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"Subpart 3—Programs for Neglected and Delinquent Children

"AMOUNT AND ENTITLEMENT

"SEC. 151. (a) ENTITLEMENT TO GRANTS.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions). 20 USC 2781.

"(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of— Grants to Puerto Rico.

"(A) the percentage determined under the preceding sentence, and

"(B) 32 per centum of the average per pupil expenditure in the United States.

"PROGRAM REQUIREMENT

"SEC. 152. (a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or 20 USC 2782.

in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof.

Ante, p. 2161.

"(b) THREE-YEAR PROJECTS.—Where a State agency operates programs under this title in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

"TRANSITION SERVICES

20 USC 2783.

"SEC. 153. (a) GRANTS AUTHORIZED.—The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.

"(b) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 151 for that year.

"Subpart 4—General Provisions for State Operated Programs

"RESERVATION OF FUNDS FOR TERRITORIES

Appropriation authorization.
20 USC 2791.

"SEC. 156. There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

"MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

20 USC 2792.

"SEC. 157. No State shall receive in any fiscal year prior to October 1, 1983, pursuant to subpart 1, 2 or 3 of this part an amount which is less than 85 per centum of the amount which that State received in the prior fiscal year pursuant to the comparable sections of this title as in effect immediately preceding the enactment of the Education Amendments of 1978 or the comparable subpart of this part, whichever was in effect for such prior fiscal year, and, for any fiscal year ending prior to October 1, 1982, no State shall receive, pursuant to subpart 1 of this part, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year pursuant to the comparable section of this title as in effect immediately prior to the

enactment of the Education Amendments of 1978 or under subpart 1 of this part, whichever was in effect for such prior fiscal year. *Ante*, p. 2143.

"PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

"Subpart 1—Applicability; State Applications

"APPLICABILITY

"SEC. 161. The provisions of this part (other than section 162 and subpart 3) shall apply in any fiscal year in which the provisions of section 510(b)(2) of this Act are not met. 20 USC 2801. *Post*, p. 2247.

"STATE APPLICATIONS

"SEC. 162. (a) SUBMISSION OF STATE APPLICATIONS.—Any State desiring to participate under this title (except with respect to the program provided for in subpart 1 of part B relating to migratory children) shall have on file with the Commissioner an application submitted by its State educational agency. 20 USC 2802.

"(b) CONTENTS OF STATE APPLICATIONS.—Each application required by subsection (a) shall contain (1) satisfactory assurances that the State educational agency will comply with the requirements of this part, and (2) such information as the Commissioner may consider necessary for him to make the findings required by section 182.

"Subpart 2—Duties Imposed on State Educational Agencies

"APPLICATION APPROVAL

"SEC. 164. (a) REQUIREMENTS FOR APPROVAL.—(1) A State educational agency shall approve an application of a local educational agency or a State agency under this title if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act, and the rules, regulations, procedures, guidelines, criteria, or other requirements adopted by such agency which pertain to programs and projects assisted under this title, and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 169(c). 20 USC 2811. 20 USC 1221.

"(2) A state educational agency may approve an application under paragraph (1), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this title, and (D) evaluations conducted under section 124(g).

(b) PAYMENTS.—Except as provided in section 194, a State educational agency may make payments from funds received under this title only for programs and projects which it has approved under subsection (a).

"(c) OPPORTUNITY FOR HEARING.—A State educational agency shall not finally disapprove in whole or in part any application for funds under part A or under subpart 2 or subpart 3 of part B without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing.

"STATE RULEMAKING

20 USC 2812.

"SEC. 165. Nothing in this title shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this title if they do not conflict with the provisions of this title, with regulations promulgated by the Commissioner implementing this title, or with other applicable Federal law. The Commissioner shall encourage a State educational agency, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

"TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

20 USC 2813.

"SEC. 166. Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this title. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this title, and (4) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this title.

"MONITORING

20 USC 2814.

"SEC. 167. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner and with the State monitoring and enforcement plan submitted under section 171, for monitoring the effectiveness of programs and projects assisted under this title. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of onsite visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate followup by the State educational agency; (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that non-compliant practices are corrected.

"COMPLAINT RESOLUTION

"SEC. 168. Each State educational agency shall adopt written procedures for receiving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title or applicable provisions of the General Education Provisions Act in connection with programs assisted under this title, and for conducting onsite investigations of such complaints which the State educational agency deems necessary. Such procedures shall include— Written procedures. 20 USC 2815. 20 USC 1221.

"(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent onsite investigation, which shall not exceed sixty days unless exceptional circumstances exist; Time limits.

"(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses; Presentation of evidence.

"(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and Appeal.

"(4) dissemination, free of charge, of information concerning these procedures to interested parties, including all district and school advisory councils.

"WITHHOLDING OF PAYMENTS

"SEC. 169. (a) WITHHOLDING.—Whenever a State educational agency, after reasonable notice and opportunity for a hearing (consistent with the requirements of section 434(b) of the General Education Provisions Act) to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of subpart 3 of part A or subpart 2 or 3 of part B, the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under this title until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under this title, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend, in whole or in part, payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken. 20 USC 2816. *Post*, p. 2342.

"(b) NOTICE TO PUBLIC OF STATE WITHHOLDING.—Upon submission to a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) is withholding payment, the State educational agency shall inform the district advisory council (if any) and shall take such additional action as may be necessary to bring the State action to the attention of the public.

"(c) COMPLIANCE AGREEMENTS.—A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a compliance agreement with the local educational agency or State agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the local educational agency or State agency

fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement.

"Compliance agreement."

For purposes of this subsection, the term 'compliance agreement' means an agreement which—

"(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

20 USC 1221.

"(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

"(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

"(d) REVIEW BY THE COMMISSIONER.—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

20 USC 1231b-2.

"AUDITS AND AUDIT RESOLUTION

20 USC 2817.

"SEC. 170. (a) AUDITING.—Each State shall make provision for audits of the expenditure of funds received under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency considering the nature, size, and complexity of the activity.

Written procedures.

"(b) AUDIT RESOLUTION.—Each State educational agency shall have in effect written procedures meeting minimum standards established by the Commissioner, to assure timely and appropriate resolutions of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Whenever under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

"(c) REQUIREMENT FOR REPAYMENT.—A local educational agency or State agency shall repay from non-Federal sources or from Federal funds, no accountability for which is required to the Federal Government, the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied.

"(d) REVIEW BY THE COMMISSIONER.—A local educational agency or State agency may, in accordance with section 425(a) of the General

Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner. 20 USC 1231b-2.

"(e) FAILURE TO REPAY.—If, following an affirmation by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources, or from Federal funds no accountability for which is required to the Federal Government, funds which have been misspent or misapplied under this title, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action. Notification.

"Subpart 3—Responsibilities of State Educational Agencies to Commissioner

"STATE MONITORING AND ENFORCEMENT PLANS

"SEC. 171. (a) STATE PLAN.—Each State educational agency participating in programs under this title shall submit, at such times (at least once every three years) and in such detail as the Commissioner shall prescribe, a State monitoring and enforceemnt plan. Such plan shall set forth— 20 USC 2821.

"(1) a program of regular visits by State educational agency personnel to projects assisted under this title; Regular visits by personnel.

"(2) the matters to be reviewed during such visits; Matters to be reviewed.

"(3) procedures for verifying information provided by local educational agencies and State agencies, including the use of other information available to the State to cross-check that information; Information verification.

"(4) procedures for regular audits of local educational agency and State agency expenditures under this title, and procedures for the recovery of any expenditure determined not to be allowable under this title;

"(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints refered to the State by the Commissioner and complaints by representatives of children enrolled in private schools that those children are not receiving the services to which they are entitled under this title; and

"(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 130 relating to the equitable provision of services to children enrolled in private schools.

"(b) REPORT.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

"REPORTING

"SEC. 172. Each State educational agency shall make to the Commissioner (1) periodic reports (including the results of objective measurements required by section 124(g) and of research and replication 20 USC 2822.

Ante, p. 2164.

studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (2) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

"RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

20 USC 2823. "SEC. 173. Each State educational agency which receives funds under this title shall use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, funds made available under this title, and keep such records, and afford access thereto, as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

"PROHIBITION OF CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

20 USC 2824. "SEC. 174. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

"APPLICABILITY

20 USC 2831. "SEC. 181. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

"APPROVAL OF APPLICATIONS

20 USC 2832. "SEC. 182. (a) REQUIREMENT FOR APPROVAL.—The Commissioner shall not approve an application under section 162 until he has made specific findings, in writing, that (1) the application and the State monitoring and enforcement plan required under section 171 comply with this title, and (2) that he is satisfied that the assurances in such application and the assurances contained in its general application under section 435 of the General Education Provisions Act (where applicable) will be carried out.

Post, p. 2343.

"(b) HEARINGS.—The Commissioner shall, in accordance with the procedures set forth in section 453 of the General Education Provisions Act, not finally disapprove an application under section 142 or section 162 except after notice and opportunity for a hearing to the State educational agency.

Post, p. 2349.

"PROGRAM EVALUATION

"SEC. 183. (a) INDEPENDENT EVALUATIONS.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects. 20 USC 2833.

"(b) EVALUATION STANDARDS AND SCHEDULE.—The Commissioner shall (1) develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title, and (2) develop, in consultation with State educational agencies and representatives of local educational agencies, a schedule for conducting evaluations under section 124(g) designed to ensure that evaluations are conducted in representative samples of the local educational agencies in any State each year. Such standards will be developed only after widespread consultation and hearings with practicing State and local agency evaluators, and the Commissioner's standards will reflect the input of these groups. Standards, publication. Consultation and hearings.

"(c) JOINTLY SPONSORED STUDIES.—The Commissioner shall consult with State and local educational agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

"(d) EVALUATION MODELS.—The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 172, which shall include uniform procedures and criteria to be utilized by local educational agencies and State agencies as well as by the State educational agency in the evaluation of such programs. In developing evaluation design models the Commissioner shall consult with State and local evaluators experienced in conducting such evaluations.

"(e) TECHNICAL ASSISTANCE.—The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

"(f) SPECIFICATION OF OBJECTIVE CRITERIA.—The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

"(g) REPORT TO CONGRESS.—The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations no later than February 1, 1980, 1982, and 1984 concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related find-

ings and evaluations and his recommendations with respect to legislation.

"(h) INFORMATION DISSEMINATION.—The Commissioner shall also develop a system for the gathering and dissemination of the results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

"(i) MAXIMUM EXPENDITURES.—The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such programs. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

"COMPLAINT RESOLUTION

Written procedures.
20 USC 2834.

"SEC. 184. The Commissioner shall develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of complaints if the Commissioner deems necessary. Such procedures shall include—

20 USC 1221.

Time limits.

"(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

Presentation of evidence.

"(2) an opportunity for the complainant, the complainant's representative, the local educational agency and the State educational agency to present evidence;

Notification.

"(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

Dissemination of information.

"(4) dissemination of information concerning the procedures.

"AUDITS AND AUDIT RESOLUTION

20 USC 2835.

"SEC. 185. (a) AUDITING.—The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

"(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

Procedures.

Timetables.

"WITHHOLDING OF PAYMENTS

"SEC. 186. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 142 or 162, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies or State agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. In the case of a substantial and continuing violation, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

Notice and hearing.
20 USC 2836.

"(b) NOTICE TO PUBLIC OF COMMISSIONER WITHHOLDING.—Upon submission to a State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

"(c) COMPLIANCE AGREEMENT.—(1) The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement.

Suspension of withholding action.

"(2) For the purpose of this subsection, the term 'compliance agreement, means an agreement which—

"(A) sets forth the terms and conditions to which the State or local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder;

"(B) addresses all the matters that formed the basis for the initiation of the withholding action by the Commissioner; and

"(C) may consist of a series of agreements that in the aggregate dispose of all such matters.

Hearing.

"(3) In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a further date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency. A compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

Written findings.

Copies of agreement to complainants.

"POLICY MANUAL

20 USC 2837.

"SEC. 187. (a) SCOPE AND PURPOSE.—The Commissioner shall, not later than six months after the publication of final regulations with respect to the amendments to this title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and district-wide advisory councils, and shall make available to other interested individuals, organizations, and agencies, a policy manual for this title to—

Ante, p. 2143.

"(1) assist such agencies in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

"(3) assist advisory councils established under section 125(a) in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this title; and

"(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to, officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authoriy of such statutes; 20 USC 1221.

"(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

"(3) an explanation of the interrelationships between the applicable requirements;

"(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public audit determinations of the Commissioner or of any officer or panel authorized by the Commissioner to make such determinations;

"(5) summaries of (A) advisory opinions referred to in paragraph (4)(G) of this section and (B) final audit determinations referred to in paragraph (4)(I), including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(6) model forms and instructions developed by the Commissioner for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

"(7) summaries of appropriate court decisions concerning programs under this title;

"(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

"(9) model forms, policies, and procedures developed by State educational agencies.

"ENFORCEMENT REPORT

"SEC. 188. The Commissioner shall, in conjunction with the report required by section 183(g), submit to the Congress a report concerning the enforcement of this title. The report submitted in 1980, 1982, and 1984 shall contain— Report to Congress. 20 USC 2838.

"(1) an analysis, for each State which has an application approved for that year under section 182, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this title,

"(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,

"(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,

"(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,

"(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and location of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section,

"(6) with respect to audits conducted under this title, (A) the number and type of audits conducted in the year preceding the date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for completion of such process, the amount of the financial exceptions noted in final audit reports and in letters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for this title with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for this title and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit followup actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been corrected, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process, and

"(7) with respect to complaints made to the Commissioner concerning programs under this title during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agencies, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

"PART E—PAYMENTS

"PAYMENT METHODS

"SEC. 191. The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it. 20 USC 2841.

"AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 192. From the funds paid to it pursuant to section 191 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this title and which has submitted an application approved pursuant to section 121 the amount for which such application has been approved, except that the amount shall not exceed the amount determined for that agency under this title. 20 USC 2842.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 193. (a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided in this title other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. 20 USC 2843. *Ante*, p. 2158. *Ante*, p. 2153.

"(b) ADDITIONAL FUNDS ALLOCATION.—In case additional funds become available for making payments under this title for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part

B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 111(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

Ante, p. 2153.

"PAYMENTS FOR STATE ADMINISTRATION

20 USC 2844.

"SEC. 194. (a) Except as provided in subsection (b), the Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of such payments in any fiscal year shall not exceed—

"(1) 1.5 per centum of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under this title; or

"(2) $225,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater, except that any amount paid by reason of clause (1) or (2) in excess of the limitations on such payments in effect prior to the effective date of the Education Amendments of 1978 shall be used exclusively for monitoring, audit resolution, enforcement, or similar compliance activities and shall supplement and not supplant funds otherwise available from non-Federal sources for such purposes.

"(b) The provisions of this section shall apply in any fiscal year in which the provisions of section 510(b)(2) are not met.

Post, p. 2247.

"PART F—GENERAL PROVISIONS

"JUDICIAL REVIEW

Petition, filing.
20 USC 2851.

"SEC. 195. (a) FILING APPEALS.—If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 or part B or section 162 or with his final action under section 185 or 186, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commis-

sioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(b) BASIS OF REVIEW.—The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"NATIONAL ADVISORY COUNCIL

"SEC. 196. (a) COUNCIL ESTABLISHED.—There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the 'National Council') consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

Membership, terms.
20 USC 2852.

Meetings.

"(b) FUNCTIONS.—The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operations. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

Recommendations.

"(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Educational Provisions Act, the National Council shall continue to exist until October 1, 1984.

Annual submittal to President and Congress.

20 USC 1233g.

"LIMITATION ON GRANT TO PUERTO RICO

20 USC 2853. "SEC. 197. Notwithstanding the provisions of part A or of subpart 1, 2, or 3 of part B of this title, the amount paid to the Commonwealth of Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico under this title in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which they are eligible under section 111.

Ante, pp. 2153, 2177.

Ante, p. 2153.

Ante, p. 2153.

"DEFINITIONS

20 USC 2854. "SEC. 198. (a) Except as otherwise provided, for purposes of this title:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'Commissioner' means the United States Commissioner of Education.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body

activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title or parts B and C of title IV of this Act.

Post, pp. 2236, 2237.

"(7) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law, and the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(8) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(9) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(10) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(11) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(12) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

"(13) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(14) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(15) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(16) The term 'State' means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(17) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.".

20 USC 244.

(b) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended—

(1) by striking out, "except as used in title II", where it appears in paragraph (2);

(2) by striking out, ", except that for purposes of title II such term does not include any education provided beyond grade 12", where it appears in paragraph (4);

(3) by striking out, "title II of this act or title II or III" where it appears in paragraph (5), and inserting "title I, II, or III";

(4) by striking out, "(A)" where it appears in paragraph (6) and by striking out subparagraph (B) of such paragraph;

(5) by striking out ", and for purposes of title II, such term includes the Trust Territory of the Pacific Islands" in paragraph (8); and

(6) by striking out paragraphs (15), (16), and (17).

Repeal.
20 USC 241a, 241b, 241c–241o.

(c) Title II of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is repealed.

20 USC 241b–1, 2713.

(d) Section 101(a)(10) of the Education Amendments of 1974 is amended by striking out "Part A" and inserting in lieu thereof "subpart 1 of part A, and part B," and by striking out "such part A" and inserting in lieu thereof "such subpart or part".

STUDY OF ALTERNATIVES FOR DEMONSTRATING COMPARABILITY

20 USC 2701 note.

SEC. 102. (a) The Commissioner shall, not later than September 30, 1981, make a study of the feasibility and desirability of alternative criteria for demonstrating the comparability of services provided with State and local funds in each project area (as defined in section 198(12) of the Elementary and Secondary Education Act of 1965) to those provided outside such areas which ensure, at least to the same extent as the criteria in existing regulations published in the Federal Register (41 F.R. 42894 et seq., September 28, 1976), that children in each school serving such a project area receive comparable services paid for out of State and local funds.

Ante, p. 2198.

45 CFR 116, 116a.

(b) The Commissioner may select all the local educational agencies in one State and not more than twenty such agencies in other States which are reasonably representative of the various geographical areas of the Nation for participation in the study provided for in this section. For purposes of the study, the Commissioner, without regard to section 431 of the General Education Provisions Act, may permit the use of substitute criteria meeting the requirements of subsection (c) in place of criteria contained in existing regulations, to be applicable only for the school years 1979–1980 and 1980–1981 and only to local educational agencies selected to participate in the study.

20 USC 1232.

Participating agencies selection criteria.

(c) Local educational agencies selected for participation in the study provided for in this section shall demonstrate comparability through the use of alternative criteria, which, at a minimum, meet the conditions of the following paragraphs:

(1) Such criteria are approved by the districtwide advisory council established under section 125 of the Elementary and Secondary Education Act of 1965.

Ante, p. 2167.

(2) Based on such criteria, each school serving such a project area receives services comparable to those services provided with

State and local funds in schools not receiving assistance under this title.

(3) Services measured by such criteria shall vary by not more than 5 per centum between each school serving such a project area and other schools of the agency.

(4) Compliance with such criteria shall be determined on the basis of services actually provided during the current school year.

(5) If expenditures are used in the criteria, only expenditures for instructional services shall be included and for this purpose "instructional services" means current expenditures for free public education other than expenditures for attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. Instructional services.

(6) In all other respects, such criteria shall be consistent with the regulations of the Commissioner pertaining to comparability of services.

(d) In order to provide a basis for comparison, local educational agencies participating in the study under this section shall continue to make reports under existing criteria for comparability of services. Reports.

TITLE II—ESTABLISHMENT OF A NEW TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

BASIC SKILLS

SEC. 201. Title II of the Elementary and Secondary Education Act of 1965 (hereinafter in titles II through IX of this Act referred to as "the Act") is amended to read as follows:

"TITLE II—BASIC SKILLS IMPROVEMENT

"PART A—NATIONAL PROGRAM

"PURPOSE

"SEC. 201. The purpose of this part is— 20 USC 2881.

"(1) to assist Federal, State, and local educational agencies to coordinate the utilization of all available resources for elementary and secondary education to improve instruction so that all children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

"(2) to encourage States to develop comprehensive and systematic plans for improving achievement in the basic skills;

"(3) to provide financial assistance to State and local educational agencies for the development of programs in the basic skills;

"(4) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

"(5) to encourage the involvement of the private sector in the delivery to children, youths, and adults of educational services and materials that will improve achievement in the basic skills; and

"(6) to expand the use of television and other technology in the delivery of instructional programs aimed at improving achievement in the basic skills.

"APPLICATIONS

Grant or contract.
20 USC 2882.

"SEC. 202. (a) The Secretary may make a grant or award a contract under this part only upon the submission of an application by an eligible entity at the time and in the form prescribed by the Secretary. Each such application by a State or local educational agency shall provide assurances that—

"(1) in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children;

"(2) procedures have been developed to evaluate the effectiveness of the proposed activity in achieving the purposes of this title; and

"(3) procedures have been developed for incorporating successful practices developed with assistance under this title into the regular instructional program.

"(b) No grant or contract may be awarded to a local educational agency under this part unless the appropriate State educational agency has been provided an opportunity for at least thirty days to comment on the application.

"ACCEPTANCE OF GIFTS

20 USC 2883.
20 USC 1221e-3.

"SEC. 203. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Secretary may accept, on behalf of the United States, conditional or unconditional gifts or donations of services, money, or property, made for any activities authorized to be carried out under this title.

"GRANTS AND CONTRACTS

20 USC 2884.

"SEC. 204. (a) In order to achieve the purposes of this part, the Secretary is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, and other public and private agencies, organizations, and institutions to carry out planning, research, development, demonstrations (including training of leadership personnel, evaluation, and dissemination, as described in sections 205 through 209), except that no grant may be made under this part to other than a public or nonprofit private agency, organization, or institution.

"(b) The Secretary may provide to such agencies, organizations, and institutions, either directly or through grants or contracts, technical assistance related to the purposes of this part.

"INSTRUCTION IN BASIC SKILLS

20 USC 2885.

"SEC. 205. The Secretary shall provide assistance, in accordance with section 204, for activities designed to demonstrate improved delivery of instructional services in the areas of reading, mathematics, and oral and written communication, including—

"(1) assessment of schoolwide needs to identify the instructional needs of children in basic skills;

"(2) establishing learning goals and objectives for each school;

"(3) the development of comprehensive programs to address the needs through the use of resources available under this part and other resources from local, State, and Federal programs;

"(4) the demonstration of techniques for coordinating the efforts of local agencies, organizations, and institutions, to improve achievement in basic skills;

"(5) preservice training programs for teaching personnel including teacher aides and other ancillary educational personnel, and in-service training and development programs, designed to enable such personnel to improve their ability to teach basic skills; and

"(6) active involvement of teachers, teacher aides, administrators, and other educational personnel to improve their ability to utilize available resources to carry out the purposes of this part.

"PARENTAL PARTICIPATION IN BASIC SKILLS INSTRUCTION

"SEC. 206. The Secretary, in accordance with section 204, shall support activities designed to enlist the assistance of parents and volunteers working with schools to improve the skills of children in reading, mathematics, and oral and written communication. The activities which may be supported under this section include— 20 USC 2886.

"(1) the development and dissemination of materials that, with appropriate training, parents may use in the home to improve their children's performance in those skills; and

"(2) voluntary training activities for parents to encourage them to assist their children in developing basic skills.

"USE OF TECHNOLOGY IN BASIC SKILLS INSTRUCTION

"SEC. 207. The Secretary, in accordance with section 204, shall support development and demonstration activities related to the improved use of television and other technology to contribute to the instruction of children in reading, mathematics, and written and oral communication. The activities authorized under this section shall be designed to expand the variety and improve the quality of instructional efforts involving the use of technology. The activities which may be supported under this section include— 20 USC 2887.

"(1) the development and acquisition of educational programing, including audio and video materials distributed through broadcast, cable, tape, film, cassettes, or other means that provide instruction in basic skills in an effective manner;

"(2) the development and acquisition of instructional materials that supplement educational programing described in clause (1) of this section in order to improve its effectiveness in the school, the home, and other learning environments;

"(3) the development and acquisition of materials to assist teachers in relating such programing, or similar public or commercial programs of educational value, to instruction in the classroom;

"(4) the training of teachers, administrators, and other instructional personnel in the use of educational technology;

"(5) assistance to teachers, administrators, and other instructional personnel for experimentation with new technological approaches to instruction; and

"(6) distribution of information about, and promotion of the use of, such programing and technology in the classroom and other learning environments.

"INVOLVEMENT OF EDUCATIONAL AGENCIES AND PRIVATE ORGANIZATIONS

20 USC 2888.

"SEC. 208. (a) The Secretary shall provide assistance and information to State and local educational agencies, institutions of higher education, and private agencies, organizations, and institutions (such as labor unions, volunteer organizations, and business associations) to support the efforts of such agencies, organizations, and institutions to stimulate children, youths, and adults to improve their achievement in basic skills. The activities which may be supported under this section include—

"(1) programs to motivate children to improve their reading skills through the distribution to children of books;

"(2) instructional programs and voluntary tutorial programs to provide individual assistance outside of the school to children, youths, and adults with instruction needs;

"(3) community efforts to encourage individuals to improve their performance in basic skills; and

"(4) the establishment of programs for lending or selling books to children, youths, and adults.

"(b) Activities supported under subsection (a)(2) may be known as reading academies.

"COLLECTION AND DISSEMINATION OF INFORMATION RELATING TO BASIC SKILLS PROGRAMS

20 USC 2889.

"SEC. 209. The Secretary is authorized to use funds appropriated under this part to collect and analyze information concerning the results of activities carried out under this title and under part C of title IV, including information on the activities which have been successful in improving the achievement of students in the basic skills. Such funds may also be used to disseminate that information to State and local educational agencies and other interested public and private agencies, organizations, and institutions.

Post, p. 2237.

"COORDINATION

Procedures.
20 USC 2890.

"SEC. 210. The Secretary shall establish effective and efficient procedures for coordination between the programs assisted under this part and other parts of this title, with programs assisted under title I and title IV of this Act, title V of the Economic Opportunity Act of 1964, title V of the Higher Education Act of 1965, and other such Federal programs that support efforts to improve the basic skills of children, youth and adults.

Ante, p. 2153,
Post, p. 2229.
42 USC 2921.
20 USC 1101.

"PART B—STATE BASIC SKILLS IMPROVEMENT PROGRAM

"STATEMENT OF PURPOSE

20 USC 2901.

"SEC. 221. It is the purpose of this part to provide financial assistance to States to enable them—

"(1) to develop comprehensive and systematic statewide plans for improving achievement in the basic skills, to coordinate available resources for elementary and secondary education, and to provide financial assistance to improve the instruction so that all

children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

"(2) to provide assistance to local agencies in the development and implementation of comprehensive programs to improve basic skills proficiency and instruction in the elementary and secondary schools;

"(3) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

"(4) to provide State leadership in the planning, execution, and evaluation of basic skills instructional programs in elementary and secondary schools; and

"(5) to arrange for and assist in the training of educational staff, including special reading and mathematics personnel and specialists needed in programs assisted under this part.

"AGREEMENTS WITH STATE EDUCATIONAL AGENCIES

"SEC. 222. (a) Any State which desires to receive grants under this part shall, through its State educational agency, enter into an agreement with the Secretary, in such detail as the Secretary deems necessary, which— 20 USC 2902.

"(1) designates the State educational agency as the agency for administration of the agreement;

"(2) provides for a process of active and continuing consultation with the State educational agency, by persons broadly representative of the educational resources of the State and of the general public, including persons representative of— Consultation.

"(A) public and private nonprofit elementary and secondary schoolchildren,

"(B) institutions of higher education,

"(C) parents of elementary and secondary schoolchildren,

"(D) areas of professional competence relating to basic skills instruction in reading and mathematics,

"(E) classroom teachers in the State, and

"(F) local administrators including principals and superintendents,

to advise the State educational agency on the planning, development, implementation, and evaluation of a comprehensive State program for improving basic skills;

"(3) describes the basic skills instructional programs in elementary and secondary schools for which assistance is sought under this part and procedures for giving priority to basic skills programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

"(4) sets forth criteria for achieving an equitable distribution of that part of the assistance under this part which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall— Assistance, equitable distribution criteria.

"(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this part, and the financial ability of the local educational agency serving such pupils, and

"(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading or mathematics proficiency;

"(5) provides for the coordination and evaluation of programs assisted under this part;

"(6) provides for technical assistance and support services for local educational agencies participating in the program;

"(7) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

"(8) provides for making a report, at least once every three years, and such other reports, in such form and containing such information, as the Secretary may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this part;

"(9) provides that not more than 5 per centum of the amount allotted to the State under this part for any fiscal year may be retained by the State educational agency for purposes of administering the agreement;

"(10) provides that programs assisted under this part shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this part; and

"(11) provides that Federal funds expended under the program will supplement the level of State and local funds that would be available for such programs in the absence of Federal assistance, and in no event will supplant such State and local funds.

Grants.

"(b) Grants for projects to carry out the purposes of this part may be made to local educational agencies (subject to the provision of subsection (c) relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit agencies and institutions. Not less than 70 per centum of the amount allotted to a State under this part for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

Ante, p. 2171.

"(c) The provisions of section 130(a)(1) of this Act relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under this part.

Assistance applications. School level programs.

"(d) Each application by a local educational agency within a State for assistance under this part shall be developed in conjunction with teachers and building administrators in such district. The application shall set forth a systematic strategy for improving basic skills instruction in the local district which provides for the planning and implementation of comprehensive basic skills instructional programs at the school building level. The school level programs shall address the needs of all students and shall utilize, in a coordinated fashion, resources available from all Federal, State, and local sources. Teachers, administrators, and parents shall be involved in the development of the comprehensive school level programs. Such programs shall include—

"(1) diagnostic assessment to identify the needs of all of the children in the school;

"(2) the establishment of learning goals and objectives for the school;

"(3) to the extent practicable, preservice training and inservice training and development programs for teaching and administrative personnel, including teacher-aides and other ancillary educational personnel, designed to enable such personnel to improve their ability to teach students the basic skills;

"(4) activities designed to enlist the support of parents to aid in the instruction of their children at home and school;

"(5) procedures for the evaluation of the effectiveness of the program, including a program of periodic testing of basic skills achievement and the publication of test results on basic skills performance by grade level and by school, without identification of performance of individual children;

"(6) assessment, evaluation, and collection of information on individual children by teachers during each year of a pre-elementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost. Such information shall also be available to parents or guardians of the individual children.

Activities support grants.

"(e) In addition to the grants authorized in subsection (d), the State educational agency may also make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. Activities that may be supported under this section include—

"(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills;

"(2) the encouragement of closer contacts between parents and teachers to improve the coordination between learning experiences in the home and those in school;

"(3) planning for, developing and improving centers accessible to parents to provide materials and professional guidance, including volunteers, for parents who desire to assist in the instruction of their children; and

"(4) the demonstration of training programs for parents who desire to develop new skills to complement the instruction their children receive in school.

"(f) The Secretary shall enter into an agreement which complies with the provisions of subsection (a) with any State which desires to enter into such an agreement.

"DISTRIBUTION OF FUNDS

20 USC 2903.

"SEC. 223. The Secretary shall distribute grants under the provisions of this part so as to assure that each State having an agreement under section 222 will receive not less than the amount which bears the same ratio to the total amount available for this part for a fiscal year as the number of school age children (aged five through seventeen inclusive) in that State bears to the number of such children in all States, except that any State having an agreement shall not receive less than $50,000 in any such fiscal year.

"STATE LEADERSHIP PROGRAM

Agreements.
20 USC 2904.

"SEC. 224. The Secretary is authorized to enter into agreement with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to implement programs which have been demonstrated in that State or other States to be effective in overcoming deficiencies in the basic skills, and to develop and implement statewide plans for improving the skills of children, youth, and adults in reading, mathematics, and oral and written communication. The activities authorized by this section shall be limited to—

"(1) the development of a comprehensive statewide program providing for the coordination of all Federal and State programs that provide instruction in basic skills;

"(2) planning activities that involve local administrators, teachers, and parents in the development of strategies to improve instruction in basic skills;

"(3) statewide assessments of need relating to basic skills, including the needs of both students and instructional personnel;

"(4) in-service training programs for local administrators, instructional personnel, and other staff members involved in instruction in basic skills; and

"(5) the provision of technical assistance and the dissemination of information relating to basic skills instruction to local educational agencies and other organizations and institutions involved in programs of instruction in basic skills.

"PART C—SPECIAL PROGRAMS FOR IMPROVING BASIC SKILLS

"INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

Contract.
20 USC 2911.

"SEC. 231. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

Federal share, payment.

Contract provisions.

"(b) The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to pre-elementary, elementary or secondary schoolchildren;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

Definitions.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 75 per centum of the cost of that agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case the term 'Federal share', under this section, shall mean 100 per centum of the cost of that agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers; and

"(3) the term 'pre-elementary school' means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age.

"(e) There are authorized to be appropriated to carry out the provisions of this section $9,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $11,000,000 for fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under subsection (a) of this section for technical assistance under subsection (b)(3) of this section to carry out the provisions of such section. **Appropriation authorization.**

"SPECIAL MATHEMATICS PROGRAM

"SEC. 232. (a) The Commissioner is authorized to make grants to, and enter into contracts with, one or more private nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under titles I and VI of this Act through instruction in advanced mathematics by qualified instructors with bachelor's degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience. **20 USC 2912.** *Ante*, p. 2153, *Post*, p. 2252.

"(b) There are authorized to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years, to carry out the provisions of this section. **Appropriation authorization.**

"PART D—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 241. There are authorized to be appropriated such sums for the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, as may be necessary to carry out the provisions of parts A and B of this title. **20 USC 2921.**

"APPORTIONMENT OF APPROPRIATIONS

"SEC. 242. (a) From the first $20,000,000 appropriated pursuant to section 241 of any fiscal year the Secretary shall carry out the provision of part A of this title. **20 USC 2922.**

"(b) From the amounts in excess of $20,000,000 in any fiscal year the Secretary shall carry out the provisions of part B of this title.".

39-194 O—80—pt. 2——59 : QL3

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SPECIAL PROJECTS

SEC. 301. (a) Title III of the Act is amended to read as follows:

"TITLE III—SPECIAL PROJECTS

"PART A—GENERAL PROVISIONS

"STATEMENT OF PURPOSE

20 USC 2941.

"SEC. 301. It is the purpose of this title to authorize the Commissioner to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique educational needs or problems;

"(3) to place special emphasis on national education priorities; and

"(4) to disseminate information to State and local educational agencies.

"GRANTS AND CONTRACTS AUTHORIZED

20 USC 2942.

"SEC. 302. (a) The Commissioner is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, other public and private agencies, organizations, and institutions, and individuals to carry out the purposes of this title, except that no grant may be made under this title to other than a public agency or nonprofit private organization, or institution, or to an individual under section 303(b) of this part.

Determination.

"(b) No grant or contract may be awarded under this title to a State or local educational agency unless the Commissioner determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public schoolchildren.

"COMMISSIONER'S DISCRETIONARY PROJECTS

20 USC 2943.

"SEC. 303. (a) From the amount available for the purposes of this section, the Commissioner is authorized, through grants or contracts, to carry out innovative or experimental projects to assist in the development or demonstration of methods, techniques, or practices which contribute to the solution of educational problems and which are consistent with the purposes of this title.

Grants.

"(b) The Commissioner is also authorized, from the amount available for the purposes of this section, to make grants not to exceed $25,000, to teachers, administrators, other educational personnel, and parent organizations to assist in the development or demonstration of

innovative methods or techniques which would contribute to the solution of educational problems. Any grant to an individual who is employed by a local educational agency shall be made only if the Commissioner determines that the agency has had an opportunity to comment on the proposal and will cooperate with the grantee in carrying out the proposed activity. Determination.

"(c) The Commissioner is also authorized, from the amount available for the purpose of this section, to make grants and enter into contracts for— Grants and contracts.

"(1) the development of curricula, and the dissemination of information relating to the improvement of teaching energy conservation to elementary and secondary school children, and

"(2) the training of personnel to teach energy conservation to such children.

In carrying out the provisions of this subsection, the Commissioner shall use to the maximum extent practicable materials developed by the Department of Energy, the Community Services Administration, and the Department of Housing and Urban Development.

"(d)(1) There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years. Appropriation authorization.

"(2) From the sums appropriated for any fiscal year for the purposes of this title (other than sums appropriated pursuant to paragraph (1) of this subsection), the Commissioner may reserve not more than 10 percent of such sums for the purposes of this section. The Commissioner shall not reserve from sums appropriated for any fiscal year for any part of this title (other than sums appropriated pursuant to paragraph (1) of this subsection) more than 10 percent from the sums so appropriated for each such part.

"PART B—METRIC EDUCATION

Metric Education Act of 1978.

"SHORT TITLE; DECLARATION OF PURPOSE

"SEC. 311. (a) This part may be cited as the 'Metric Education Act of 1978'. 20 USC 2951.

"(b)(1) The Congress finds that—

"(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

"(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

"(C) a Federal program is vitally necessary if the American people are to adapt to the use of the metric system of weights and measures.

"(2) It is the purpose of this part to encourage and support programs that prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

"PROGRAM AUTHORIZED

"SEC. 312. (a) The Commissioner shall carry out a program of grants and contracts to encourage educational agencies and institutions to prepare students to use the metric system of measurement. Activities assisted under this part may include— Grants and contracts. 20 USC 2952.

"(1) the development, demonstration, improvement, or adaptation of programs of education in the use of the metric system;

"(2) training educational personnel to carry out programs in the use of the metric system;

"(3) the development and dissemination of instructional materials for use in metric education programs; and

"(4) other activities that will encourage and assist students to learn the use of the metric system.

"Metric system of measurement."

"(b) For the purposes of this part, the term 'metric system of measurement' means the international system of units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

"APPLICATION

Financial assistance.
20 USC 2953.

"SEC. 313. Financial assistance under this part may be made only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe. The application shall be approved only if it—

"(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(2) describes a program which holds promise of making a substantial contribution toward attaining the purpose of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

"(4) contains such other provisions as the Commissioner determines necessary in order to accomplish the purpose of this part.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 2954.

"SEC. 314. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

Arts in Education Act of 1978.

"PART C—ARTS IN EDUCATION

"SHORT TITLE; STATEMENT OF FINDINGS

20 USC 2961.

"SEC. 321. (a) This part may be cited as the 'Arts in Education Act of 1978'.

"(b)(1) The Congress finds that—

"(A) the arts should be an essential and vital component of every student's education;

"(B) the arts provide students with useful insights to all other areas of learning; and

"(C) a Federal program is necessary to foster and maintain the interrelationship of arts and education.

"(2) It is the purpose of this part to encourage and support programs that recognize and stress the essential role the arts can play in elementary and secondary education.

"PROGRAM AUTHORIZED

Grants and contracts.
20 USC 2962.

"SEC. 322. The Commissioner shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institu-

tions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula. Activities carried out under this part may include arrangements with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters, to achieve the purpose of this part. Furthermore, the Commissioner may carry out a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts. In addition, the Commissioner may carry out a program for the purpose of identifying, developing, and implementing model projects or programs in all the arts for handicapped persons through arrangements made with the National Committee, Arts for the Handicapped.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 323. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part. 20 USC 2963.

"PART D—PRESCHOOL PARTNERSHIP PROGRAMS

"ESTABLISHMENT OF PROGRAM

"SEC. 325. (a) The Commissioner is directed to establish, in cooperation with the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, a program of cooperative pilot projects between local educational agencies and Project Head Start, as authorized by the Headstart-Follow Through Act, which will provide a smoother and more successful transition to formal schooling for certain preschool-aged children, and thereby improve their long-term achievement in elementary school. 20 USC 2971. 42 USC 2921.

"(b) Projects established under this program will be designed to achieve the purposes of subsection (a) by—

"(1) providing to a limited number of children aged three to four, inclusive, of low-income families and to their parents, families, or guardians a program of educational services including instruction, counseling, and testing, to be conducted primarily in the child's home;

"(2) providing to children and adults who have participated in the services described above, during the following year appropriate educational services, testing, and counseling, to be primarily conducted on the premises of an elementary school; and

"(3) providing a coordinated program of testing and assessment, along with such other evaluation procedures as the Commissioner and the Assistant Secretary shall deem appropriate, designed to assess the achievement of children during their participation in the program and subsequently at the end of each of the first two years of formal schooling.

"(c) Funds provided under this part may also be used to fund early childhood and family education programs for children below kindergarten age. Such programs may include—

"(1) the identification of potential barriers to learning;

"(2) education of parents in child development, including education of parenthood programs for secondary school students; and

"(3) home-based programs of early childhood and family education.

"(d) Not less than 10 percent of the funds made available for purposes of section 303 for each fiscal year shall be made available for purposes of this part.

Consumer Education Act of 1978.

"PART E—CONSUMER EDUCATION

"SHORT TITLE; STATEMENT OF FINDINGS

20 USC 2981.

"SEC. 331. (a) This part may be cited as the 'Consumer Education Act of 1978'.

"(b) The Congress finds that—

"(1) in an inflated economy, the American consumer is finding that the dollar is buying less and less;

"(2) the consumer needs useful information in order to make wise economic choices; and

"(3) Federal involvement is needed to encourage and support the development of consumer education programs throughout the country.

"OFFICE OF CONSUMERS' EDUCATION

Establishment and Director. 20 USC 2982.

"SEC. 332. (a) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

"(b) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

"PROGRAM AUTHORIZED

Grants and contracts. 20 USC 2983.

"SEC. 333. (a) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(b)(1) Funds appropriated for grants and contracts under this part shall be available for such activities as—

"(A) the development of curricula (including interdisciplinary curricula) in consumer education;

"(B) dissemination of information relating to such curricula;

"(C) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

"(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

"(2) In addition to the activities specified in the first sentence of this subsection, such funds may be used for projects designed to demonstrate, test and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities assisted pursuant to this section shall provide bilingual assistance when appropriate.

"APPLICATION

"SEC. 334. Financial assistance under this part may be made available only upon application to the Commissioner. Each application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it— Financial assistance. 20 USC 2984. Regulation.

"(1) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(2) describes a program for carrying out one or more of the activities described in section 333(b) which holds promise of making a substantial contribution toward attaining the purposes of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(6) provides for making an annual report and such other reports in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"REPORTS AND EVALUATIONS

"SEC. 335. Each recipient of Federal funds under this part shall make such reports and evaluations as the Commissioner shall prescribe by regulation. 20 USC 2985.

"RESERVATION OF FUNDS

"SEC. 336. From funds available for purposes of section 303, not less than $5,000,000 shall be made available for each fiscal year to carry out this part. 20 USC 2986.

"PART F—YOUTH EMPLOYMENT

"PROGRAM AUTHORIZED

"SEC. 341. (a) The Commissioner shall carry out a youth employment program, the purpose of which shall be to prepare children to take their place as working members of society. 20 USC 2991.

"(b) The program carried out under this part shall support activities designed to—

"(1) study the relationship of work to academic and intellectual achievement;

"(2) develop ways to improve achievement in basic educational skills through work experience;

"(3) enhance job opportunities for youths by coordinating educational activities with youth employment activities, particularly those carried out by the Secretary of Labor under the Comprehensive Employment and Training Act;

Ante, p. 1909.

"(4) encourage educational agencies and institutions to develop means to award academic credit for competencies derived from work experience; and

"(5) provide technical assistance, information, training, and other assistance to eligible entities to develop programs to enable students more readily to make the transition from school to work.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 2992.

"SEC. 342. There is authorized to be appropriated $7,500,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

Law-Related Education Act of 1978.

"PART G—LAW-RELATED EDUCATION

"SHORT TITLE; DECLARATION OF FINDINGS

20 USC 3001.

"SEC. 346. (a) This part may be cited as the 'Law-Related Education Act of 1978'.

"(b) The Congress finds and declares that—

"(1) there is a widespread lack of understanding of how our system of law and legal institutions works;

"(2) such an understanding is an essential component in developing faith and appreciation in our democratic system of government and in preparing our youth to be knowledgeable, responsible citizens; and

"(3) there is an urgent need for Federal involvement designed to encourage and support the development of law-related education programs.

"PROGRAM AUTHORIZED

Grants and contracts.
20 USC 3002.

"SEC. 347. (a) The Commissioner shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"Law-related education."

"(b) For the purposes of this part, the term 'law-related education' means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process and the legal system, and the fundamental principles and values on which these are based.

Financial assistance application, regulation.

"(c) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation.

"(d) Funds appropriated for grants and contracts under this part shall be available for activities such as—

"(1) awareness activities, to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of these activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance on existing experience and resources to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for educators and law-related personnel in the substance and practice of law-related education, including pre-service and in-service seminars, workshops, institutes, and courses;

"(5) research and evaluation, to study and improve the effectiveness of materials and methods in law-related education;

"(6) involvement of law-related organizations, agencies and personnel, such as lawyers, law schools, law students, and law enforcement personnel, in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experience with the law and the legal system.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 348. There is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part. 20 USC 3003.

"PART H—ENVIRONMENTAL EDUCATION

Environmental Education Act of 1978.

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 351. (a) This part may be cited as the 'Environmental Education Act of 1978'. 20 USC 3011.

"(b) The Congress finds and declares that—

"(1) the deterioration of the quality of the Nation's environment and of its ecological balance poses a serious threat to the strength and vitality of the people of the Nation;

"(2) that this deterioration is in part due to poor understanding of the Nation's environment and of the need for ecological balance;

"(3) that existing resources are not adequate for educating and informing citizens about environmental matters; and

"(4) that the Federal Government should encourage and support efforts to educate citizens about environmental quality and ecological balance.

"(c) It is the purpose of this part to encourage and support the development of new and improved curricula to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance while giving due consideration to the economic considerations related thereto; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof, to provide support for the initiation and maintenance of programs in environmental education at the elementary and secondary levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community, labor, and industrial and business leaders and employees, and government employees at State, Federal, and local levels; to provide for the planning of outdoor ecological study centers; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance; and to provide for the preparation

and distribution of materials by mass media in dealing with the environment and ecology.

"OFFICE OF ENVIRONMENTAL EDUCATION

Establishment and functions. 20 USC 3012.

"SEC. 352. There is established within the Office of Education an Office of Environmental Education (referred to in this section as the 'Office') which, under the supervision of the Commissioner, by regulation, shall be responsible for (1) the administration of the program authorized by section 353 and (2) the coordination of activities of the Office of Education which are related to environmental education. The Office shall be headed by a Director who shall be compensated at a rate not to exceed that prescribed for grade GS-17 in section 5332 of title 5, United States Code.

Director.

5 USC 5332 note.

"PROGRAM AUTHORIZED

Environmental education. 20 USC 3013.

"SEC. 353. (a) For the purposes of this part, the term 'environmental education' means the educational process dealing with man's relationship with the Earth and his effect on the Earth and his relationship with his natural and man-made surroundings, and includes the relations of energy, population, pollution, resource allocation and depletion, conservation, transportation, technology, economic impact, and urban and rural planning to the total human environment.

Grants and contracts.

"(b)(1) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, regional educational research organizations, and other public and private agencies, organizations, and institutions (including libraries and museums) to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance, except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(2) Funds appropriated for grants and contracts under this part shall be available for such activities as—

"(A) the development of curricula (including interdisciplinary curricula) in the preservation and enhancement of environmental quality and ecological balance;

"(B) dissemination of information relating to such curricula and to environmental education, generally;

"(C) in the case of grants to State and local educational agencies, or groups of such agencies, for the suport of environmental education programs at the elementary and secondary education levels;

"(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposia, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with environmental quality and ecology or to develop interdisciplinary strategies and programs of environmental quality and ecology and for public service personnel, Government employees and business, labor, and industrial leaders and employees;

"(E) planning of outdoor ecological study centers;

"(F) community education programs on environmental quality, including special programs for adults;

"(G) preparation and distribution of materials suitable for use by the mass media in dealing with the environment and ecology; and

"(H) establishing prize contests in the elementary and secondary schools in the area of energy, the emphasis to be placed upon stimulating new thinking about ways to better understand and solve the energy crisis.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section.

"APPLICATION

"SEC. 354. (a) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it— Financial assistance. 20 USC 3014. Regulation.

"(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(2) describes a program for carrying out one or more of the activities described in section 353(b)(2) which holds promise of making a substantial contribution toward attaining the purposes of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(6) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) Applications from local educational agencies for financial assistance under this part may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations. Notification.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

"(d) Federal assistance to any program or project under this section, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall not exceed 80 per centum of the cost of such program for the first fiscal year of its operation, including costs of administration, unless the Commissioner determines, pursuant to regulations adopted and promulgated by the Commissioner establishing objective criteria for such determinations, that assistance in excess of such percentages is required in furtherance Federal share.

of the purposes of this section. The Federal share for the second year shall not exceed 60 per centum, and for the third year and each succeeding fiscal year 40 per centum. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services.

"TECHNICAL ASSISTANCE

20 USC 3015.

"SEC. 355. The Commissioner in cooperation with the heads of other agencies with relevant jurisdiction, shall insofar as practicable upon request, render technical assistance to local educational agencies, public and private nonprofit organizations, institutions of higher education, agencies of local, State, and Federal governments and other agencies deemed by the Commissioner to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education programs which are related to environmental quality and ecological balance.

"SPECIAL GRANTS

20 USC 3016.

"SEC. 356. (a) In addition to the grants authorized under section 353, the Commissioner, from the sums appropriated, shall have the authority to make grants, in sums not to exceed $10,000 annually, to nonprofit organizations such as citizens' groups, volunteer organizations working in the environmental field, and other public and private nonprofit agencies, institutions, or organizations for conducting courses, workshops, seminars, symposia, institutes, and conferences, especially for adults and community groups (other than the group funded).

"(b) Priority shall be given to proposals demonstrating innovative approaches to environmental education.

Evidence and report requirements.

"(c) For the purposes of this section, the Commissioner shall require evidence that the interested organization or group shall have been in existence one year prior to the submission of a proposal for Federal funds and that it shall submit an annual report on Federal funds expended.

"(d) Proposals submitted by organizations and groups under this section shall be limited to the essential information required to evaluate them, unless the organization or group shall volunteer additional information.

"ADMINISTRATION

20 USC 3017.

"SEC. 357. In administering the provisions of this part, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon. The Commissioner shall publish annually a list and description of projects supported under this part and shall distribute such list and description to interested educational institutions, citizens' groups, conservation organizations, and other organizations and individuals involved in enhancing environmental quality and maintaining ecological balance.

Project list and description, publication and distribution.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 358. (a) There is authorized to be appropriated $5,000,000 for the fiscal year 1979, $7,000,000 for the fiscal year 1980, $9,000,000 for the fiscal year 1981, $11,000,000 for the fiscal year 1982, and $13,000,000 for the fiscal year 1983 to carry out the provisions of this part. Funds appropriated under this part shall remain available to the Commissioner for the duration of this part in order to permit multiple-year funding of projects under this part. 20 USC 3018.

"(b) For each fiscal year, not to exceed $500,000 of the sums appropriated under this part shall be available for the purpose of carrying out section 353(b)(2)(H).

"PART I—HEALTH EDUCATION

Health Education Act of 1978.

"SHORT TITLE; DECLARATION OF PURPOSE

"SEC. 361. (a) This part may be cited as the 'Health Education Act of 1978'. 20 USC 3021.

"(b)(1) The Congress finds and declares that—

"(A) there is an increased concern for physical health and wellbeing;

"(B) an understanding of the principles of good health can play a vital role in preventing illness and diseases;

"(C) a Federal program is needed to assist State and local educational agencies in developing health education programs.

"(2) It is the purpose of this part to encourage and support programs that prepare students to maintain their physical health and wellbeing, and to prevent illnesses and diseases, as a part of the regular education program.

"PROGRAM AUTHORIZED

"SEC. 362. (a) The Commissioner is authorized to make grants to State and local educational agencies to establish and support programs in health education. Grants. 20 USC 3022.

"(b) Prior to establishing final regulations for making grants under this part, the Commissioner shall consult with the Assistant Secretary of Health, Education, and Welfare for Health and the Surgeon General to assure coordination and nonduplication of effort. Regulations, consultation.

"APPLICATION

"SEC. 363. Financial assistance under this part may be made only upon application to the Commissioner. Each such application shall contain assurances that any funds received under this part will be used in a coordinated and cooperative manner with any other health education related program that the applicant may be undertaking, and shall not duplicate such other programs. Financial assistance. 20 USC 3023.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 364. There are authorized to be appropriated $10,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part. 20 USC 3024.

Correction Education Demonstration Project Act of 1978.
20 USC 3031.

"PART J—CORRECTION EDUCATION

"SHORT TITLE

"SEC. 371. This Act may be cited as the 'Correction Education Demonstration Project Act of 1978'.

"PROGRAM AUTHORIZED

Grants.
20 USC 3032.

"SEC. 372. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit agencies, organizations, and institutions for demonstration projects relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders. All projects shall include an evaluation component.

Financial assistance, application.

"(b) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe.

"TECHNICAL ASSISTANCE

Advisory committees, appointment.
Consultation.
20 USC 3033.

"SEC. 373. The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefitted by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons; Administrator, Office of Juvenile Justice and Delinquency Prevention; Director of the Teacher Corps; the Director of the National Institute of Law Enforcement and Criminal Justice; the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 3034.

SEC. 374. There is authorized to be appropriated $5,000,000 for fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

"PART K—DISSEMINATION OF INFORMATION

"DISSEMINATION OF INFORMATION

20 USC 3041.

"SEC. 376. The Commissioner shall allocate at least 5 percent of the funds available for purposes of section 303 to collect, analyze, and disseminate information derived from activities carried out under this title and under part C of title IV, including information as to which of those activities have been successful in improving the achievement of students in the basic skills.

Post, p. 2237.

"PART L—BIOMEDICAL SCIENCES

"FINDINGS AND PURPOSE

"SEC. 381. It is the purpose of this part to— 20 USC 3051.

"(1) introduce secondary students from an economically disadvantaged background to the challenges, opportunities, and needs of serving in communities which have a need for professionals trained in the biomedical sciences and which have an underrepresentation of individuals from such a disadvantaged background serving as medical professionals;

"(2) motivate and educate these students to successfully pursue careers in the biomedical sciences;

"(3) develop academic, cognitive, and communicative skills in these students;

"(4) rectify disadvantages resulting from foreign language barriers; and

"(5) instill awareness and concern in these students for the health of their families and communities;

by offering these students an intensive academic program in mathematics, the sciences, and English, study skill development, experiences in laboratory and health care delivery settings, and frequent exposure to individuals trained, or receiving training, in the biomedical sciences.

"DEFINITIONS

"SEC. 382. For the purposes of this part— 20 USC 3052.

"(1) The term 'applicant' means an institution which has made application under section 385 for assistance under this part.

"(2) The term 'biomedical science' means a field relevant to the study of human biology, and includes chemistry, biology, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, and public health.

"(3) The term 'full participant' means with respect to a project conducted in an academic year, a student who has participated satisfactorily in the project for not less than one hundred hours in the academic year.

"(4) The term 'project' means a project funded under this part.

"(5) The term 'public secondary school system' means secondary schools operated by a local educational agency or a secondary school operated predominantly for Indian children and operated by, or receiving financial assistance from, the Department of the Interior.

"(6) The term 'school of biomedical science' means an institution of higher education which provides training leading to a doctorate or master's degree in a biomedical science.

"(7) The term 'student from an economically disadvantaged background' means an individual from a family which had, during the preceding year, an income equal to 50 per centum or less of the national median income for families of comparable size and (A) who is enrolled in good standing in the ninth, tenth, eleventh, or twelfth grade of a secondary school and (B) whose access to higher educational opportunity in the biomedical sciences is significantly limited due to the income of the individual's family.

"(8) The term 'talented student from an economically disadvantaged background' means a student from an economically

disadvantaged background who has demonstrated such proficiency or potential as will enable the student, after satisfactory participation in a project, to undertake successfully a course of study in a biomedical science at an institution of higher education. Such proficiency or potential shall be determined in a manner such that (A) a student from a non-English speaking background is not penalized for the student's lack of proficiency in English, and (B) due notice is taken of difficulties inherent in traditional testing methods.

"(9) The term 'target student' means, with respect to a project offered in an academic year in cooperation with a secondary school system or systems, a talented student from an economically disadvantaged background who is enrolled in the school system or systems in the academic year—

"(A) in the ninth or tenth grade, or

"(B) in the eleventh or twelfth grade and who has participated satisfactorily in a project (or in a program comparable to a project) for not less than one hundred hours during the student's enrollment in the ninth or tenth grade in a school system.

"PROJECTS FOR ECONOMICALLY DISADVANTAGED STUDENTS

Grants and contracts.
20 USC 3053.

"SEC. 383. (a) To the extent provided in appropriation Acts, the Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of offering projects to educate, motivate, and encourage students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences.

Applications, selection.

"(b) The Commissioner, in his selection among applications meeting the requirements for approval under section 385, shall (1) give priority to each such qualified application that proposes the offering of a program not previously offered, (2) give special consideration to each such qualified application that proposes the offering of a project to students enrolled in secondary schools located in a health manpower shortage area (designated under section 332 of the Public Health Service Act) or in a rural area, and (3) take into account the location where the project is proposed to be offered to assure that projects are offered in a diversity of geographic settings.

42 USC 254e.

"(c) The amount of money to be provided, under any grant or contract entered into for a project, for all its expenses (other than special expenses approved by the Commissioner for its summer program offered pursuant to section 384(a)(10)) for a single fiscal year may not exceed an amount equal to $2,400 for each talented student from an economically disadvantaged background who was a full participant in the project in the academic year ending in that fiscal year.

"PROJECT ACTIVITIES

20 USC 3054.

"SEC. 384. (a) Each project funded under this part shall—

"(1) except as provided in subsection (b), extend over a multiyear grant or contract period of at least five academic years;

"(2)(A) be carried out in cooperation with a public or private nonprofit secondary school system, or with a combination of such systems, which is located in the area in which the applicant is

located and which has a relatively high proportion, as determined by the Commissioner, of students from an economically disadvantaged background enrolled in the secondary schools in such system, and (B) involve in a formal role in policymaking decisions in the project an individual who is employed at an administrative level, no lower than principal or dean, in a secondary school with target students who are participating in the project;

"(3) be conducted, to the extent feasible, in a manner which does not conflict with a student's participation in extracurricular activities of the school in which he is enrolled;

"(4) provide that not less than one hundred talented students from an economically disadvantaged background, who are enrolled in the ninth grade in such public or private nonprofit school system or systems in each academic year in which the project is offered, are full participants in the project in such academic year;

"(5) provide for validation of the participation of a target student in such project by a science teacher or the parent or guardian of such student;

"(6) make arrangements to use in such project—

"(A) the research and other facilities and personnel of schools of biomedical science located in the area in which such project is offered;

"(B) the special knowledge of individuals from economically disadvantaged backgrounds who live in the area in which such project is offered and who are employed in the biomedical sciences;

"(C) the expertise of teachers in secondary schools and institutions of higher education located in the area in which such project is offered; and

"(D) the talents and experience of other groups located in the area in which such project is offered, such as parent-teacher associations, foundations, civic groups, and professional organizations, which would further the goals of such project;

"(7) expose target students to professionals trained in the biomedical sciences and to the resources of the biomedical sciences, including those described in paragraph (6), and such other academic and health-related experiences as are designed to—

"(A) inform and educate such students to the challenges, opportunities, and needs of serving in the biomedical science professions;

"(B) educate and motivate such students to pursue successful careers in the biomedical sciences;

"(C) cultivate the development of academic, cognitive, and communication skills in such students; and

"(D) instill awareness, concern, and information in such students for the health of their families and communities;

"(8)(A) provide counseling to target students who are participating, and to individuals who were such students and who were full participants in an academic year, in the project on the range of opportunities available in the biomedical sciences upon completion of high school, college, and professional training, and on the financial and other prerequisites to pursue such opportunities, and (B) inform parents of participating students of the goals and

39-194 O—80—pt 2——60 : QL3

structure of the project and provide opportunities for the involvement of these parents in the project;

"(9) provide for the offering for target students, by a school of biomedical science during each academic year of such project, of a course or courses which—

"(A) are in one or more of the biomedical sciences,

"(B) encompass at least one hundred hours of classroom, laboratory, and fieldwork experience, and

"(C) use the facilities of such school, including laboratories, libraries, classrooms, audiovisual equipment, conference and meeting rooms, and other necessary facilities;

"(10) provide for the offering—

"(A) in the summer following each academic year of the project, and

"(B) for each individual who was a target student and a full participant in the project in the previous academic year, of a summer program of at least six weeks' duration and involving such academic study and other activities as promote the purposes of this part; and

"(11) provide for the following (through qualitative assessments by a student's teachers and professors and through documentation of a student's cumulative grade point average in high school, scholastic aptitude test scores, acceptances to colleges and universities, and grade point average and major pursued during attendance at a college or university) of each individual who was a target student and a full participant in the project in an academic year in which the project is offered, to evaluate the impact of the project on the careers pursued by former participants in the project.

"(b) The Commissioner may not provide funds under this part to an institution for a project (other than for the part of the project described in subsection (a)(11)) during an academic year (hereinafter in this subsection referred to as the 'project year') occurring after the second academic year of the project unless—

"(1) the number of target students who were enrolled in the tenth grade and were full participants in the project in the academic year preceding the project year is not less than 50 per centum of the number of target students who were enrolled in the ninth grade and were full participants in the project in the second academic year preceding the project year; and

"(2) not less than 50 per centum of the particular target students who were enrolled in the tenth or eleventh grade and were full participants in the project in the second academic year preceding the project year also were full participants in the project during the academic year preceding the project year.

"APPLICATIONS

20 USC 3055.

"SEC. 385. (a) Any institution desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that the project for which the application seeks assistance—

"(1) will be operated by the applicant and that the applicant will carry out such project in accordance with this part; and

"(2) will provide for the activities described in section 384(a).

"(b) In approving an application for assistance under this title, the Commissioner shall insure that there is cooperation and coordination of efforts among the projects, including the exchange of materials and information among such projects.

"USE OF FUNDS

"SEC. 386. (a) Funds appropriated to carry out projects under this part may be used to cover all or part of the cost of establishing and carrying out projects, including the cost of stipends, allowances, travel, and subsistence expenses (in such amounts as may be determined in accordance with regulations of the Commissioner) to target students during their participation in a summer program offered pursuant to section 384(a)(10). 20 USC 3056.

"(b) Each target student who is participating on an essentially full-time basis in a project during the academic year may be paid a stipend in an amount not in excess of $30 per month, except in exceptional cases as determined by the Commissioner.

"APPROPRIATIONS AUTHORIZED

"SEC. 387. (a) For the purpose of carrying out projects under this part, there are authorized to be appropriated $40,000,000 for the fiscal year 1979 and each of the four succeeding fiscal years. 20 USC 3057.

"(b) From the funds appropriated pursuant to subsection (a), an amount not to exceed 5 per centum thereof shall be used for the purpose of conducting evaluations of the projects authorized under this part.

"(c) Sums appropriated pursuant to this section shall remain available for expenditure and obligation on or before September 30, 1983.

"PART M—POPULATION EDUCATION

Population Education Act.

"SHORT TITLE

"SEC. 391. This part may be cited as the 'Population Education Act'. 20 USC 3061.

"PROGRAM AUTHORIZED

"SEC. 392. (a) The Commissioner, in consultation with the Deputy Assistant Secretary for Population Affairs, established by section 3 of the Family Planning Services and Population Research Act of 1970, is authorized, from the sums available for purposes of this part, to carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools. 20 USC 3062. 42 USC 3505a.

"(b) Funds available for grants and contracts under subsection (a) shall be available for such activities as—

"(1) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them

to incorporate population concepts into a broad array of subject fields such as geography, history, science, biology, social studies, and home economics;

"(2) development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement, and adaptation of existing curricula and educational materials;

"(3) research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination;

"(4) in the case of grants to State and local educational agencies, the support of population education programs at the elementary and secondary educational levels; and

"(5) projects which demonstrate, test, and evaluate the effectiveness of the activities (described in clauses (1) through (4) of this subsection) whether or not assisted under this section.

Programs assisted under clauses (2) and (3) shall be carried out in cooperation with State and local educational agencies.

"(c) Applications for grants and contracts under this section shall be submitted at such time, in such form, and contain such information as the Commissioner shall prescribe.

Clearinghouse on population education, establishment.

"(d) The National Institute of Education shall establish or designate, with funds available under this part, a clearinghouse on population education for the purpose of evaluating, cataloging, and disseminating teacher and student materials on population. Such activities shall be carried out in coordination with related activities carried out under title X of the Public Health Service Act. For the purposes of carrying out this subsection, the Commissioner is authorized to transfer from sums available for this part to the National Institute of Education sums not to exceed $500,000.

42 USC 300.

Ante, p. 2210.

"(e) Not less than 10 percent of the funds available for purposes of section 303 shall be made available in each fiscal year for activities under subsection (b) of this section.".

20 USC 1865 note.

(b) (1) Effective September 30, 1979—

20 USC 1861. (A) section 402(b) of the Education Amendments of 1974,

20 USC 1862. (B) section 403 of the Education Amendments of 1974,

20 USC 1863. (C) section 404 of the Education Amendments of 1974,

20 USC 1864. (D) section 405 of the Education Amendments of 1974,

20 USC 1865. (E) sections 406 (a), (b), (d), (e), (f), and (h) of the Education Amendments of 1974,

20 USC 887d. (F) section 811 of the Elementary and Secondary Education Act of 1965,

20 USC 1866. (G) section 408 of the Education Amendments of 1974, and

20 USC 1867. (H) section 409 of the Education Amendments of 1974

are repealed.

Repeal. 20 USC 1851–1853.

(2) Effective September 30, 1979, the Special Projects Act is repealed.

20 USC 1865.

(3) Effective September 30, 1978, section 406(c)(1) is amended by striking out "this section" the first time it appears and inserting in lieu thereof "the Career Education Incentive Act".

TITLE IV—AMENDMENT TO TITLE IV OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION AND SUPPORT

SEC. 401. Title IV of the Act is amended to read as follows:

"TITLE IV—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

"PART A—GENERAL PROVISIONS

"PURPOSE

"SEC. 401. It is the purpose of this title to provide financial assistance to State and local educational agencies— 20 USC 3081.

"(1) to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices;

"(2) to assist local educational agencies in the acquisition of necessary books, materials, library resources, and instructional equipment; and

"(3) to strengthen and expand programs of counseling and guidance services and testing of students in elementary and secondary schools.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 402. (a) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part B, relating to instructional materials and school library resources. Grants. 20 USC 3082.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A) (i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year 1974, or for the preceding fiscal year, whichever is higher, under title II of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and *Ante*, p. 2201. 20 USC 441.

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under title II of this Act and under title III (except for section 305) of the National Defense Edu-

cation Act of 1958 as in effect for the fiscal year 1978 (prior to the repeal or expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

"(b)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part C, relating to improvements in local educational practices.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

Ante, p. 2210.
Post, p. 2240.
Post, pp. 2286, 2287.

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are no met, the Commissioner shall carry out programs under title III (except for programs of testing, guidance, and counseling), title V and sections 807 and 808 of this Act in effect for fiscal year 1978 (prior to the repeal thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

"(c)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated the sum of $50,000,000 for obligation by the Commissioner during the fiscal year 1980, and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part D, relating to formula grants for guidance, counseling, and testing.

"(2) No funds are authorized to be appropriated for obligation by the Commissioner for any fiscal year unless—

"(A)(i) the aggregate amount which would be appropriated under this subsection for part D is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part D is in effect; or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part D is in effect, the amount is at least equal to $18,000,000, and

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are

made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under part A of title V of the National Defense Education Act of 1958 as in effect for fiscal year 1971 (prior to the expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year. 20 USC 481.

"(d) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, 1983, such sums as may be necessary for the purpose of increasing the allotment under section 403(a)(1) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958. *Ante*, pp. 2201, 2210; *Post*, pp. 2240, 2286, 2287.

"ALLOTMENTS TO STATES 20 USC 441.

"SEC. 403. (a)(1) From the amounts appropriated to carry out part B, part C, and part D of this title for any fiscal year, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to that amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all the States. 20 USC 3083.

"(2) For the purpose of this subsection, the term 'State' shall not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. "State."

"(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B, part C, or part D, which the Commissioner determines will not be required for that fiscal year to carry out any of those parts shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year. Reallotment.

"(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under part B, part C, and part D of this title. The Commissioner shall allot each of the amounts appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B, part C, and part D of this title. In addition, for each fiscal year he shall allot from

each of such amounts to (A) the Secretary of the Interior the amounts necessary (including not more than $75,000 for administration) for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

Payment terms.

"STATE PLANS

Grants.
20 USC 3084.

"SEC. 404. (a) A State shall be eligible to receive grants under this part if it has on file with the Commissioner a general State application under section 501 or section 435 of the General Education Provisions Act, whichever is applicable, and if it submits to the Commissioner a State plan at such times (not more often than once every three years) and in such detail as the Commissioner deems necessary, which—

"(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

"(2) sets forth a program under which funds paid to the State from its allotments under section 403 will be expended solely for the programs and purposes that meet the requirements set forth in part B, part C, and part D of this title;

"(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in private elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

"(4) describes the means by which the State educational agency will provide technical assistance to local educational agencies to enable them fully to participate in programs assisted under this title;

"(5) provides assurances that funds such agency receives from appropriations made under section 402(b) will be distributed among local educational agencies on an equitable basis, recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources to distribute funds made available under this title to local educational agencies; and describes the procedures the State will use;

"(6) provides that local educational agencies applying for funds under part B and part D shall be required to submit applications for that program not more than than once every three years;

"(7) provides assurances that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in part B and part D, respectively, for the preceding fiscal year

are not less than the amount per student expended or the aggregate expenditure for the second preceding fiscal year for each such part;

"(8) provides that, for any fiscal year in which the provisions of section 510(b)(2) are not met, of the funds the State receives under section 402 for each fiscal year, the State will use for administration of the State plan not to exceed whichever of the following is greater: (A) 5 per centum of the amount so received ($75,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a), or (B) $225,000; and provides that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B, C, and D, respectively;

"(9) provides that, for any fiscal year in which the provisions of section 523(b) are not met, not more than the greater of (A) 15 per centum of the amount which such State receives pursuant to section 402(b) for any fiscal year, or (B) the amount available by appropriation to such State in the fiscal year ending June 30, 1973 and periods covered by section 431(a)(3) as in effect in such year, shall be used for activities described in section 421;

"(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds;

"(11) sets forth the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs;

"(12) sets forth a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals; and

"(13) provides that the State has established a State advisory council in accordance with subsection (b).

"(b)(1) The State advisory council shall— State advisory council.

"(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State and of the public, including—

"(i) teachers, principals, superintendents, and other professional employees of local educational agencies and private schools,

"(ii) teachers from institutions of higher education,

"(iii) school librarians, personnel involved in operating media programs in local schools, and guidance counselors,

"(iv) individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantages, and limited English proficiency or because they are gifted or talented, and of profes-

sional competence in guidance and counseling, and

"(v) parents, students, and other interested members of the public;

"(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;

"(C) evaluate all programs and projects assisted under this title; and

"(D) prepare at least every three years and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

"(2) Not less than ninety days before the beginning of any fiscal year for which funds will be available for carrying out this title, each State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

"(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner, of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this title.

"(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

"(c) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

"PAYMENTS TO STATES

20 USC 3085.

"SEC. 405. From the amounts allotted to each State under section 403 for carrying out the programs authorized by part B, part C, and part D, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(g)).

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

20 USC 3086.

"SEC. 406. (a) (1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall

provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(2) If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit private agencies or organizations, under which children in private schools in that district are provided with services and materials under that part to the extent that would have occurred if the local educational agency had received funds under this title.

"(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e)(1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of

services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

"(f) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

"(h)(1) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

Petition for review.

"(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

"(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Review.

"PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

"ACTIVITIES AUTHORIZED

20 USC 3101.

"SEC. 421. The amounts allotted to each State under section 403 for the purposes of this part shall be used to provide assistance to local educational agencies within that State—

"(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and

secondary schools which shall be used for instructional purposes only; and

"(2) for the acquisition of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only.

"PROGRAM REQUIREMENTS

"SEC. 422. (a) Funds available to a State under this part shall be distributed among local educational agencies in that State according to the enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria prescribed by the Commissioner, to provide higher per pupil allocations to (1) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (2) local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language.

Distribution of funds.
20 USC 3102.

Ante, p. 2152.

"(b) Local educational agencies shall be given complete discretion (subject to the provisions of section 406) in determining how funds they receive under this part will be divided among the purposes described in section 421, except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, librarians, media specialists and other professional staff in the schools, and private school officials, to coordinate the selection of equipment and materials under this part with curricula being carried out in the schools within that agency.

"PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICE

"ACTIVITIES AUTHORIZED

"SEC. 431. (a) The amounts allotted to each State under section 403 for the purpose of this part shall be used to provide assistance to local educational agencies within the State for activities that will improve the educational practices of those agencies, including—

Allotments to local educational agencies.
20 USC 3111.

"(1) the development and demonstration of activities designed to address serious educational problems in elementary and secondary schools, including—

"(A) the need for effective programs for children with special needs, such as educationally deprived children, gifted and talented children, and handicapped children,

"(B) high rates of children who do not complete secondary school, and

"(C) the need of children in private schools for improved educational services;

"(2) encouraging the development and demonstration of improved means of carrying out programs for educationally deprived children in school attendance areas having high concentrations of children from low-income families;

"(3) activities designed to improve the achievement of children in basic skills;

"(4) activities to encourage the participation of parents in the education of their children;

"(5) the development of programs to diagnose learning problems and assess the educational achievement of children, including children in nonprofit private schools;

"(6) developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a fashion designed to meet the individual needs of every child in that school;

"(7) professional development programs for teachers, administrators, and other instructional personnel in the schools of such agencies;

"(8) early childhood and family education programs for children not yet enrolled in kindergarten programs and below age six for activities related to the identification of potential barriers to learning, the education of parents in child development, home-based programs, and referral services; and

"(9) programs to extent the educational process beyond the school building through the use of other resources in the community, such as museums, businesses, cultural organizations, labor unions, and governmental agencies.

"(b)(1) Funds available to the States under this part shall also be used (pursuant to State plans approved under section 404) for the purpose of encouraging innovation and improvement in compensatory educational efforts. Such efforts may include—

"(A) programs of grants to local educational agencies for summer bridge programs which provide students with continued academic improvement and stimulation during the summer months in order to preserve and increase the academic progress of such students in regular school year programs;

"(B) programs of parent education which enable parents to better contribute to their children's academic progress by such means as the conducting of parent education or parenting programs which promote partnership between parents and teachers and help parents develop the skills necessary to motivate and assist such children;

"(C) programs that provide retraining to improve the skills of teachers and other educational personnel to enable such personnel to meet better the specific educational needs of the children served by such personnel; and

"(D) programs to develop educational materials for use by children in the home to improve student achievement in the basic skills.

"(2) Each State shall ensure that not less than 50 per centum of those funds appropriated for any fiscal year which exceed the amount appropriated for this part for the fiscal year ending September 30, 1979, will be used for the purposes of programs described in paragraph (1).

"PROGRAM REQUIREMENTS

20 USC 3112.

"SEC. 432. (a) Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed

five fiscal years (excluding any period for which such agency received a planning grant for such activity), subject to the availability of appropriations for this part of each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner, in order to ensure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program of such agency.

Allocation of funds, percentage.

"(b)(1) From sums made available to each State under this part, the following sums shall be allocated for activities under section 431 (a)(6), relating to plans for improved school management and the coordinated use in schools of all available resources:

"(A) In fiscal year 1980, not less than 5 percent of any amount by which the amount available for this part in fiscal year 1980 exceeds the amount so available in fiscal year 1979.

"(B) In fiscal year 1981 and in each succeeding fiscal year, not less than 10 percent of any amount by which the amount available for this part in such year exceeds the amount so available in fiscal year 1979.

Activity approval.

"(2) No activity under section 431(a)(6) shall be approved by the State educational agency unless the proposal therefor has been developed in consultation with, and has been approved by, a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school.

"(c) Not less than 15 per centum of the amount received by a State under this part in any fiscal year shall be used for special programs or projects meeting the purposes of this part for the education of handicapped children. For the purpose of this part, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

"Handicapped children."
20 USC 872.

Local educational assistance, determination.

"(d) Subject to section 406 (d) and (e), a State educational agency shall not approve the application of a local educational agency for assistance under this part unless the State educational agency determines that in designing the proposal to which that application relates, the needs of children in nonprofit private schools have been taken into account through consultation with private school officials and other means.

"PART D—GUIDANCE, COUNSELING, AND TESTING

"PROGRAM AUTHORIZED

Grants.
20 USC 3121.

"SEC. 441. (a) The Commissioner shall carry out a program for making grants to States (pursuant to State plans approved under section 404) for—

"(1) State leadership and supervisory services in the fields of guidance, counseling, and testing; and

"(2) comprehensive guidance, counseling, and testing programs in elementary and secondary schools throughout the State, including such services as—

"(A) elementary and secondary school counseling,

"(B) in-service training for guidance and counseling personnel,

"(C) supervision and leadership services at the local level,

"(D) program planning and development,

"(E) special guidance and counseling programs suited to

meet the special needs for such programs by persons who are disadvantaged,

"(F) a program of testing students in elementary and secondary schools, and

"(G) evaluation of such programs.

"(b) Of the sums allotted to any State for any fiscal year for the purposes of this part, not to exceed 7½ per centum shall be available for the purpose described in clause (1) of subsection (a).

"PROGRAM REQUIREMENTS

20 USC 3122.

"SEC. 442. Each local educational agency shall be given complete discretion (subject to the provisions of section 406) in determining how funds it receives from appropriations made under section 401(c)(1)(A) will be divided among various programs described in this part.

"ADMINISTRATION

Administrative unit, establishment.
20 USC 3123.

"SEC. 443. (a) The Commissioner shall establish or designate an administrative unit within the Office of Education for purposes of—

"(1) carrying out provisions of this section;

"(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

"(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

Funds, reservation.

"(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated for this part to carry out the provisions of this section.".

EFFECTIVE DATE

20 USC 3081 note.

SEC. 402. The amendments and repeals made by this title shall take effect October 1, 1979.

TITLE V—ESTABLISHMENT OF NEW TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

STATE LEADERSHIP

SEC. 501. Title V of the Act is amended to read as follows:

"TITLE V—STATE LEADERSHIP

"PART A—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY

"SINGLE STATE APPLICATION

20 USC 3141.
Ante, pp. 2210, 2229.

"SEC. 501. (a) Each State which desires to participate in programs authorized under title I and title IV of this Act shall submit to the Commissioner a general application containing the assurances set forth

in subsection (b). That application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

"(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

"(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to those entities, and that the public agency or nonprofit private agency, institution, or organization will administer those funds and property;

"(3) that the State will adopt and use proper methods of administering each program to which this part applies including—

"(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

"(B) providing technical assistance, where necessary, to those agencies, institutions, and organizations,

"(C) encouraging the adoption by those agencies, institutions, and organizations for promising or innovative educational techniques,

"(D) the dissemination throughout the State of information on the program requirements and succcessful practices, and

"(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

"(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

"(5) that the State will use such fiscal control and fund accounting procedures as will insure proper disbursement of and acounting for Federal funds paid to the State under each program;

"(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 437 of the General Education Provisions Act, and afford access to the records as the Commissioner may find necessary to carry out his duties; Reports. *Post*, p. 2346.

"(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program, and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

"(A) the State will consult with relevant advisory committees, local agencies, interested groups, and experienced professionals in the development of program plans required by statute;

"(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

"(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

"(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

"(c) Each general application submitted under this section shall remain in effect for the duration of any program subject to the application. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

"SINGLE LOCAL EDUCATIONAL AGENCY APPLICATION

20 USC 3142.

"SEC. 502. (a) Each local educational agency which participates in a program subject to this Act under which Federal funds are made available to that agency through a State agency or board shall submit to that agency or board a general application containing the assurances set forth in subsection (b). That application shall cover the participation by the local educational agency in all such programs.

"(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances—

"(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

"(3) that the local educational agency will use fiscal control and fund accounting procedures that will insure proper disbursement of, and accounting for Federal funds paid to that agency under each program;

"(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational

agency will maintain such records, including the records required under section 437 of the General Education Provisions Act, and give access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties; *Post*, p. 2346.

"(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

"(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

"(7) that in the case of any project involving construction—

"(A) the project is not inconsistent with overall State plans for the construction of school facilities,

"(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to insure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals, 29 USC 794.

"(C) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project); and

"(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through those projects.

"(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

"APPLICATION APPROVAL

"SEC. 503. (a)(1) A State educational agency shall approve an application of a local educational agency or a State agency subject to this part if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act and other applicable requirements and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 508(c). 20 USC 3143. 20 USC 1221.

"(2) A State educational agency may approve an application under paragraph (1) of this subsection, only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant

agency's compliance with this title, and (D) reports on evaluations conducted by the local educational agency of its programs.

"(b) A State educational agency may make payments from funds received under this part only for programs and projects which it has approved under subsection (a).

"(c) A State educational agency shall not finally disapprove in whole or in part any application for funds under this part without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing in accordance with section 434 of the General Education Provisions Act.

Post, p. 2342.

"STATE RULEMAKING

20 USC 3144.

"SEC. 504. Nothing in this part shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects, assisted under this part if they do not conflict with the provisions of this part or with regulations promulgated by the Commissioner implementing this title or other applicable Federal law. The Commissioner shall encourage State educational agencies, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

"TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

20 USC 3145.

"SEC. 505. Each State educational agency shall carry out a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this part. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from education research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this title, and (4) such other information as will assist local educational agencies, and State agencies in planning, developing, implementing, and evaluating programs subject to this part.

"MONITORING

Standards.
20 USC 3146.

"SEC. 506. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner, for monitoring the effectiveness of programs and projects subject to this part. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of on-site visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate followup by

the State educational agency, (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that noncompliant practices are corrected.

"COMPLAINT RESOLUTION

"SEC. 507. Each State educational agency shall adopt written procedures for receiving and resolving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title, applicable provisions of the General Education Provisions Act or of programs subject to this part, and for conducting on-site investigations of complaints which the State educational agency deems necessary. Such procedure shall include— 20 USC 3147.

"(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent on-site investigation, which shall not exceed sixty days unless exceptional circumstances exist;

"(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

"(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

"(4) dissemination of information concerning the procedures to interested parties, including all district and school advisory councils.

"WITHHOLDING OF PAYMENTS

"SEC. 508. (a) Whenever a State educational agency, after reasonable notice and opportunity for a hearing to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of the programs subject to this part the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under applicable provisions of law until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under applicable provisions of law, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken. 20 USC 3148.

"(b) Upon submission to a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) is withholding payment the State educational agency shall inform the district advisory council, if any, and shall take such additional action as may be necessary to bring the State action to the attention of the public.

"(c) A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a compliance agreement with the local educational agency or State agency under this subsection, except that if the local educational

agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term 'compliance agreement' means an agreement which—

"(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

"(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

"(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

Appeal.
Post, p. 2354.

"(d) A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

"AUDITS AND AUDIT RESOLUTION

20 USC 3149.

"SEC. 509. (a) Each State shall make provision for audits of the expenditure of funds received under programs subject to this part, including funds received under this part, to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

Procedures.

"(b) Each State educational agency shall have in effect written procedures, meeting minimum standards established by the Commissioner, to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

Method of payment.

Repayment from non-Federal or Federal funds.

"(c) A local educational agency or State agency shall repay from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government the amount of funds under any program to which this part applies which have been finally determined through the audit resolution process to have been misspent or misapplied.

"(d) A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner. *Post*, p. 2354.

"(e) If, following an affirmance by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government funds which have been misspent or misapplied under any program to which this part applies, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

"PAYMENTS; AUTHORIZATION

"SEC. 510. (a) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part, except that the total of such payments in any fiscal year shall not exceed— 20 USC 3150.

"(1) 1.75 per centum of the amount allocated to the State and its local educational agencies as determined for that year under the programs described in section 501(a); or

"(2) $550,000, or $87,500 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Northern Marianas,

whichever is the greater, but such payment shall not be less than the amount each State received for administration of programs under this Act for fiscal year 1978.

"(b)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983. Appropriation authorization.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A) the amount appropriated under this subsection is sufficient to pay the full amount for which each State is eligible under subsection (a) of this section for that fiscal year, and

"(B) the sums appropriated pursuant to this subsection are included in an act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, each State shall receive payments under section 194 and under section 404(a)(8) of this Act, for the administration of the programs in accordance with subpart 2 of part C of title I and title IV of this Act, and sections 435 and 436 of the General Education Provisions Act. *Ante*, p. 2196. *Ante*, pp. 2183, 2229.

"(c)(1) The Commissioner is authorized to pay to each State in addition to the amount authorized under the preceding subsection an amount not to exceed 25 per centum of the amount authorized for that State under the preceding subsection in cases where— Payment of additional amounts.

"(1) such funds are used solely for purposes of monitoring, audit resolution, enforcement, or other similar activities which

are directly and exclusively related to the enforcement of the requirements of titles I and IV of this Act and of this part,

Ante, pp. 2153, 2229.

"(2) the State applies to receive such individual funds and, in the annual application submitted under section 142 of this Act specifically describes the intended uses of such funds, and

"(3) such funds are used to supplement, and not supplant, funds from non-Federal sources for such enforcement purposes.

Appropriation authorization.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of paragraph (1) of this subsection for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

"PART B—STRENGTHENING STATE EDUCATIONAL AGENCY MANAGEMENT

"ACTIVITIES AUTHORIZED

20 USC 3161.

"SEC. 521. The amounts available to each State for the purposes of this part shall be used by the State educational agency of that State to strengthen the educational leadership resources of that agency and to assist that agency in identifying and meeting the critical educational needs of the State. Such activities may include—

"(1) developing more equitable means of financing education in the State;

"(2) providing resources to other branches of the State government to conduct analyses of educational issues facing the State;

"(3) developing statewide programs to assess the educational progress of students in the State in both public and private schools, including testing programs and other methods of assessing student achievement in reading, writing, and mathematics;

"(4) providing technical assistance to local educational agencies for improving planning, management of State and Federal programs, citizen involvement, and staff development;

"(5) providing technical assistance to local educational agencies for improving their instructional programs, including programs that enable parents to assist in the instruction of their children at home;

"(6) workshops, conferences, and other means of providing communication among educators and between educators and the public;

"(7) dissemination of information concerning effective educational practices;

"(8) coordinating public educational programs with those carried out in private nonprofit elementary and secondary schools in the State, and monitoring the requirements of Federal programs with respect to the participation therein of children enrolled in those schools;

"(9) professional development of employees of the State educational agency; and

"(10) developing curricular materials and programs.

"PROGRAM REQUIREMENTS

20 USC 3162.

"SEC. 522. Each State which desires to participate in programs under this part shall submit to the Commissioner a State plan which sets forth in such detail as the Commissioner prescribes the purposes

for which funds provided under this part will be used by the State educational agency. The plan shall also set forth—

"(1) the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs; and

"(2) a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals and organizations.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 523. (a) There are authorized to be appropriated for the purposes of this part such sums as may be necessary for fiscal year 1980 and for each of the succeeding fiscal years ending prior to October 1, 1983. 20 USC 3163.

"(b) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A) the amount appropriated under this subsection is at least equal to 15 percent of the amount appropriated for part C of title IV for that fiscal year, and *Ante*, p. 2237.

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(c) Whenever the requirements of subsection (b) are not met, each State may reserve sums under section 404(a)(9) of this Act.

"PART C—COUNCILS ON QUALITY IN EDUCATION

"NATIONAL AND STATE ADVISORY COUNCILS

"SEC. 531. (a)(1) There is hereby established a National Council on Quality in Education (hereafter referred to as the 'National Council') composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed without regard to political affiliation. Members shall be appointed for terms of three years, except that (A) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (B) appointments to fill the unexpired portion of any term shall be for such portion only. National Council on Quality Education, establishment. 20 USC 3171. Membership.

"(2) The National Council shall— Functions.

"(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

"(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

"(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

"(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

"(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

"(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

"(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

"(ii) determinations of priorities among unmet needs and national goals;

"(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement; and

"(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

"(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

"(3) No member of the council shall evaluate any program or project if such member is associated with the program or project as a consultant, technical advisor, or in any other similar capacity.

Report to Congress and President.

"(4) The National Council shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

"(5) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to

cooperate with the National Council in assisting it in carrying out its functions.

State advisory council, establishment.

"(b) (1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as 'State council') which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to subsection (c). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

"(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to persons representative of—

Personnel.

"(A) public and nonprofit private elementary and secondary schools;

"(B) institutions of higher education;

"(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

"(D) areas of competence dealing with children for whom special educational assistance is available under this Act.

"(3) The State council shall—

"(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

"(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this title;

"(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;

"(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and

"(E) evaluate programs and projects assisted under this title.

Certification.

"(4) Any such State shall certify the establishment and membership of its State council to the Commissioner.

"(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

Professional and other personnel.

"(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and

to contract for such services as may be necessary to enable them to carry out their evaluation functions.

Appropriation authorization.

"(c) (1) There are authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EMERGENCY SCHOOL AID

SEC. 601. (a) Title VI of the Act is amended to read as follows:

Emergency School Aid Act.

"TITLE VI—EMERGENCY SCHOOL AID

"SHORT TITLE

20 USC 3191.

"SEC. 601. This title may be cited as the 'Emergency School Aid Act'.

"FINDINGS AND PURPOSE

20 USC 3192.

"SEC. 602. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

"(b) The purpose of this title is to provide financial assistance—

"(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

"(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

"POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

Guidelines and criteria.
20 USC 3193.

"SEC. 603. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

"(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

42 USC 2000d.
Ante, p. 2188.

"AUTHORIZATION

20 USC 3194.

"SEC. 604. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 602(b). The Assistant Secretary shall

delegate the responsibilities for the operation for such program to the Commissioner.

"(b)(1) There are authorized to be appropriated for the purposes of this title, to be apportioned among the States in accordance with section 605, $155,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years.

"(2) There are further authorized to be appropriated for the purpose of this title $245,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years for special programs and projects under section 608 (except subsection (b) thereof) and under section 611, and for evaluations under section 613. From the amount appropriated under this subsection for any fiscal year, the Assistant Secretary shall reserve $20,000,000 or 25 per centum of such sums appropriated under this title, whichever is greater, for the purpose of carrying out programs and projects described in section 608(a) (1) through (3) and shall reserve 7 per centum for the projects described in section 611.

"(3) There are further authorized to be appropriated for the purpose of this title $15,000,000 for the fiscal year 1980 and for each of the three succeeding fiscal years for programs and projects designed to support the development or implementation of plans under section 608(b).

"(c)(1) There are further authorized to be appropriated for the purpose of this title $7,250,000 and such additional sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years for providing compensatory services to students who had previously received such services funded in whole or in part under title I of this Act, but who are no longer receiving such services as a result of attendance area or enrollment changes under a plan implemented or ordered after August 21, 1974, if the plan meets the requirements of section 606(a)(1) (A), (B), (C), or (D) for eligibility for assistance under this title. *Ante*, p. 2153.

"(2) Funds made available under paragraph (1)—

"(A) shall not be used in any manner which would result in the isolation of the students described in such paragraph from other students in the school to which the students so described have been assigned by such plan; and

"(B) shall be used to establish compensatory education programs, not less than 30 per centum of the enrollment in which is such other students, except that—

"(i) if such school receives funds under provisions of this title other than this subsection, such funds shall be used to provide such services to such other students; or

"(ii) if such school does not receive such funds, funds provided under this subsection may be used for such other students, not exceeding 30 per centum of the enrollment in such program.

"APPORTIONMENT AMONG STATES

"SEC. 605. (a) From the sums appropriated pursuant to section 604(b)(1) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within the State $75,000 plus an amount which bears the same ratio to such sums as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of such children in all States, except that the amount apportioned to any State shall not be less than 20 USC 3195.

$100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recently available satisfactory data.

"(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for that fiscal year for programs and projects within that State shall be available either—

"(A) for reapportionment to other States for which the amount so apportioned is insufficient for approvable programs or projects for that fiscal year, or

"(B) for special programs and projects under section 608(a), whichever the Assistant Secretary determines will best achieve the purposes of this title. The Assistant Secretary shall distribute any amounts reapportioned among the States pursuant to clause (A) in proportion to the need of eligible applicants in each such State for approvable programs or projects.

"(2) The Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than one hundred and twenty days prior to the end of such fiscal year.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the application for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 606, 607, and 610, or which set forth programs or projects of such insufficient promise for achieving the purposes of this title stated in section 602(b) that their approval is not warranted.

"ELIGIBILITY FOR ASSISTANCE

20 USC 3196.

"SEC. 606. (a)(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

"(A) which is implementing a plan—

"(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools, and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation; or

"(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

42 USC 2000d.

"(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete

elimination of minority group isolation in all the minority group isolated schools of such agency; or

"(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement a plan—

"(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

"(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

"(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum, but not more than 50 per centum, of the enrollment consists of such children, or

"(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who should not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts; or

"(E) which is developing a plan of desegregation—

"(i) issued by a court of the United States or a court of any State, or any other State agency or official of competent jurisdiction, or

"(ii) undertaken by such agency voluntarily, and

which plan will require the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise will require the elimination or reduction of minority group isolation in such schools, or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools, and the period for such planning does not exceed two years. 42 USC 2000d.

Grants under clause (E) shall be from funds appropriated to carry out the purposes of section 608, and not more than one grant for the development of a plan under clause (E) of this paragraph may be made to any local educational agency. Receipt of a grant or contract under clause (E) of this paragraph shall not be used as an absolute defense in any court of the United States, or a court of any State, or before any other State agency or official of competent jurisdiction.

"(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 609(a)(1).

"(B) A local educational agency shall be eligible for assistance under this paragraph only if— Assistance, eligibility, conditions.

"(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

"(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

"(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are

attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 617(3).

Grant or contract, eligibility.

"(b) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

Assistance, noneligibility conditions.

"(c)(1) Except as provided in paragraph (2), no educational agency shall be eligible for assistance under this title if it has, after June 23, 1972—

"(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

"(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

"(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local educational agency as a standard pedagogical practice; or

"(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

Exception.

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

"(2) Whenever a local educational agency applies for assistance under clause (E) of section 606(a)(1), the provisions of clauses (C) and (D) of paragraph (1) of this subsection shall not apply if the local educational agency provides assurances in the application for assistance that the development of the plan for which assistance is sought will address the conditions described in such clauses (C) and (D).

"(3)(A) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

"(B) Application for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

"(4) No application for assistance under this title shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

"(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

"(6) All determinations and waivers pursuant to this subsection shall be in writing.

"(7) The Assistant Secretary shall prepare and include in the annual report required by section 422(a)(4) of the General Education Provisions Act a list of all the waivers granted under this subsection for the preceding fiscal year. 20 USC 1231a.

"AUTHORIZED ACTIVITIES

"SEC. 607. (a) The Assistant Secretary shall make sums appropriated under section 604(a) for any fiscal year available for programs and projects designed to meet educational needs that arise from the development of or the implementation of a plan described in section 606(a). Those programs and projects may include, but are not limited to— 20 USC 3197.

"(1) the training of school staff and local educational agency staff in the handling of problems incident to the implementation of a qualifying plan;

"(2) the provision of additional staff members (including teacher aides) to assist in meeting educational needs that arise from the implementation of the plan;

"(3) the development or acquisition of new curricula, methods, practices, techniques, or materials to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

"(4) innovative educational activities, including extracurricular activities, which involve the joint participation of minority group children and other children;

"(5) community relations activities, including public information efforts, in support of the implementation of a qualifying plan;

"(6) planning, evaluation, dissemination, and other administrative activities directly related and necessary to other activities in the program or project;

"(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities, where necessary to carry out other activities in the program or project;

"(8) the provision of compensatory services to children who have received such services under title I but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan;

Ante, p. 2153.

"(9) activities to prevent or eliminate recurring or continuing problems resulting from the implementation of a qualifying plan;

"(10) planning to implement or carry out a plan of desegregation issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; and

42 USC 2000d.

"(11) in the case of an applicant implementing a court-ordered desegregation plan under section 606(a)(1)(A)(i), the conduct of educational activities in one or more minority group isolated schools which are not affected by the reassignment of children or faculty under the plan, where the activities have been required by the court to remedy the effects of illegal segregation.

"(b) In recruiting and hiring teacher aides to assist in carrying out a program or projects under this section the local educational agency shall give preference to parents of children affected by the implementation of a qualifying plan.

"SPECIAL PROGRAMS AND PROJECTS

20 USC 3198.

"SEC. 608. (a) From the amount appropriated for any fiscal year under section 604(b), the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title, including, but not limited to—

"(1) the planning for, design of, and conduct of programs in magnet schools;

"(2) the pairing of schools and programs with institutions of higher education and with businesses;

"(3) the development of plans for neutral site schools;

"(4) activities designed to meet the needs of minority group children of limited English language proficiency enrolled in the schools of a local educational agency eligible for assistance under section 606; and

"(5) the development and production of integrated children's television and radio programs of cognitive and affective educational value, as described in section 611.

Grants and contracts.

"(b) From the amount appropriated for any fiscal year under section 604(b)(3), the Assistant Secretary, in cases in which it would effectively carry out the purpose of this title stated in section 602(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) in any State to carry out programs or projects designed to support the development or implementation of a plan described in section 606(a).

Assistance for State desegregation activities.

"(c)(1) From the amount available for the purposes of this section for each fiscal year, the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary and secondary schools, to pay a portion of the cost of State activities related to—

"(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs, and to develop further strategies to meet those needs;

"(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

"(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools.

"(2) The amount of assistance made available to a State under this subsection for any fiscal year shall be twice the amount of State funds expended in the preceding fiscal year for the activities listed in paragraph (1). The amount provided to a State under this section for any fiscal year shall not exceed—

"(A) 10 per centum of the amount apportioned to the State for that fiscal year under section 605, or

"(B) $500,000,

whichever is greater.

Grant applications.

"(3) No grant may be made to a State under this subsection unless the application for that grant has been developed in consultation with teachers, educators, parents (including parents of minority group children), and representatives of the general public (including representatives of minority groups), of whom the proportion of minority group individuals shall be approximately the same as the proportion of minority group children enrolled in the elementary and secondary schools in the State.

"METROPOLITAN AREA PROJECTS

20 USC 3199.

"SEC. 609. (a) Sums available to the Assistant Secretary under section 608 for metropolitan area projects shall be available for the following purposes:

"(1) A program of grants to, and contracts with local educational agencies which are eligible under section 606(a)(2) in order

to assist them in establishing and maintaining integrated schools as defined in section 617(3).

"(2) A program of grants to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

"(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

"(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

"(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

"APPLICATIONS

20 USC 3200.

"SEC. 610. (a) Any local educational agency desiring to receive assistance under this title shall submit to the Assistant Secretary, at such time, in such form, and containing only such information as the Secretary and the Assistant Secretary deem necessary to carry out their functions under this title, an application describing the activities to be carried out under the application during the period, not to exceed five academic years, for which assistance is being sought. That application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve an application only upon a determination that such application—

Information, availability to public.

"(1) has been developed—

"(A) in open consultation with parents, teachers and, where applicable, secondary school students, including at least one public hearing at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereupon, and

"(B) with the participation of a committee composed of parents of children enrolled in the applicant's schools, teachers and, where applicable, secondary school students, of which at least half the members shall be such parents and at least half shall be persons from minority groups;

"(2) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (1)(B);

"(3) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the program described in the application;

"(4) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

"(5) provides that the plan with respect to which such agency is seeking assistance (as specified in section 606(a)(1)(A)) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

"(6) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, as described in section 606, upon which a determination of its eligibility for assistance under this title is based;

"(7) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law, except that nothing in this clause shall prohibit the use of funds under this title for otherwise authorized activities required under a court-ordered plan described in section 606(a)(1)(A)(i);

"(8) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 602(b), provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 602(b), such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

"(9) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free

public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

"(10) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

"(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

Reports.

"(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives and

Recordkeeping.

(B) that the applicant will keep such records and afford such access thereto as—

"(i) will be necessary to insure the correctness of such reports and to verify them,

"(ii) will be necessary to insure the public adequate access to such reports and other written materials; and

"(13) provides that the applicant, in developing the program or project for which it seeks assistance, has considered the need for compensatory services for children who received those services under title I of this Act, but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan.

Ante, p. 2153.

Notice of ineligibility.

"(b) Except in the case of applications for assistance under section 608(a), the Secretary shall determine whether the applicant is eligible under section 606(c), and notify the applicant in writing of any determination of ineligibility under that subsection, including in detail the relevant information on which the determination of ineligibility is based, not later than March 1 of the year in which the academic year or other period for which the assistance is sought begins. Not later than June 30 of that year, the Assistant Secretary shall notify the applicant of the approval or disapproval of the application and the amount of its award, if any.

"(c) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

Applications, criteria for approval.

"(d) In approving applications submitted under this title (except for those submitted under sections 608(b) and 613) the Assistant Secretary shall apply the following criteria:

"(1) the need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 606(a) and the program or projects for which assistance is sought;

"(2) the degree to which implementation of the plan described in section 606(a) has effected or will effect a decrease in minority group isolation in minority group isolated schools;

"(3) the recentness of the implementation of the plan described in section 606(a);

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title; and

"(5) the degree to which the plan described in section 606 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

Duration of assistance.

"(e)(1) An application of a local educational agency for assistance under this title may cover a period of from one to five years. A new application shall be required for any assistance under this title for years subsequent to that period. The Assistant Secretary shall base the decision as to the length of time for which an application will be approved on—

"(A) the severity of the problems addressed by the program or project for which assistance is being sought;

"(B) the nature of the activities proposed in the application;

"(C) the likely duration of the problems addressed by the application; and

"(D) such other criteria, established by the Assistant Secretary as will assure the most effective use of this title.

"(2) If the Assistant Secretary approves an application of a local educational agency under this title for a period covering more than one fiscal year, no subsequent application shall be required from that agency in any fiscal year during that period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

"(A) sufficient appropriations are available for making payments in each such subsequent fiscal year; but such payments to applicants which are approved for a period of more than one year shall be made prior to any approval of funding requests from other applicants unless the Assistant Secretary finds that the urgency of needs elsewhere requires a reduction of the level of support for the applicants first approved;

"(B) the Assistant Secretary determines that the agency is not ineligible for assistance under section 606(d) in each subsequent fiscal year; and

"(C) the agency demonstrates, by such means as the Assistant Secretary may prescribe, that satisfactory progress is being made toward achieving the objectives of the program or projects for which assistance has been made available under this title.

"(f) The Assistant Secretary shall not give less favorable consideration to the application of a State or local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the

application of a local educational agency which has been legally required to adopt such a plan.

Applications, filing dates.

"(g) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

"(h) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 606(a) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"(i) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

"EDUCATIONAL TELEVISION AND RADIO

Grants and contracts.
20 USC 3201.

"SEC. 611. (a)(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of high quality television and radio programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television and radio programs of cognitive and affective educational value.

"(2) Television and radio programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

"(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

"(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

"(B) will assure the development of productions having a substantial artistic or educational significance;

"(C) will use modern television and radio techniques of research and production; and

"(D) has adopted effective procedures for evaluating educational and other changes achieved by children viewing the program.

"(b) Grants and contracts pursuant to subsection (a) may be made from funds available to carry out section 604(b)(2) of this Act.

"(c) Not to exceed 10 per centum of the amounts available for this section shall be used for grants and contracts for development and production of radio programing.

"PAYMENTS

20 USC 3202.

"SEC. 612. (a) Upon his approval of an application for assistance under this title, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

"(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine. Payments under this title for a fiscal year shall remain available for

obligation and expenditure by the recipient until the end of the succeeding fiscal year.

"(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (8) of section 610(a), the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 602(b). The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 608(a), from the sums available to the Assistant Secretary under section 604(b) for the purpose of that subsection. Waiver.

"(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

"(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (8) of section 610(a), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

"(d) After making a grant or contract under this title, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved. Application approval, notification.

"EVALUATIONS

"SEC. 613. From the amount appropriated under section 604(b) for any fiscal year, the Assistant Secretary is authorized to reserve for the purpose of this section not to exceed 1 per centum of the amount appropriated under this title for that fiscal year. From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 610(a)(1) for the purpose of evaluating specific programs and projects assisted under this title. 20 USC 3203.

"JOINT FUNDING

20 USC 3204.

"SEC. 614. Pursuant to regulations prescribed by the President, where funds are advanced under this title, and by one or more other Federal agencies for any project or activity, funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 604 or 605, or (3) waiver of any requirement set forth in sections 606 through 611.

Contract or grant requirements.

"ATTORNEY FEES

20 USC 3205.

"SEC. 615. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"NEIGHBORHOOD SCHOOLS

20 USC 3206.

"SEC. 616. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

"DEFINITIONS

20 USC 3207.

"SEC. 617. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

"(1) The term 'equipment' includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

"(2) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program

which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Assistant Secretary for the purpose of this paragraph.

"(3) For the purpose of section 606(a)(2) and section 609(a)(1), the term 'integrated school' means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with a substantial representation of minority group persons.

"(4) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for the purposes of this title.

"(5) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"(6) The term 'minority group' refers to (A) persons who are American Indians and Alaskan Natives; Asians and Pacific Islanders; blacks, not of Hispanic origin; Hispanics; Franco-Americans; and Portuguese; and (B) (except for purposes of section 605), as determined by the Assistant Secretary, persons who are from environments in which the dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.

"(7) The terms 'minority group isolated school' and 'minority group isolation' in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 percentum of the enrollment of a school.

"(8) The term 'neutral site school' means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

"(9) The term 'Standard Metropolitan Statistical Area' means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

"(10) The term 'State' means one of the fifty States or the District of Columbia, and for purposes of section 608 (a) and (b), Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.".

20 USC 1603. (b)(1)(A) Section 704(c) of the Emergency School Aid Act is amended by striking out "for fiscal year 1978" and inserting in lieu thereof "each for fiscal year 1978 and for the fiscal year 1979".

(B) Section 704(d) of the Emergency School Aid Act is amended by striking out "for the fiscal year 1978" and inserting in lieu thereof "each for the fiscal year 1978 and for the fiscal year 1979".

Repeal. 20 USC 1601-1619. (2) Title VII of the Education Amendments of 1972 is repealed effective September 30, 1979.

TITLE VII—AMENDMENT TO TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

Bilingual Education Act.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SHORT TITLE

20 USC 3221. "SEC. 701. This title may be cited as the 'Bilingual Education Act.'

"POLICY; APPROPRIATIONS

20 USC 3222. "SEC. 702. (a) Recognizing—

"(1) that there are large numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

"(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

"(4) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(5) that, in addition, children of limited English proficiency and children whose primary language is English benefit through the fullest utilization of multiple language and cultural resources;

"(6) children of limited English proficiency have a high dropout rate and low median years of education; and

"(7) research and evaluation capabilities in the field of bilingual education need to be strengthened,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary

schools, including activities at the preschool level, which are designed to meet the educational needs of such children, with particular attention to children having the greatest need for such programs; and to demonstrate effective ways of providing, for children of limited English proficiency, instruction designed to enable them, while using their native language, to achieve competence in the English language.

"(b)(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $200,000,000 for fiscal year 1979; $250,000,000 for fiscal year 1980; $300,000,000 for fiscal year 1981; $350,000,000 for fiscal year 1982; and $400,000,000 for the fiscal year 1983. Appropriation authorization.

"(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(5) $12,000,000 for fiscal year 1979; $14,000,000 for fiscal year 1980; $16,000,000 for fiscal year 1981; and such sums as may be necessary for each of the two succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve $16,000,000 of that part thereof that does not exceed $70,000,000 for training activities carried out under section 721(a)(3), and shall reserve for those activities not less than 20 per centum of that part thereof which is in excess of $70,000,000.

"(4) The Commissioner shall reserve from the amount not reserved pursuant to paragraph (3) of this subsection such amount as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.

"DEFINITIONS; REGULATIONS

"SEC. 703. (a) The following definitions shall apply to the terms used in this title: 20 USC 3223.

"(1) The term 'limited English proficiency' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English,

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulation, and

"(C) individuals who are American Indian and Alaskan Native students and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Commissioner determines to be necessary;

and, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English.

"(2) The term 'native language,' when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 111(c)(2) of title I of the Elementary and Secondary Education Act of 1965. *Ante*, p. 2153.

"(4)(A) The term 'program of bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

"(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to achieve competence in the English language, the native language of the children of limited English proficiency, and such instruction is given with appreciation for the cultural heritage of such children, and of other children in American society, and, with respect to elementary and secondary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

"(ii) the requirements in subparagraphs (B) through (F) of this paragraph and established pursuant to subsection (b) of this section are met.

"(B) In order to prevent the segregation of children on the basis of national origin in programs assisted under this title, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of bilingual instruction may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 per centum. The objective of the program shall be to assist children of limited English proficiency to improve their English language skills, and the participation of other children in the program must be for the principal purpose of contributing to the achievement of that objective. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his level of educational attainment.

"(E) An application for a program of bilingual education shall—

"(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children of limited English proficiency, in accordance with criteria prescribed by the Commissioner;

"(ii) be accompanied by documentation of such consultation and by the comments which the Council makes on the application; and

"(iii) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children of limited English proficiency) which shall be selected by and predominantly composed of parents of children

participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served.

"(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program.

"(5) The term 'Office' means the Office of Bilingual Education.

"(6) The term 'Director' means the Director of the Office of Bilingual Education.

"(7) The term 'Council' means the National Advisory Council on Bilingual Education.

"(8) The term 'other programs for persons of limited English proficiency' when used in sections 731 and 732 means any programs within the Office of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the program authorized by section 708(c) of the Emergency School Aid Act, as in effect for fiscal year 1979, section 608(a)(4) of this Act for subsequent fiscal years, and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to sections 6(b)(4) of the Library Services and Construction Act.

20 USC 1607.

20 USC 2332.
Post, p. 2357.
20 USC 351d.

"(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

Suggested model programs.

"(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English proficiency, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"SEC. 721. (a) Funds available for grants under this part shall be used for— 20 USC 3231.

"(1) the establishment, operation, and improvement of programs of bilingual education;

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

"(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or

personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

Grant applications.

"(b)(1) A grant may be made under this section only upon application therefore by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(B) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

"(2)(A) No order to submit an application in preparation for termination of assistance shall be issued to any local educational agency which shows adequate progress in meeting the goals of this title and which demonstrates a clear fiscal inability to carry on a program without such assistance, if—

"(i) there is a continuing presence of a substantial number of students of limited English proficiency in a program under this title in such school or group of schools;

"(ii) there has been a recent, substantial increase in the number of students of limited English proficiency who have enrolled in such program; or

"(iii) there is an obligation of the local educational agency in which such school or group of schools is located to initiate compliance with an order of a court of the United States or of any State respecting services to be provided for those children, or a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children.

42 USC 2000d.

"(B) The Commissioner, after review of program operations by each local educational agency, may, on the basis of a finding, after notice and opportunity for a hearing, that a school or group of schools of such an agency does not have a long-term need for continued assistance under this title issue an order to such agency to prepare and submit within one year a revised application setting forth a schedule under which such school or group will cease receiving such assistance in the fifth year following the year of issuance of such order. Projects and activities for which funds were available prior to October 1, 1978, may continue to receive assistance under this part through September 30, 1983. The amount made available for the third, fourth, or fifth year of any such project or activity after the year of issuance of such an order shall be reduced in accordance with criteria established by the Commissioner designed to ensure the gradual assumption by the applicant of the costs of projects and activities assisted under this title.

"(C) The Commissioner shall annually review conditions in any school or group of schools for which an order has been issued under subparagraph (B), and shall suspend and withdraw any order issued under subparagraph (B) if, after such order has gone into effect, one or more of the conditions described in subparagraph (A) occurs, and shall permit the local educational agency involved to revise its application in the light of such conditions. Annual review.

"(D) Any order issued pursuant to subparagraph (B) shall be subject to review by the Commissioner if such review is sought within 60 days of the issuance of such order.

"(3) An application for a grant under this part may be approved only if— Grant applications, approval criteria.

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English proficiency, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs;

"(B) in the case of applications from local educational agencies to carry out programs of bilingual education under subsection (a)(1), the Commissioner determines that the applicant shall expend adequate funds for purposes of such programs for auxiliary and supplementary training programs in accordance with the provisions of subsection (a)(3)(B) and section 723;

"(C) the Commissioner determines—

"(i) that the program will use the most qualified available personnel, including only those personnel who are proficient in the language of instruction and in English, to the extent possible, and the best resources, and will substantially increase the educational opportunities for children of limited English proficiency in the area to be served by the applicant;

"(ii) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children; and

(iii) that the program includes a plan for evaluation consistent with guidelines prescribed by the Commissioner;

39-194 O—80—pt. 2——63 : QL3

"(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner;

"(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this title, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary followup services to sustain the achievement of the children after they have left the program, except that if any child is enrolled in a bilingual program assisted under this title for two years, that child shall have an individual evaluation establishing the need for continued services;

"(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall (i) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of the activities under this title; and

42 USC 2000d.

"(H) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this title are bilingual.

Assistance, priorities.

"(4) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under paragraph (1) of this subsection, the Commissioner shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to asssist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

"(5)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds. State coordination programs.

"(B) Except as provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

"(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

"(d) Programs of bilingual education under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, and evaluation and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(e)(1) An application of a local educational agency for assistance under this title may cover a period of from one to three years. A new application shall be required for any assistance under this title for years subsequent to such period. The Commissioner shall base the decision as to the length of time for which an application will be approved on— Duration of assistance.

"(A) the severity of the problems addressed by the program for which assistance is being sought;

"(B) the nature of the activities proposed in the application;

"(C) the likely duration of the problems addressed by the application; and

"(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this title.

"(2) If the Commissioner approves an application of a local educational agency under this title for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. Payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

"(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

"(B) the Commissioner determines that the agency is not ineligible for assistance under this title in each subsequent fiscal year; and

"(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this title, including objectives of section 703(a)(4)(E)(iii) and section 703(a)(4)(F).

"(f) If the Commissioner determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, nonpublic schools, as required by paragraph (3)(C)(ii) of subsection (b), the Commissioner shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for a program of bilingual instruction and to carry out such a program for the children.

"INDIAN CHILDREN IN SCHOOLS

20 USC 3232.

"SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

Report to Congress and President.

"(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"TRAINING

20 USC 3233.

"SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

"(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

"(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

Teacher's training for bilingual education, fellowships.

"(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English proficiency. For each fiscal year after June 30, 1975, and prior to October 1, 1983, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

Report to congressional committees.

"(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

Grants and contracts.

"(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

Study.

"(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

"(6) Any person receiving assistance under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers

and related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

Regulations.

"(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 721 (a)(3)(B).

"(8) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

"Eligible applicants."

"(b) For the purposes of this section, the term 'eligible applicants' means—

"(1) institutions of higher education (including junior colleges and community colleges) and private nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

"(2) local educational agencies; and

"(3) State educational agencies.

"PART B—ADMINISTRATION

"OFFICE OF BILINGUAL EDUCATION

Establishment. 20 USC 3241.

"SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the 'Office') through which the Commissioner shall carry out his functions relating to bilingual education.

Director.

"(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

Report to Congress and President.

"(c) The Commissioner, in consultation with the Council, shall prepare and, not later than February 1, 1980, 1982, and 1984, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than October 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

"(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

"(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs;

"(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region; and

"(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

Study. Report to President and Congress.

The Commissioners shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress not later than eighteen months after the enactment of the Education Amendments of 1978.

Bilingual education program models. Publication in Federal Register.

"(d) The Commissioner shall, within six months after the date of the enactment of the Education Amendments of 1978, develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein attaining English language skills.

Report to Congress and the President.

"(e)(1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children of limited English proficiency in the Nation, by language and by State.

"(2) By September 30, 1980, the Secretary shall develop methods for identifying children of limited English proficiency who are in need of bilingual education programs.

"(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include allowances for variables which are applicable to programs under this title such as pupil-teacher ratios, teacher qualifications, length of the program, hours of instruction, percentage of children in the classroom who are English dominant and the percentage who have limited English proficiency.

Report to President and Congress.

"(f) The Secretary shall prepare and submit to the President and to the Congress not later than December 31, 1981, a report setting forth recommendations on the methods of converting, not later than July 1, 1984, the bilingual education program from a discretionary grant program to a formula grant program to serve students of limited English proficiency and recommendations on whether or not such conversion would best serve the needs of such students. The study required by this subsection shall consider the findings of other studies required to be made under this section, and shall include cost estimates for the phasing in of the formula grant program.

"(g) In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

"(h) The Commissioner shall insure that the Office of Bilingual Education is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Establishment.
20 USC 3242.
20 USC 1233.

"SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least two members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until October 1, 1983.

20 USC 1233g.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

20 USC 1233e.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare

Report to Congress and President.

and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English proficiency.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

Temporary and intermittent personnel.
20 USC 1233d.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Office of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

20 USC 3251.

20 USC 1221e.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate the regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

Regulations.

"BILINGUAL EDUCATION RESEARCH AND DEVELOPMENT

"SEC. 742. (a)(1) The Commissioner shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private and non-profit organizations, State educational agencies, and individuals.

Financial assistance.
20 USC 3252.

"(2) The National Institute of Education, after consultation with the Office of Bilingual Education, shall carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education carried out under this title and other programs for persons who have language proficiencies other than English.

"(3) The Assistant Secretary shall coordinate research activities of the National Institute of Education, with the Office of Bilingual Education, the National Center for Education Statistics, and other appropriate agencies, in order to develop a national research program for bilingual education.

National research program, coordination.

"(b) Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual-bicultural programs;

"(2) studies to determine (A) language acquisition characteristics and (B) the most effective method of teaching English within the context of a bilingual-bicultural program to students who have language proficiencies other than English;

"(3) a five-year longitudinal study in order to measure the effect of this title on the education of students who have language proficiencies other than English;

"(4) studies to determine the most effective and reliable methods of identification of students who should be entitled to services under this title;

"(5) the operation of a clearinghouse on information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such related programs;

"(6) studies to determine the most effective methods of teaching reading to children and adults who have language proficiencies other than English;

"(7) studies to determine the effectiveness of teacher training preservice and inservice programs funded under this title;

"(8) studies to determine the critical cultural characteristics of selected groups of individuals assisted under this title for purposes of teaching about culture in the program.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

Research request proposals, publication and dissemination.

"(d) The Assistant Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) The Commissioner and the Director of the National Institute of Education shall, through competitive contracts with appropriate public agencies and private institutions and organizations, develop and disseminate instructional materials and equipment suitable for bilingual education programs. The quality of materials developed pursuant to this subsection shall be comparable to the quality of materials provided in classrooms for English dominant children. In the development of instructional materials for the purpose of this subsection, the availability of materials already in existence from private and public sources shall be taken into account, and special attention shall be given to language groups for whom private organizations are unlikely to develop such materials.

Appropriation authorization.

"(f) There is authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $20,000,000 to carry out the provisions of this section.

"PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

"ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES ELIGIBLE UNDER THE EMERGENCY SCHOOL AID ACT

Grants and contracts. 20 USC 3261.

"SEC. 751. (a)(1) The Commissioner, from funds appropriated under subsection (c), shall carry out a program to meet the needs of minority group children (as such term is defined for purposes of title VI) who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. The Commissioner shall, for fiscal year 1980, allot to each local educational agency an amount which bears the same ratio to such funds as the amount such agency received under section 708(c) of the Emergency

School Aid Act for fiscal year 1979, bears to the total amount of funds available under such section. From such allotment the Commissioner is authorized to make grants to and contracts with— 20 USC 1607.

"(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under section 606 of this Act, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members; *Ante*, p. 2254.

"(B) local educational agencies which are eligible for assistance under such section 606 for the purpose of engaging in such activities; or

"(C) local educational agencies which are eligible to receive assistance under such section 606, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to ensure training of teachers and other ancillary educational personnel and meets the requirements of section 721(b)(3)(C)(ii).

"(2)(A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project, and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects car-

Ante, p. 2254.

ried out by the local educational agency under section 606 of the Act The Commissioner shall insure that programs of Federal financia assistance related to the purposes of this subsection are coordinatec and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

"(b) All programs or projects assisted under subsection (a) shal be part of a program of bilingual-bicultural education.

Appropriation authorization.

"(c) There are authorized to be appropriated to carry out subsection (a) $15,000,000 for fiscal year 1980, $20,000,000 for fiscal yea 1981, $25,000,000 for fiscal year 1982, and $30,000,000 for fiscal yea 1983.".

TITLE VIII—ESTABLISHMENT OF A NEW TITLE VIII AND A NEW TITLE IX OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

COMMUNITY EDUCATION PROGRAM AUTHORIZED

SEC. 801. The Act is amended by—

(1) redesignating title VIII and all references thereto as title IX;

20 USC 881, 883, 884, 885, 887c, 887e, 3381 to 3386.

(2) redesignating sections 801, 803(c), 804, 805, 810, and 812, as sections 1001, 1002, 1003, 1004, 1005, and 1006, respectively; and

(3) inserting after title VII the following new title:

Community Schools and Comprehensive Community Education Act of 1978.

"TITLE VIII—COMMUNITY SCHOOLS

"SHORT TITLE

"SEC. 801. This title may be cited as the 'Community Schools and Comprehensive Community Education Act of 1978'.

20 USC 3281.

"STATEMENT OF FINDINGS AND POLICY

20 USC 3282.

"SEC. 802. (a) The Congress finds that—

"(1) the school is an integral part of the local human service delivery system;

"(2) the school is a primary institution for the delivery of services and may be the best instrument for the coordination of frequently fragmented services, including benefits obtained by energy savings and parental involvement in the delivery of such services;

"(3) community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment;

"(4) as the primary educational institution of the community, the school is most effective when it involves the people of that community in a program to fulfill the educational needs of individuals of the community; and

"(5) community schools provide a great potential for the use of needs assessment as a basis for human resources policies.

"(b) It is the purpose of this title—

"(1) to provide in collaboration with other public and nonprofit agencies educational, recreational, cultural, and other related community and human services, in accordance with the

needs, interests, and concerns of the community through the expansion of community education programs;

"(2) to coordinate the delivery of social services to meet the needs and preferences of the residents of the community served by the school;

"(3) to provide for an efficient, energy-conserving use of school facilities; and

"(4) to provide for a research and development emphasis in community education which can contribute to an improved formulation of Federal, State, and local policy.

"DEFINITION OF COMMUNITY EDUCATION PROGRAM

"SEC. 803. For the purpose of this title, a 'community education program' means a program in which a public building, including but not limited to, a public elementary or secondary school, or a community or junior college (or a related extension center), is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, health care, cultural, and other related community and human services for the community that the center serves in accordance with the needs, interests, and concerns of that community. 20 USC 3283.

"STATE PROGRAMS FOR COMMUNITY EDUCATION

"SEC. 804. (a) The Commissioner is authorized to make grants to State educational agencies in accordance with the provisions of this title, to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs. Grants. 20 USC 3284.

"(b) There are authorized to be appropriated to carry out the provisions of subsection (a) of this section $40,000,000 for fiscal year 1979, $50,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $40,000,000 for fiscal year 1983. Appropriation authorization.

"ALLOTMENT

"SEC. 805. (a) (1) From the funds appropriated pursuant to section 804, the Commissioner shall allot not more than 1 per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Bureau of Indian Affairs schools, according to their respective needs. 20 USC 3285.

"(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population of the State bears to the population of all States except that no State shall receive less than $50,000 in any fiscal year. For the purpose of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) That portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required for the period such allotment is available, for carrying out the purposes of this title, shall be available for reallotment from time to time on such date during such period as the Commissioner may fix, to other States in proportion to the original allotment to such States

under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"USE OF COMMUNITY EDUCATION PROGRAMS FOR NON-FEDERAL CONTRIBUTION IN CERTAIN FEDERAL PROGRAMS

20 USC 3286.

"SEC. 806. (a) Notwithstanding any other provision of law, any State or local public agency may use the fair value of any community service program assisted under this title as part or all of the non-Federal contribution required under any program set forth in subsection (b) of this section, if—

"(1) a portion of any program set forth in subsection (b) is implemented in any building conducting a community education program assisted under this title, and

"(2) there is a necessary relationship between such portion of the program set forth in subsection (b) and any element of the community education program assisted under this title.

"(b) Programs to which subsection (a) applies are—

42 USC 201 note. "(1) the Public Health Service Act,

42 USC 2921. "(2) the Headstart-Follow Through Act,

42 USC 1397. "(3) title XX of the Social Security Act, relating to child care and day care and other services,

29 USC 801 note. "(4) the youth employment demonstration programs authorized under the Comprehensive Employment and Training Act,

42 USC 3000 note. "(5) the Older Americans Act of 1965,

20 USC 2301 note. "(6) the Vocational Education Act of 1963,

20 USC 1201 note. "(7) the Adult Education Act,

20 USC 1001, 1135. "(8) title I and title X of the Higher Education Act of 1965, relating to community services and continuing education programs and community college programs,

42 USC 2711-2902, 2941-2996. "(9) titles I through IV and VI through IX of the Economic Opportunity Act of 1964 (also known as the Community Services Act of 1974),

42 USC 2996 note. "(10) the Legal Services Corporation Act,

42 USC 3701 note. "(11) Safe Streets and Omnibus Crime Control Act of 1968,

42 USC 1861 note. "(12) science education programs assisted under the National Science Foundation Act of 1950,

29 USC 701 note. "(13) the Rehabilitation Act of 1973, and

"(14) such other community service programs as the Assistant Secretary deems appropriate.

"USES OF FUNDS

20 USC 3287.

"SEC. 807. Payments made under this title to any State educational agency and to any local educational agency, either directly by the Commissioner under section 809 or in accordance with a State plan approved under section 808, may be used by such State and local educational agencies for the Federal share of the cost of planning,

establishing, expanding, and operating community education programs including—

"(1) educational, cultural, recreational, health care, and other related community and human services, whether or not in the form of formal courses,

"(2) activities making the school or other public facilities and equipment available for use by public agencies and private nonprofit organizations, individuals and groups in the community,

"(3) preventive health, dental care, and nutrition,

"(4) special programs for particular target groups, such as older persons,

"(5) services designed to eliminate the high incidence of suspension, expulsion, and other disciplinary action involving chronically maladjusted students,

"(6) services for students who withdraw from school before completing secondary school requirements, regardless of age or time of withdrawal,

"(7) services for mentally or physically handicapped individuals or other health impaired individuals,

"(8) rehabilitation purposes for juvenile and adult offenders,

"(9) parent education for care, development, and education of handicapped children,

"(10) training programs in institutions of higher education for the purpose of assisting full-time training for personnel who are engaged in or who intend to engage in community education programs,

"(11) specialized high schools or schools within schools organized around particular interests such as the arts, or using flexible scheduling and summer learning programs to take into account special needs of students, or creating interrelationships between secondary schools and such community resources as museums, cultural centers, and institutions of higher education,

"(12) development of means to use technology to improve the relationship between the school, the home, and community resources such as libraries, museums, and cultural centers,

"(13) early childhood and family education grants for programs operated by State and local education agencies and public and private, nonprofit agencies or organizations for children below age six, which may include identification of potential barriers to learning, education of parents in child development, family services, education for parenthood programs and referral services, and

"(14) leisure education.

"STATE PLAN

"SEC. 808. (a) Any State desiring to participate in the program authorized by this title shall submit through its State educational agency to the Commissioner a plan, in such detail as the Commissioner deems necessary. Each such plan shall provide satisfactory assurance— 20 USC 3288.

"(1) that payments made under this title will be used for community education programs described in section 807, and to the extent practicable such payments will be used to expand community education programs of the schools of local educational agencies within the State;

"(2) that provide, after consultation with the appropriate State agencies, the State will develop a ten-year plan for the coordination of education programs with all relevant community services, including but not limited to State and local recreation authorities and associations;

"(3) that 80 per centum of the amounts received by the State from its allotment will be distributed among local educational agencies within the State with due regard for such factors as the size of the population to be served by the community education program of the local educational agency;

"(4) that community education programs assisted under this part will, to the extent feasible, serve all age groups within the community, including preschool children, children and youth in school, out of school youths, adults, and senior citizens as well as groups in the community with special needs for community education program services. such as individuals with limited speaking ability, mentally and physically handicapped individuals, and other health impaired individuals;

"(5) that the community education program will include procedures for the systematic and effective identification and documentation of the needs and concerns of the community;

"(6) that the community education program will provide for the identification and use of existing educational, cultural, recreational, health care, and other resources outside the school or other public facility (including the services of volunteers) and will contain provisions to encourage the use of cooperative arrangements with public and private agencies to make the maximum use of existing resources within the community;

"(7) the community education program will provide for the active and continuous involvement on an advisory basis of institutions, groups, and individuals in the community to be served by the program and the active and continuous involvement of parents of school children in the planning, development, and implementation of programs;

"(8) that the State educational agency will establish procedures for submitting applications by local educational agencies within that State for payments under this title, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any local educational agency without notice and opportunity for a hearing;

"(9) that the State will pay from non-Federal sources the remaining cost of carrying out the State plan;

"(10) that the State educational agency, from the funds received by it under section 804 for any fiscal year, will reserve not to exceed 15 per centum of such funds for the administration of the State plan, technical assistance to local educational agencies, the conduct of conferences and dissemination activities among local educational agencies within the State and other community service agencies, the coordination between local educational agencies, community colleges, and other institutions of higher education in the State with respect to the coordination of the delivery of social services, with particular emphasis on the application of section 806 and the training and conversion activities authorized by section 812 of this title; and

"(11) that effective procedures will be adopted to evaluate the effectiveness of the community education programs assisted under this title (including where possible payments made directly under section 809).

"(b) The Commissioner shall approve a State plan which meets the requirements of subsection (a), and he shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State educational agency. Notice and hearing.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 809. (a) The Commissioner is authorized to make grants to local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including any use described in section 807, whenever the Commissioner determines, pursuant to an application filed under paragraph (2), that the community education program for which application is made under subsection (b) holds reasonable promise of success and is in substantial compliance with the requirements of section 808 (a) (4), (5), (6), and (7). 20 USC 3289.

"(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

"(c) There are authorized to be appropriated $20,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, and $20,000,000 for fiscal year 1983 to carry out the provisions of this section. Appropriation authorization.

"GRANTS TO PUBLIC AGENCIES AND NONPROFIT ORGANIZATIONS FOR DELIVERY OF COMMUNITY SERVICES THROUGH COMMUNITY EDUCATION

"SEC. 810. (a) The Commissioner is authorized to make grants to and contracts with public agencies and nonprofit private organizations to encourage the use of school facilities and other facilities eligible to receive assistance under this title for the efficient and coordinated delivery of community services set forth in sections 806(b) and 807. Each such application shall contain provisions to assure that the public agency or nonprofit private organization making application has entered or will enter into contractual arrangements or other suitable forms of agreement with the local educational agency concerned. 20 USC 3290.

"(b) No grant may be made under the provisions of this section unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

"(c) There are authorized to be appropriated $5,000,000 for fiscal year 1979, $7,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, $7,000,000 for fiscal year 1982, and $5,000,000 for fiscal year 1983 to carry out the provisions of this section. Appropriation authorization.

"NATIONAL LEADERSHIP AND PLANNING

"SEC. 811. (a) The Assistant Secretary shall undertake certain national leadership and planning activities in order to assist the purposes of this title. Such activities include but are not limited to national 20 USC 3291.

leadership, including publications, convening of national conferences, and other dissemination activities to provide information of successful community education programs and activities.

Appropriation authorization.

"(b) There are authorized to be appropriated for fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $5,000,000 to carry out the provisions of this section.

"TRAINING OF COMMUNITY EDUCATION PERSONNEL

20 USC 3292.

"SEC. 812. (a) The Commissioner is authorized to make grants to institutions of higher education for the purpose of providing full-time and part-time training for personnel who are engaged in or who intend to engage in community education programs.

"(b)(1) No grant may be made under the provisions of this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

"(2) No grant may be entered into under the provisions of this section unless provision is made in the application for the institution of higher education to consult with appropriate State and local educational agencies.

Appropriation authorizations.

"(c) There are authorized to be appropriated $5,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $15,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $5,000,000 for fiscal year 1983 to carry out the provisions of this section.

"RESEARCH

20 USC 3293.

"SEC. 813. (a) In conjunction with the planning activities required of the Assistant Secretary for Education under section 811 of this title, the Director of the National Institute of Education shall carry out a program of research on community education programs, from sums available under subsection (b) of this section. Such research shall include an analysis of program impact with respect to individuals and communities, the importance of parental involvement, school vandalism and violence, and the effect of non-Federal funds contributed under provisions of section 815 of this title.

Appropriation authorizations.

"(b) There are authorized to be appropriated $1,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this section.

"ADMINISTRATION

20 USC 3294.

"SEC. 814. (a) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to, information regarding new programs, methods to encourage community participation, methods of formulating and conducting needs assessments, and the ways of coordinating community education programs with other community services, with particular emphasis upon the coordination of delivery of community services described in section 806(b). The Commissioner is authorized to contract with public agencies or private organizations to establish and operate the clearinghouse.

"(b)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community

20 USC 1233.

Education Advisory Council (referred to in this section as the 'Advisory Council') to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary, without regard to political affiliation.

"(2) A substantial number of the members of the Advisory Council shall be individuals experienced in the operation of community education programs and the training of such individuals. The Council shall include participants and consumers of community education programs.

"(3) Appointments to the Advisory Council shall be completed within three months after enactment of this title. Individuals serving in any predecessor Community Education Advisory Council may be appointed under this subsection.

"(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

"(5) The Advisory Council shall advise the Commissioner on policy mattters relating to the interests of community schools and the community education program authorized by this title.

"(6) The Advisory Council shall advise the National Institute of Education with respect to the research concerning community education programs, and shall advise the Office of Education with respect to the evaluation of such programs. The Council shall present to Congress a complete and thorough assessment of the programs and operation of this section for each fiscal year.

"(7) No member of the Council shall evaluate any community education program if such member is associated with that program as a consultant, technical advisor, or in any other similar capacity.

"(c) The program authorized by this part shall be under the authority of the Executive Deputy Commissioner for Educational Programs.

"(d)(1) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (a) of this section. Appropriation authorizations.

"(2) There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (b) of this section.

"(3) There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums, but not to exceed $1,000,000 in any fiscal year, as are necessary to provide for the administration of this title.

"FEDERAL SHARE

"SEC. 815. (a) The Federal share of the cost of the State plan approved under section 807 shall be 80 per centum for fiscal year 1979, 70 per centum for fiscal year 1980, 50 per centum for fiscal year 1981, 30 per centum for fiscal year 1982, and 20 per centum for the fiscal year 1983. 20 USC 3295.

"(b) The Federal share of the cost of applications of local educational agencies approved under section 808 shall be 90 per centum for fiscal years 1979 and 1980, 80 per centum for the fiscal year 1981 and each of the two succeeding fiscal years.

"(c) The Federal share of the cost of grants to nonprofit organizations under section 809 shall be 90 per centum for fiscal years 1979 and 1980, and 80 per centum for the fiscal year 1981 and for each of the two succeeding fiscal years.".

ADDITIONAL PROGRAMS AUTHORIZED

SEC. 802. The Act is amended by adding after title XIII, as added by section 801, the following new title:

"TITLE IX—ADDITIONAL PROGRAMS

"PART A—GIFTED AND TALENTED CHILDREN

Gifted and Talented Children's Education Act of 1978.

"SHORT TITLE; PURPOSE

20 USC 3311.

"SEC. 901. (a) This part may be cited as the 'Gifted and Talented Children's Education Act of 1978'.

"(b) The Congress hereby finds and declares that—

"(1) the Nation's greatest resource for solving critical national problems in areas of national concern is its gifted and talented children,

"(2) unless the special abilities of gifted and talented children are developed during their elementary and secondary school years, their special potentials for assisting the Nation may be lost, and

"(3) gifted and talented children from economically disadvantaged families and areas often are not afforded the opportunity to fulfill their special and valuable potentials, due to inadequate or inappropriate educational services.

"(c) It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist such agencies, institutions and organizations to plan, develop, operate, and improve programs designed to meet the special educational needs of gifted and talented children.

"DEFINITION

20 USC 3312.

"SEC. 902. For the purposes of this part, the term 'gifted and talented children' means children and, whenever applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing and visual arts, and who by reason thereof, require services or activities not ordinarily provided by the school.

"AUTHORIZATION OF APPROPRIATIONS; APPORTIONMENT OF APPROPRIATIONS

20 USC 3313.

"SEC. 903. (a) For the purpose of carrying out this part there are authorized to be appropriated $25,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, $35,000,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, and $50,000,000 for fiscal year 1983.

"(b)(1) From the amounts appropriated under subsection (a) for each fiscal year, the Commissioner shall reserve 25 per centum or $5,000,000, whichever is less, for carrying out the provisions of section 905, relating to discretionary programs.

"(2) The remainder of the sums appropriated under subsection (a) for each fiscal year shall be available to carry out the provisions of section 904, relating to State programs.

"STATE PROGRAMS

"SEC. 904. (a) From the amounts available in any fiscal year under section 903(b)(2), the Commissioner shall make grants to State educational agencies for the Federal share of the cost of planning, developing, operating, and improving programs designed to meet the educational needs of gifted and talented children at the preschool, elementary, and secondary levels. Such programs may include inservice training of personnel to teach such children. 20 USC 3314.

"(b)(1) Except as provided in paragraph (2), to the extent funds are available in any fiscal year to carry out the provisions of this section, the Commissioner shall distribute funds so as to assure that each State educational agency which submits an application which fully meets all requirements of this section and is approved by the Commissioner will receive not less than $50,000 in that fiscal year. If sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amount to which each State educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

"(2) In any fiscal year in which appropriations under this part equal or exceed $15,000,000, the Commissioner shall allot the amount so appropriated in accordance with the provisions of section 906.

"(c) Each State educational agency desiring to receive a grant under this section shall submit an application at such time, in such manner and accompanied by such information as is necessary for the purposes of this section. Each such application shall contain assurances that—

"(1) funds paid to the State educational agency will be expended solely to plan, develop, operate, and improve programs and projects which—

"(A) are designed to identify the educational needs of gifted and talented children,

"(B) are of sufficient size, scope, and quality to hold reasonable promise of making substantial progress toward meeting such needs, and

"(C) give appropriate consideration to the particular educational needs of disadvantaged gifted and talented children;

"(2)(A) the State educational agency will reserve from funds made available under this section in each fiscal year not more than 10 per centum of such funds for the purpose of administration, technical assistance, coordination, and statewide planning related to programs and projects designed to meet the needs of gifted and talented children;

"(B) the State educational agency will distribute, on a competitive basis, not less than 90 per centum of the funds made available under this section for payments to local educational agencies within the State which apply to the State educational agency, with due regard for the quality of activities proposed in the application of the local educational agencies;

"(3) the State educational agency will use at least 50 per centum of the funds made available under this section for programs and projects which include a component for the identification and education of disadvantaged gifted and talented children from low-income families;

"(4) the State educational agency and the local educational agencies within the State may use funds made available under this

section to acquire instructional equipment only if such equipment will enhance the program or project for which such funds are furnished;

Ante, p. 2234. "(5)(A) the requirements of section 406 of this Act (relating to participation of pupils and teachers in private elementary and secondary schools) are met unless such requirements cannot legally be met in the State (as determined by the State educational agency);

"(B) the State educational agency will not approve the application of a local educational agency within the State for assistance under this section unless the State educational agency determines that in designing the proposal subject to the application the needs of children in nonprofit private elementary and secondary schools have been taken into account through the consultation with private school officials and by other appropriate means; and

"(6) the State educational agency will provide to local educational agencies within the State, which are unable to compete due to smaller size or lack of financial resources, technical assistance in preparing proposals and in planning, developing, and operating programs under this section.

"(d) The Commissioner shall approve any application which meets the requirements of subsection (c) and not disapprove any such application without first affording an opportunity for a hearing.

"DISCRETIONARY PROGRAMS

20 USC 3315. Grants. "SEC. 905. (a) From the amounts available in any fiscal year under section 903(b)(1) the Commissioner may—

"(1) make grants to State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist them in establishing or maintaining programs or projects designed to meet the educational needs of gifted and talented children including the training of personnel in educating gifted and talented children or in supervising such personnel;

"(2) make grants to State educational agencies to assist them, either directly or through arrangements by the State educational agencies with other institutions, agencies, and organizations eligible to receive funds under this part, to provide training of personnel engaged in the education of gifted and talented children or supervision of such personnel;

"(3) enter into contracts with, and make grants to, public agencies and private organizations including State and local educational agencies, to establish and operate model projects for the identification and education of gifted and talented children;

"(4) make grants to, or enter into contracts with, public agencies, private organizations, or institutions which together or singly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodolgy, and media materials for the education of gifted and talented children;

"(5) make grants to State educational agencies to assist them in the statewide planning, development, operation, and improvement of programs and projects designed to meet the educational needs of gifted and talented children; and

"(6) conduct, either directly or by grant or contract, a program of research, evaluation, and related activities pertaining to the education of gifted and talented children and may transfer to the National Institute of Education pursuant to subsection (c) not more than 20 per centum of the sums available in any fiscal year to carry out the provisions of this section,

to pay the Federal share of the cost of such grants or contracts. Not more than 20 per centum of the sums available in any fiscal year under this section may be used pursuant to clause (1) of this subsection for grants to institutions of higher education for the training of national leadership personnel.

"(b)(1) No grant may be made and no contract may be entered into under this section unless an application is submitted to the Commissioner in such form, in such manner, and containing such information, as is necessary for the purposes of this section.

"(2) The requirements of section 406 of this Act (relating to the participation of pupils and teachers in private, elementary and secondary schools) shall apply to programs and projects under this section unless such requirements cannot legally be met in the State (as determined by the State educational agency of the State in which the applicant for funds under this section is located). *Ante*, p. 2234.

"(c)(1) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education may, in accordance with the terms and conditions of section 405 of such Act, carry out a program of research and related activities pertaining to the education of gifted and talented children from funds transferred pursuant to subsection (a)(6). 20 USC 1221e.

"(2) For purposes of this section the term 'research, evaluation and related activities' means research, research training, evaluation, surveys, and demonstrations in the field of education of gifted and talented children and youth or the dissemination of information derived from such research, surveys or demonstrations, and all such activities, including experimental and model schools. "Research, evaluation and related activities."

"STATE ALLOTMENTS

"SEC. 906. (a)(1) In any fiscal year in which appropriations for this part are equal to or exceed $15,000,000 the Commissioner shall allot, from amounts available under section 903(b)(2), not more than 1 per centum among— 20 USC 3316.

"(A) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

"(B) programs for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and

"(C) programs authorized for children and teachers in overseas dependent schools of the Department of Defense,

in accordance with their respective needs.

"(2) From the remainder of such sums in any such fiscal year, the Commissioner shall allot to each State which has an application meeting the requirements of section 904, an amount which bears the same ratio to such remainder as the number of children in the State aged 5 to 17 years, inclusive, bears to the number of children in all States,

except that no State shall receive less than $50,000 in any such fiscal year.

"(3) For the purpose of this subsection the term 'State' means the several States, the Commonwealth of Puerto Rico, and the District of Columbia.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated under section 903 shall be deemed part of its allotment under section (a) for such year.

"ADMINISTRATION

20 USC 3317. "SEC. 907. (a) The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this part and to coordinate all programs for gifted and talented children and youth administered by the Office of Education.

"(b) Notwithstanding any other provision of law, any Indian tribe which operates schools for its children shall be deemed to be a local educational agency for the purposes of this part.

"(c) No financial assistance may be made to a local educational agency for a period in excess of 5 years. The limitation contained in this subsection shall not apply to any financial assistance extended prior to the date of enactment of the Education Amendments of 1978.

Ante, p. 2143.

"FEDERAL SHARE

20 USC 3318. "SEC. 908. The Federal share for any fiscal year shall be 90 per centum, except that the Federal share for the clearinghouse activities under section 905(a)(4), the research, evaluation and related activities under section 905(a)(6), and programs and projects involving the participation of students in for nonprofit private elementary and secondary schools shall be 100 per centum.

"PART B—EDUCATIONAL PROFICIENCY STANDARDS

"GRANTS TO IMPLEMENT EDUCATIONAL PROFICIENCY STANDARDS

20 USC 3331. "SEC. 921. (a) The Commissioner is authorized to make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

"(b)(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such

application shall be submitted in such form, and in accordance with such procedures, as the Commissioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

"(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

"(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the State may require such standards;

"(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

"(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing, or mathematical proficiency, or their proficiency in other subjects which the applicant considers appropriate for testing; and

"(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.

"(c) The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by the applicant pursuant to subsection (b) of this section, and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants either to continue to implement their ongoing educational proficiency plans, or to implement new plans, including the provision of supplementary instruction to be provided to students who fail the examinations.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years. Appropriation authorization.

"(e) For purposes of this section, the term 'applicant' means any State or local educational agency which submits an application under this section. "Applicant."

"(f) Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.

"ACHIEVEMENT TESTING ASSISTANCE

"SEC. 922. (a) The Commissioner is authorized, either directly or through grants or contracts awarded to State and local educational agencies and other public agencies, organizations, and institutions, and through contracts with private agencies, organizations, and institutions, to assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. The activities which may be supported under this section include— 20 USC 3332.

"(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;

"(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and

"(3) research and evaluation designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.

"(b) Nothing in this section shall authorize the Commissioner to require specific tests or test questions. Any State or local educational agency may refuse to use any test or test question developed under this section.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section for fiscal year 1980, and for each of the three succeeding fiscal years.

"PART C—WOMEN'S EDUCATIONAL EQUITY

Women's Educational Equity Act of 1978.

"SHORT TITLE; PURPOSE

20 USC 3341.

"SEC. 931. (a) This part may be cited as the 'Women's Educational Equity Act of 1978'.

"(b) (1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972.

20 USC 1681.

"Council."

"(c) As used in this part, the term 'Council' means the National Advisory Council on Women's Educational Programs.

"GRANT AND CONTRACT AUTHORITY

20 USC 3342.

"SEC. 932. (a) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

"(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part. 20 USC 1681.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies.

"(b) For each fiscal year, the Commissioner shall use $15,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $15,000,000 available under this part shall be used to support activities described in paragraph (2) of subsection (a).

"APPLICATION; PARTICIPATION

"SEC. 933. (a) A grant may be made, and a contract may be entered into, under this part only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall— 20 USC 3343.

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the purposes set forth in section 932(a) which holds promise of making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

"(b) Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

"SMALL GRANTS

"SEC. 934. In addition to the authority of the Commissioner under section 932, the Commissioner shall carry out a program of small grants (as part of the grant program administered under section 932 (a)(1)), not to exceed $25,000 each, in order to support innovative approaches to achieving the purposes of this part; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals. 20 USC 3344.

"CRITERIA AND PRIORITIES

"SEC. 935. The Commissioner shall establish criteria and priorities for awards under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. 20 USC 3345.

Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

20 USC 1232.

"NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Establishment.
20 USC 3346.

"SEC. 936. (a) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

Membership.

"(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

"(2) the staff Director of the Civil Rights Commission;

"(3) the Director of the Women's Bureau of the Department of Labor; and

"(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members described in paragraph (1).

Term of office.

"(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

"(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Council shall—

"(1) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

"(2) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

"(3) recommend criteria for the establishment of program priorities;

"(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

"(5) disseminate information concerning the activities of the Council under this part.

"(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

"REPORT

Report to President and Congress.
20 USC 3347.

"SEC. 937. The Commissioner is directed, not later than September 30, 1980, 1982, and 1984, to submit to the President and the Congress and to the Council a report setting forth the programs and

activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 938. For the purpose of carrying out this part there are authorized to be appropriated $80,000,000 for fiscal year 1980, and each of the three succeeding fiscal years. 20 USC 3348.

"PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

"PURPOSE

"SEC. 941. The purpose of this part is to provide financial assistance to aid local educational agencies throughout the Nation to meet special needs incident to providing security for children, employees, and facilities in elementary and secondary schools by reducing and preventing crimes against them and to encourage the reporting of serious crimes committed in schools to local law enforcement agencies. 20 USC 3351.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 942. There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for each of the four succeeding fiscal years to carry out this part. 20 USC 3352.

"ALLOTMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 943. (a) Within one hundred and eighty days after the date of enactment of the Education Amendments of 1978, the Commissioner shall select 15 local educational agencies for funding under this section. The Commissioner is to take into full account geographical considerations in the determination of the 15 agencies. 20 USC 3353. *Ante*, p. 2143.

"(b) The sums appropriated to carry out this part for a fiscal year shall be allotted by the Commissioner among the local educational agencies identified pursuant to subsection (a) in a manner which gives consideration to the following criteria in the following order:

"(1) The extent and impact upon elementary and secondary education of crime in the schools of the district to be served, including the reported incidences of such crime in the school.

"(2) Districts which have ongoing programs aimed at promoting school safety, but nothing in this paragraph shall be construed to mean that funds made available under this part will be used to substitute for local funds in such programs, but rather be used to expand such programs.

"(3) The financial need of such local educational agency.

"(4) The expense and difficulty of effectively carrying out a plan described in section 944(a) in such school district.

"(5) The degree to which measurable deficiencies in the quality of public education afforded in such district exceed those of other school districts within the State.

"(6) The degree to which the plan described in section 944(a), and the program or project to be assisted, are likely to effect a decrease in crime in the schools.

"(7) The degree to which a local educational agency has developed administrative guidelines encouraging the reporting to local law enforcement agencies of all serious crimes committed in schools under their jurisdiction.

"(8) The degree to which employees of the local educational agency report serious crimes committed in schools to local law enforcement agencies.

"APPLICATION

20 USC 3354.

"SEC. 944. (a) A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the Commissioner, with the consent of the appropriate State educational agency, upon the Commissioner's determination that the local educational agency has adopted and is implementing, or will, if assistance is made available under this part, adopt and implement, a plan to reduce crime and increase the safety and security of the students, employees, and facilities of its elementary and secondary schools through programs and projects designed to carry out the purpose of this part, including—

"(1) the provision of additional professional or other staff members (including staff members especially trained in problems incident to crime control) and the training and retraining of staff for schools which are affected by such a plan;

"(2) provision of information to parents and other members of the general public incident to the development or to the implementation of such plan;

"(3) the adoption of administrative guidelines so that school officials and staff are encouraged to report all serious crimes occurring in school or in school buildings to local law enforcement agencies;

"(4) planning and evaluation activities;

"(5) other specially designed programs or projects that meet the purpose of this part;

"(b) Funds may also be used for minor alteration of school plants and facilities, including the acquisition, installation, modernization, or replacement of equipment to reduce the susceptibility of the facility to crimes or vandalism. No more than 10 percent of the funds under any plan shall be used for this purpose.

Regulations.

"(c) The Commissioner shall promulgate such regulations as may be necessary to provide for the suspension of funding under this part to any local educational agency which the Commissioner determines has not complied with the requirements of subsection (a)(3).

Consultation.

"(d) The Commissioner shall consult with the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention for the purpose of coordinating programs and activities funded under this section with those related programs funded under the Juvenile Justice Delinquency Prevention Act of 1974.

42 USC 5601 note.

"PART E—ETHNIC HERITAGE PROGRAM

"STATEMENT OF POLICY

"SEC. 951. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this part to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation. 20 USC 3361.

"ETHNIC HERITAGE STUDIES PROGRAMS

"SEC. 952. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this part. 20 USC 3362.

"AUTHORIZED ACTIVITIES

"SEC. 953. Each program assisted under this part shall— 20 USC 3363.

"(1)(A) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

"(B) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

"(C) provide training for persons using, or preparing to use, curriculum materials developed under this part; and

"(2) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

"APPLICATIONS

"SEC. 954. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that— 20 USC 3364.

"(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this part;

"(2) such program will involve the activities described in section 953; and

"(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

"(b) In approving applications under this part, the Commissioner shall ensure that there is cooperation and coordination of efforts among the programs assisted under this part, including the exchange of materials and information and joint programs where appropriate.

"ADMINISTRATIVE PROVISIONS

20 USC 3365.

"SEC. 955. (a) In carrying out this part, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

"(b) Funds appropriated to carry out this part may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purposes of carrying out the purposes of this part. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

"NATIONAL ADVISORY COUNCIL

National Advisory Council on Ethnic Heritage Studies. Establishment. 20 USC 3366.

"SEC. 956. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

"(b) Such Council shall, with respect to the program authorized by this part, carry out the duties and functions specified in part D of the General Education Provisions Act. 20 USC 1233.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 3367.

"SEC. 957. For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to October 1, 1983. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.".

TITLE IX—AMENDMENTS RELATING TO GENERAL PROVISIONS OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

REVISION OF TITLE VIII—GENERAL PROVISIONS

SEC. 901. (a)(1) The matter preceding the hyphen in section 1001 of the Act (as redesignated by section 801 of this Act) is amended by striking out "and VII" and inserting in lieu thereof "VII, VIII, and IX". 20 USC 3381.

(2) Section 1001(j) of the Act (as so redesignated) is amended by striking out "and VII" and inserting in lieu thereof "VII, VIII, and IX" and by inserting before the period a comma and "and the Northern Mariana Islands".

(3) Section 1001(l) of the Act (as so redesignated) is repealed. Repeal.

(b) Section 1004 of the Act (as so redesignated) is amended to read as follows: 20 USC 3384.

"WAIVER OF REQUIREMENTS FOR CERTAIN JURISDICTIONS

"SEC. 1004. (a)(1) If the Commissioner determines that compliance with any of the requirements of this Act by Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to any of such jurisdictions, he may waive any of those requirements upon the request of the State educational agency for such jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted. Publication in Federal Register.

"(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this Act, including the submission by the jurisdiction concerned of a plan for the management of the funds provided under this Act, in order to insure that those funds are used in a manner designed to achieve the purposes of this Act.

"(b)(1) If the Commissioner determines that compliance with any of the requirements of title I by Puerto Rico is impractical or inappropriate because of conditions or circumstances particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency for that jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such waiver and the terms and conditions upon which such a waiver will be granted. *Ante*, p. 2153. Publication in Federal Register.

"(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of title I, including the submission by Puerto Rico of a plan for the management of the funds provided under such title, in order to insure that those funds are used in a manner designed to achieve the purposes of such title.

"(3) No waiver may be granted under this subsection after July 1, 1980, or apply to any period after such date.".

TITLE X—IMPACT AID AMENDMENTS

PART A—PUBLIC LAW 874

GENERAL EXTENSIONS OF PUBLIC LAW 874

20 USC 237.

SEC. 1001. (a) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "1978" and inserting in lieu thereof "1983".

20 USC 238.

(b) Section 3(b) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

20 USC 239.

(c) Section 4(a) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

20 USC 238 note.

(d) Subparagraph (B) of the second paragraph (2) of section 305 (a) of the Education Amendments of 1974 is amended by striking out "1978" and inserting in lieu thereof "1983".

(e) Subparagraph (C) of such paragraph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

REVISION OF JURISDICTIONAL LIMITS ON LOCATIONS OF FEDERAL PROPERTY

20 USC 238.

SEC. 1002. (a) Section 3(b)(2)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting before the comma the following: ", or in whole or in part in the school district of such agency if the school district is located in more than one county".

(b) Section 3(b)(2)(B) of such Act is amended by inserting after "county" the following: "or district".

PROVISIONS REGARDING HEAVILY IMPACTED SCHOOL DISTRICTS

SEC. 1003. (a) Section 3(d)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "25 per centum" and inserting in lieu thereof "20 per centum".

(b) Section 3(d) of such Act is amended—

(1) in paragraph (2)(B) thereof, by striking out "clause (1) of" each time it appears therein; and

(2) in the first sentence of such paragraph, by striking out "the Commissioner is authorized, to", and inserting in lieu thereof "the Commissioner shall".

20 USC 240.

(c)(1) Paragraph (2)(A) of section 5(c) of such Act is amended to read as follows:

"(A) To each local educational agency—

"(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

"(ii) described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of number of children under section 3(a) and section 3(b)(3) of such fiscal year;"

(2) Paragraph (2)(D) of such section 5(c) of such Act is amended by inserting after "section 3(b)" the following: "(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)". 20 USC 240.

(d) Section 3 of such Act is amended by adding at the end thereof the following new subsection: 20 USC 238.

"(g) Notwithstanding any other provisions of this Act, no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this Act.".

ABSORPTION

SEC. 1004. Subparagraph (A) of paragraph (2) of section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is hereby repealed. Repeal.

EARLY PAYMENTS ON THE BASIS OF ESTIMATES

SEC. 1005. Subsection (b) of section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph: 20 USC 240.

"(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.".

STATE EQUALIZATION

SEC. 1006. (a) Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

"(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the con- Hearing.

sistency of the State aid program of that State with the provisions of subparagraph (A).

"(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.".

20 USC 240 note.

(b) No State or local educational agency located therein shall, on the basis of noncompliance with standards established by regulations prescribed pursuant to section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), be required to make restitution of funds distributed to local educational agencies under such Act for the 1977–1978 school year if such State has an equalization program which, for the 1978–1979 school year complies with such standards.

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

20 USC 240.

SEC. 1007. (a) Section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended—

(1) by redesignating paragraph (2) (as amended by section 1003(c) of this Act) as paragraph (2)(A);

(2) by striking out "amount—" and inserting in lieu thereof the following: "amount equal to 65 per centum of the amounts described in the following schedule:";

(3) by redesignating divisions (i) and (ii) of clause (A) of such paragraph (as added by such section 1003(c)) as subdivisions (I) and (II), respectively;

(4) by redesignating clauses (A), (B), (C), (D), (E), and (F) of such paragraph (2) as divisions (i), (ii), (iii), (iv), (v), and (vi), respectively;

(5) by inserting at the end of paragraph (2) the following new subparagraph:

"(B) From that part of the sums which remains after the allocation required by paragraph (1) and by subparagraph (A) of this paragraph for any fiscal year, he shall, in accordance with the requirements of subsection (e), allocate an amount not to exceed 35 per centum of the amounts described in the schedule set forth in subparagraph (A)."; and

(6) in the matter following paragraph (3) by striking out "paragraph (2)" the second place it appears and inserting "paragraph (2)(A)".

(b) Section 5(e) of such Act is amended to read as follows:

"HOLD HARMLESS; DISCRETIONARY ALLOCATIONS

"(e)(1) In carrying out the required allocations under paragraph (2) of subsection (c), if any amount remains after making allocations under paragraph (2)(A) of such subsection, the Commissioner shall allocate, from the amounts available under paragraph (2)(B) of such subsection, to each local educational agency described in the schedule in such paragraph (2)(A) an amount which shall not be less than 90 per centum of the amount paid to such agency under this section for the preceding fiscal year. If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

"(2) Any sums which remain from the amounts available under paragraph (2)(B) of subsection (c) after making payments required by the first sentence of paragraph (1) of this subsection shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements under sections 3 and 4 in accordance with appropriations Acts.". 20 USC 238, 239.

HEARINGS

SEC. 1008. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection: 20 USC 240.

"(g) Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.". 5 USC 500, 701.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 1009. (a) Section 6(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting after "(5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.)." the following: "Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.". 20 USC 241. 5 USC 4301 *et seq.*

(b) Section 6(c) of such Act is amended by striking out everything after "United States" and inserting in lieu thereof the following: "in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.".

(c) Section 6(d) of such Act is amended by inserting at the end thereof the following: "The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.".

(d) Section 6 of such Act is further amended by adding at the end thereof the following new subsections:

"(g) The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

"(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.".

PROMPT CONSIDERATION FOR APPLICATIONS

SEC. 1010. (a) Section 7(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.". 20 USC 241-1.

(b) Section 16(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.". 20 USC 646.

PROPERTY OWNED BY FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

SEC. 1011. The second sentence of paragraph (1) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "and (D)" and inserting in lieu thereof "(D)" and by striking out the period at the end thereof and inserting in lieu thereof the following: "and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof.". 20 USC 244.

DEFINITION OF LOCAL EDUCATIONAL AGENCY

SEC. 1012. Effective October 1, 1979, section 403(6)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "free public education" and inserting in lieu thereof "free public elementary and secondary education through grade 12".

HANDICAPPED CHILDREN

SEC. 1013. Paragraph (10) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentence: "A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such 20 USC 238.

child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year.". 20 USC 1401.

USE OF AVERAGE DAILY MEMBERSHIP

SEC. 1014. Paragraph (10) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is further amended by adding at the end thereof the following new sentence: "Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.". 20 USC 244.

IMPACT AID STUDY

SEC. 1015. (a) The President shall appoint a Commission on the Review of the Federal Impact Aid Program consisting of ten members. Commission on the Review of the Federal Impact Aid Program. 20 USC 236 note.

(b) The Commission shall review and evaluate the administration and operation of the impact aid program under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) including—

(1) the equity of the present funding structure under Public Law 874,

(2) the relative benefit of the assistance for impact aid under Public Law 874 in view of the increasing costs of the program and the limitation on the availability of funds, and

(3) the ways in which districts of local educational agencies which are Federally impacted can best be assisted in meeting their educational needs.

(c)(1) The Secretary of Health, Education, and Welfare shall assure that the Department of Health, Education, and Welfare provide full support and cooperation to the Commission appointed under this section.

(2) The provisions of part D of the General Education Provisions Act, not inconsistent with the provisions of this section, shall apply to the Commission appointed under this section.

(3) This Commission shall closely coordinate its activities with activities of the Advisory Panel on Elementary and Secondary Education authorized under section 1203 of this Act. *Post*, p. 2335.

(d) The Commission shall prepare and submit to the President and to the Congress not later than December 1, 1979, a report on the review and evaluation required by this section, together with such recommendations, including recommendations for legislation relating to the authorization of the program and funding for the program, as the Commission deems appropriate. Report to President and Congress.

PART B—PUBLIC LAW 815

GENERAL EXTENSIONS OF PUBLIC LAW 815

SEC. 1021. (a) Sections 3 and 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), are each amended by striking out "1978" and inserting in lieu thereof "1983". 20 USC 633, 646.

20 USC 645. (b) Section 15(15) of such Act is amended by striking out "1973–1974" and inserting in lieu thereof "1978–1979".

DETERMINATION OF NUMBER OF CHILDREN

20 USC 635. SEC. 1022. Section 5(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

"(B) the number of children determined with respect to such agency under section 3(a)(1) and such Act multiplied by 90 per centum of such cost;

"(2) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost;

"(B) the number of children determined with respect to such agency under section 3(b)(1) of such Act multiplied by 45 per centum of such cost; and

"(C) the number of children determined with respect to such agency under section 3(b)(2) of such Act multiplied by 40 per centum of such cost;".

CONSTRUCTION ARRANGEMENTS

20 USC 640. SEC. 1023. Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting ", leasing, renovating, remodeling, or rehabilitating" after "arrangements for constructing" and after "this section for constructing".

DISASTER ASSISTANCE

20 USC 646. SEC. 1024. Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out the last sentence in the matter following paragraph (6).

PART C—GENERAL PROVISIONS

NORTHERN MARIANA ISLANDS

SEC. 1031. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is further amended by inserting "the Northern Mariana Islands," immediately after "American Samoa," each place it appears in section 3(d)(3)(B)(iii), 3(d)(3)(C), 6(c), and 403(8).

20 USC 238, 241, 244.

(b)(1) Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting "American Samoa, the Northern Mariana Islands," immediately after "Guam,".

(2) Section 15(13) of such Act is amended by inserting "the Northern Mariana Islands," immediately after "American Samoa,".

EFFECTIVE DATE

SEC. 1032. This title shall be effective with respect to the 1979 fiscal year, and subsequent fiscal years, except that— 20 USC 237 note.

(1) the amendments made by section 1006 shall be effective upon enactment of this Act, and actions of the Commissioner of Education under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), during or with respect to fiscal year 1978, shall be subject to the provisions of such amendments; 20 USC 236.

(2) the amendments made by sections 1003, 1007, 1011, and 1012 shall be effective with respect to fiscal year 1980, and subsequent fiscal years; and

(3) the provisions of section 1015 shall be effective upon enactment of this Act.

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 1101. (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph: 20 USC 238.

"(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.".

(b) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a)(1) of such Act is redesignated as section 5(a). Repeal. 20 USC 240.

(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting after paragraph (2) (as added by section 1005 of this Act) the following new paragraph:

"(3)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

20 USC 238.

"(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

"(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

"(iii) tribes and parents of Indian children claimed under section 3(a) are—

"(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

"(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parental participation allowed.

Written complaint.

"(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

Hearing.

"(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(II) designate a hearing examiner to conduct the hearing; and

"(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

"(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if

any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

"(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

"(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall withhold payment of all moneys to which such local agency is entitled under section 3(d)(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency: *Provided*, That the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency. 20 USC 238.

"(E) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.".

(d) Within one year of the date of enactment of this Act, the Secretary, in cooperation with the Commissioner, shall propose and promulgate special regulations which will provide that where a local educational agency does not undertake the remedial action required by the Commissioner under section 5(b)(3)(C)(vi) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Commissioner determines that an extension of time will not effectively encourage the remedy, the affected tribes may elect to contract with the Bureau under title I of the Indian Self-Determination and Education Assistance Act to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to insure orderly and expeditious transition in provision of educational services. Regulations. 20 USC 240 note. 20 USC 240. 25 USC 450f.

(e) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended by section 1007 of this Act, is amended by redesignating divisions (ii) through (vi) as divisions (iii) through (vii), respectively, and by adding after division (i) the following new division:

"(ii) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D);". 20 USC 244.

FUNDING PROVISION

Publication in Federal Register. 25 USC 13 note.

25 USC 13.

25 USC 452 note.

Field survey.

Formula, publication in Federal Register.

SEC. 1102. (a) The Secretary of the Interior shall develop alternative methods for the equitable distribution of any supplement program funds provided, pursuant to an appropriation under the Act of November 2, 1921, commonly referred to as the Snyder Act, for contracting under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act, and shall publish in the Federal Register by March 1, 1979, such alternatives for the purpose of allowing eligible tribes to comment by May 1, 1979. At that time, the Secretary shall conduct a field survey listing all alternative formula.

(b) By July 1, 1979, the Secretary shall establish and publish the formula in the Federal Register which the majority of such tribes determine, but vote certified to the Secretary, to be most equitable and shall use such formula for purposes of distribution of the funds appropriated pursuant to such Act beginning on or after October 1, 1979. The Secretary shall, in accordance with procedures consistent with that prescribed herein, revise such formula periodically as necessary.

BASIC EDUCATIONAL SUPPORT

25 USC 13 note.

SEC. 1103. (a)(1) From sums already appropriated under the Act of November 2, 1921 (25 U.S.C. 13) and notwithstanding any other provision of law or any requirement of a grant or agreement relating to the timing of payments for basic support contracts or grants under the Act of April 16, 1934 (25 U.S.C. 452–457), the Secretary of the Interior shall make payments of any unexpended funds obligated for basic support contracts or grants under such Act of November 2, 1921, for fiscal year 1978 to any school that has received notification from the Department of the Interior of the award of such a contract or grant. Such payments shall be made in accordance with any applicable condition of such contracts or grants other than conditions relating to the timing of payments.

(2) The Secretary of the Interior shall make the payments referred to in paragraph (1) not later than thirty days after the date of the enactment of this Act. Saturdays, Sundays, and legal public holidays, as established by section 6103 of title 5, United States Code, shall not be considered as days for purposes of the preceding sentence.

25 USC 13–1.

(b) Such sums as are needed under such Act of November 2, 1921, are authorized to be appropriated to provide funds for basic educational support through parent committees under such Act of April 16, 1934, to those public schools educating Indian students and whose total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students in the public schools in which they are enrolled where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

Studies and surveys. 25 USC 2001.

SEC. 1121. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in

consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools and Indian controlled contract schools (hereinafter referred to as "contract schools"). Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographical isolation and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

Minimum academic standards. Publication in Federal Register.

(b)(1) Within fifteen months of the date of enactment of this Act, the Secretary shall propose minimum academic standards for the basic education of Indian children, and shall distribute such proposed standards to the tribes and publish such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(2) Such standards shall apply to Bureau schools, and subject to subsection (e), to contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

(c) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (b), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

Waiver.

(d) A tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (b) and (c), where such standards are deemed by such body to be inappropriate or ill-conceived, and shall also have the authority to revise such standards to take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

(e) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under subsection (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. The Secretary shall not refuse to enter into a contract with respect to any contract school on the basis of failure to meet such standards. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school.

Plan, submittal to congressional committees.

(f) Subject to subsections (d) and (e), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

Appropriation authorization.

(g) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

Boarding costs, study. 25 USC 2002.

SEC. 1122. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criterial for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

Distributions to tribes and publication in Federal Register.

(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

Plan, submittal to congressional committees.

(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

REGULATIONS

SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act. 25 USC 2003.

STUDIES

SEC. 1124. There are hereby authorized to be appropriated no more than $1,000,000 to carry out the studies conducted under section 1121(a) and section 1122(a). Appropriations, limitation. 25 USC 2004.

FACILITIES CONSTRUCTION

SEC. 1125. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), and with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act. 25 USC 2005.

(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards. Plan, submittal to congressional committees.

(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities. Priorities, submittals to congressional committees and publications in Federal Register.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a). Appropriation authorization.

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 1126. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau (hereinafter referred to as the "Office"), which shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. 25 USC 2006.

(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau. The Assistant Secre-

tary for Indian Affairs shall provide for the adequate coordination between the affected Bureau offices and the Office in order to facilitate the expeditious consideration of all contract functions relating to education. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

(1) monitor and evaluate Bureau education programs, and

(2) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

"Functions." (d) For the purpose of this section the term "functions" includes powers and duties.

IMPLEMENTATION

Publication in Federal Register. 25 USC 2007. SEC. 1127. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 1126.

ALLOTMENT FORMULA

Regulation. 25 USC 2008. SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

(1) the number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs;

(C) food and housing costs;

(D) overhead costs associated with administering contracted education functions; and

(E) maintenance and repair costs associated with the physical condition of the educational facilities;

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(4) the cost of bringing the school up to the level of the standards established under sections 1121 and 1122; and

(5) such other relevant factors as the Secretary determines are appropriate.

(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an

average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each Indian child attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) Notwithstanding subsection (b), the Secretary shall provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (a). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

Funds, provision.

Report to Congress.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 1129. (a) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 1128, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made.

Regulation.
25 USC 2009.

(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action by the local school board to the superintendent for education of the Bureau agency, and the superintendent may, for good cause and in writing to the local school board, overturn the action of the local school board.

Local financial plans.

Appeals.

(c) Funds for self-determination grants under section 104(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

25 USC 450h.

(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

25 USC 2010.

25 USC 2011. 5 USC 5101 *et seq.*, 5301, 6301 *et seq.*

SEC. 1131. (a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to leave, pay, and classification, and the sections relating to the appointment, promotion and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

Regulations.

(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(1) the establishment of education positions,
(2) the establishment of qualifications for educators,
(3) the fixing of basic compensation for educators and education positions,
(4) the appointment of educators,
(5) the discharge of educators,
(6) the entitlement of educators to compensation,
(7) the payment of compensation to educators,
(8) the conditions of employment of educators,
(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),
(10) the leave system for educators, and
(11) such other matters as may be appropriate.

Educator qualifications, requirements.

(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

Educator appointments, requirements.

(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filed at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii).

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

Appeals.

(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office. Upon such an appeal, the Director of the Office may, for good cause and in writing to the agency school board, overturn the determination of the agency school board with respect to the employment of such individual.

Education position application statement.

(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the indi-

vidual had applied at the national level for an education position in the Bureau, if the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

Educator discharge and employment requirements.

(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

(B) that no educator may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process; and

(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.

(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

Notification.

Appeal.

Recommendations.

(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

Waiver.

(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

Definitions.

(2) For purposes of this subsection, the term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688); or

(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1139, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(3) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b); 88 Stat. 2295).

(g) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau. 5 USC 5101 *et seq.*

(h)(1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable. Compensation. 5 USC 5332 note.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(i) Any individual—

(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract

between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

(1) is employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

Definitions.

(n) For the purpose of this section—

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a Bureau school and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position of agency superintendent for education.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(o)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position.

(2) Any individual employed in an education position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

Establishment.
25 USC 2012.

SEC. 1132. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include but shall not be limited to—

(1) student enrollment;

(2) curriculum;
(3) staff;
(4) facilities;
(5) community demographics; and
(6) student assessment information.

BUREAU EDUCATION POLICIES

SEC. 1133. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

Publication in Federal Register and submittals to Bureau, tribes, and congressional committees.
25 USC 2013.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 1134. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

Report to Congress.
25 USC 2014.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 1135. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

Policy and plan.
25 USC 2015.

ANNUAL REPORT

SEC. 1136. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

Submittal to congressional committees.
25 USC 2016.

RIGHTS OF INDIAN STUDENTS

SEC. 1137. Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including, but not limited to, their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

Rules and regulations.
25 USC 2017.

REGULATIONS

SEC. 1138. Regulations required to be adopted under sections 1126 through 1137 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

25 USC 2018.
20 USC 1232.

DEFINITIONS

25 USC 2019.

SEC. 1139. For the purpose of this title—

(1) the term "agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

(2) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "financial plan" means a plan of services to be provided by each Bureau school;

(5) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

(6) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(7) the term "local school board", when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

(8) the term "Secretary" means the Secretary of the Interior;

(9) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school; and

(10) the term "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

43 USC 1601 note.

PART C—INDIAN EDUCATION PROVISIONS

EXTENSION OF AUTHORIZATION

20 USC 3385. *Ante*, p. 2284.

SEC. 1141. (a) Section 1005(g) of the Elementary and Secondary Education Act of 1965 as redesignated by section 801 of this Act, is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

(b) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress)) as added by the Indian

Education Act, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 241bb.

(c)(1) Section 422 of the Indian Education Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 3385a.

(2) Section 423(a) of such Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 3385b.

(3) Section 442(a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 1221g.

CULTURALLY RELATED ACADEMIC NEEDS

SEC. 1142. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241aa.

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both,". 20 USC 241cc.

DEMONSTRATION PROJECTS

SEC. 1143. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection: Grants, appropriation authorization. 20 USC 241bb.

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.".

PARENT COMMITTEES

SEC. 1144. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241dd.

(1) by inserting "(including persons acting in loco parentis other than school administrators or officials)" after "Indian children" in paragraph (2)(B)(i) and after "children participating in the program" in paragraph (2)(B)(ii);

(2) by inserting ", including policies and procedures relating to the hiring of personnel," after "policies and procedures" in paragraph (2)(C); and

(3) by striking out the period at the end of paragraph (2) (C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(3) provides that the parent committee formed pursuant to paragraph (2) (B) (ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.".

ALLOCATION ADJUSTMENT

20 USC 241ff.

SEC. 1145. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

20 USC 241bb.

TRIBAL SCHOOLS

20 USC 241bb-1.

SEC. 1146. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

25 USC 450 note.

DEFINITION STUDY

20 USC 1221h.

SEC. 1147. Section 453 of the Indian Education Act is amended by inserting "(a)" immediately after "SEC. 453." and by adding at the end thereof the following new subsection:

Consultation and submittal to Congress.

"(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

"(1) an identification of the total number of Indian children being served under this title;

"(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

"(3) an evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

"(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

"(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.".

DATA COLLECTION

SEC. 1148. Section 453 of the Indian Education Act is amended by inserting after subsection (b), as added by section 1147: 20 USC 1221h.

"(c) In establishing a child's eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

"(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile.".

PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings. Annual audit, report to Congress. 20 USC 241aa note.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act. Information falsification.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

AMENDMENTS TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1150. (a) Section 1005(c)(1)(E) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "and gifted and talented Indian children" after "handicapped". 20 USC 3385. *Ante*, p. 2284.

20 USC 3385. *Ante*, p. 2284.

(b)(1) Section 1005(c)(1)(F) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"(F) early childhood programs, including kindergarten;".

(2)(A) Section 1005(d) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended—

(i) by striking out "children" in paragraphs (1) and (2) of such section and by inserting in lieu thereof "students" each time it appears; and

(ii) by inserting after "teachers" a comma and the following: "administrators".

(B) The section heading of section 1005 of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS"

(c)(1) Section 1005(e) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended as follows:

Regional information centers, establishment, grants and contracts.

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

20 USC 241aa note. 20 USC 1211a.

"(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

"(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

20 USC 241dd.

"(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.".

(2) Section 1005(b) of such Act, as redesignated by section 801 of this Act, is amended by striking out "Indian tribes, organizations, and institutions" and inserting in lieu thereof "Indian tribes, Indian organizations, and Indian institutions".

(d) Section 1005(f) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following: 20 USC 3385. *Ante*, p. 2284.

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.".

(e) Section 1005(g) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.". Appropriation authorization.

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting "estimated to be" after "equal to the amount". 20 USC 241ee.

DEFINITION OF INDIAN

SEC. 1151. Section 453(1) of the Indian Education Act is amended by striking out "now or in the future". 20 USC 1221h.

TEACHER TRAINING AND FELLOWSHIPS

SEC. 1152. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out "children" and inserting in lieu thereof "people". 20 USC 3385a.

(b) Section 423(a) of the Indian Education Act is amended— 20 USC 3385b.

(1) by striking out "less than three, nor"; and

(2) by striking out "professional or graduate degree in engineering, medicine, law, business, forestry, and related field" and inserting in lieu thereof "postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.".

TITLE XII—ADMINISTRATIVE PROVISIONS

PART A—EQUALIZATION

DATA COLLECTION

SEC. 1201. Section 406 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection: 20 USC 1221e-1.

"(i)(1) In addition to its other responsibilities, the National Center for Education Statistics shall, in consultation with the Office of Education, collect uniform data from the States on financing of ele- Consultation.

mentary and secondary education. Each State receiving funds under the Elementary and Secondary Education Act of 1965 shall cooperate with the National Center in this effort.

20 USC 821 note.

State profile, publication.

"(2)(A) The National Center shall, in consultation with the Office of Education, publish by no later than September 30, 1979, and by no later than September 30 of each second fiscal year thereafter, a composite profile of each State showing the degree to which each has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States.

"(B) In compiling the profiles required by this paragraph, the National Center shall list the degree of equalization both within and among the States according to the following standards:

"(i) the disparity in expenditures among school districts;

"(ii) the disparity from wealth neutrality; and

"(iii) such other measures as the National Center considers appropriate, including a consideration of price differentials and pupil-teacher ratios.

Appropriation authorization.

"(3) There are authorized to be appropriated such sums as may be necessary for any fiscal year to assist the National Center in carrying out its responsibilities under this subsection.".

EQUALIZATION ASSISTANCE

SEC. 1202. Part C of the General Education Provisions Act is amended by inserting after section 426 the following new section:

"EQUALIZATION ASSISTANCE

Grants.
20 USC 1231c-1.

"SEC. 426A. (a) The Commissioner is authorized from the sums appropriated pursuant to subsection (d) to make grants to States to assist in developing and implementing plans to revise their systems of financing elementary and secondary education in order to achieve a greater equalization of resources among school districts. Any State desiring to receive such a grant shall (1) submit an application approved by the State legislature for such funds, (2) provide that State funds will match the Federal funds on a dollar for dollar basis, and (3) show how these efforts build upon the knowledge gained through the plans developed pursuant to section 842 of the Education Amendments of 1974.

20 USC 246.

"(b) The Commissioner is authorized, from sums appropriated pursuant to subsection (d), (1) to develop and disseminate models and materials useful to the States in planning and implementing revisions of their school financing systems, and (2) to establish temporary national and regional training centers to assist those involved in school finance in providing the level of expertise needed by the States in revising their financing systems.

National dissemination center, designation.

"(c) The Commissioner shall (1) designate a unit within the Office of Education to serve as a national dissemination center for information on the States' efforts to achieve a greater equalization of resources for elementary and secondary education, and (2) develop an analysis of what has been learned through the use of funds available under section 842 of the Education Amendments of 1974 and disseminate the results of this analysis.

Appropriation authorization.

"(d) There are hereby authorized to be appropriated $4,000,000 for each of the fiscal years ending prior to September 30, 1983, for the purposes of this section.".

SCHOOL FINANCE

SEC. 1203. (a) It is the purpose of this section to provide for— 20 USC 1221-1 note.

(1) the availability of reliable and comparative data on the status and trends in financing elementary and secondary education;

(2) the conduct of studies necessary to understand and analyze the trends and problems affecting the financing of elementary and secondary education, both public and non-public, including the prospects for adequate financing during the next ten years; and

(3) the development of recommendations for Federal policies to assist in improving the equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education.

(b) In order to carry out the purposes of this section, the Secretary shall carry out the studies and surveys set forth in subsection (e) relating to the financing of elementary and secondary education.

(c)(1) In order to provide the Secretary and the Congress with advice and counsel from distinguished and knowledgeable members of the public on the conduct of the activities authorized under this section, there is established within the Department of Health, Education, and Welfare an Advisory Panel on Financing Elementary and Secondary Education to be composed of fifteen members appointed by the President. The Panel shall include (A) representatives of public and non-public elementary and secondary education, including board members, administrators, and teachers, (B) State and local officials, (C) citizens, and (D) scholars of school finance. Advisory panel on Financing Elementary and Secondary Education, establishment and membership.

(2) The members of the Advisory Panel shall be appointed, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, not later than sixty days after the enactment of this section.

(3) Members who are not in the regular full-time employ of the United States shall, while attending to the business of the Advisory Panel, be entitled to receive compensation at the daily rate prescribed for grade 18 in section 5332 of such title 5, including travel time. All members while serving on the business of the Advisory Panel away from their homes or regular places of business, may be allowed travel expenses in accordance with section 5703 of title 5. Compensation. 5 USC 5332 note.

(4) The Advisory Panel shall provide periodic advice to the Secretary concerning all activities conducted under this section. The Secretary shall make available to the Advisory Panel such technical and other assistance as may be necessary to enable the Advisory Panel to carry out its responsibilities.

(5) The views and recommendations of the Advisory Panel shall be presented to the White House Conference on Education called pursuant to the provisions of section 804 of the Education Amendments of 1974.

(6) Sixty days after the submission of the final report under subsection (f) of this section, the Advisory Panel shall terminate. 20 USC 1221-1 note. Termination.

(7) There are authorized to be appropriated such sums as may be necessary for fiscal years 1979 and 1980 to carry out the provisions of this subsection. Appropriation authorization.

(8) Section 804(c)(1) of the Education Amendments of 1974 is amended—

(A) by striking out "thirty-five" and inserting in lieu thereof "forty-one";

(B) by striking out "fifteen" and inserting in lieu thereof "twenty-one"; and

(C) by inserting after the first sentence the following new sentence: "Six of the members appointed by the President shall be members of the Advisory Panel on Financing Elementary and Secondary Education.".

Studies and surveys.

(d) The studies and surveys conducted under this section shall consider (1) the prospects for adequate financing of elementary and secondary schools during the ten year period from October 1, 1979, through September 30, 1989, and (2) the distribution of financial resources for elementary and secondary education among the States, among school districts within the States, and among schools within school districts. The Secretary shall have the authority necessary to achieve coordination, avoid redundancy, and insure the high quality of the studies and surveys carried out under this section and to ensure the relevance of those studies to the objectives of this section.

(e) The studies and surveys carried out under this section shall include—

(1) an analysis of the capacity of educational finance systems to provide adequate school revenues, including an examination of future trends in educational service requirements, cost of supplying these services, and available school revenues from Federal, State, and local sources, taking account of noneducational service demands on revenues:

(2) to the extent feasible, the development of procedures for the conduct of the activities of the National Center for Education Statistics under section 406(i) of the General Education Provisions Act:

20 USC 1221e-1.

(3) an analysis of the recent trends in the distribution of these resources including (A) an examination of recent court and State legislative developments, (B) case studies of States showing the greatest degree of equalization of resources in order to determine whether common elements exist leading to such equalization, and (C) special analyses of the effects of such recent trends on school districts in large urban areas and in poor rural areas and the effects of such trends on students who are members of minority groups, or who are economically or educationally disadvantaged or handicapped;

(4) an analysis of standards to measure inter-State, intra-State, and intradistrict equalization, including an examination of the standards showing disparities in expenditures, variations from fiscal neutrality, weightings of classes of pupils, and applications of these standards to an illustrative number of States, school districts, and schools;

(5) an analysis of the impact of Federal and State education programs on the distribution of State and local educational resources and of the relationship between such Federal and State programs;

(6) recommendations for alternative Federal roles in the context of the total responsibility for financing schools among local, State, and Federal levels, including recommendations for changes in current Federal programs and suggestions for new Federal programs to promote greater equalization;

(7) an analysis of the impact of school finance equalization on the cost and quality of education programs, including particularly the quality of education programs in those districts recognized as educational leaders prior to equalization;

(8) an analysis of the effects of school finance equalization on curricular and extracurricular activities related to the arts, athletics, foreign languages, music, and other programs or activities of special value, or enrichment, or which especially serve the needs or talents of a limited sector of the preschool, elementary, or secondary school population;

(9) an analysis of the effects of school finance equalization on the distribution of tax burdens by level of government, type of revenue, and family income of taxpayers;

(10) an analysis of current and future Federal assistance for non-public elementary and secondary education, including the extent of non-public participation in Federal programs, trends in enrollments and costs of private education, the impact of private schools on public school enrollments and financial support, and an examination of alternative Federal policies for support of private education; and

(11) an analysis of the extent to which school districts participate in programs administered by Federal agencies other than the Education Division of the Department of Health, Education, and Welfare which analysis (A) shall include an assessment of barriers to school district participation in programs which have general purpose governments as primary beneficiaries and (B) shall explore alternative coordinating mechanisms to achieve equitable school district participation in such programs.

The studies described in this section shall be assigned to such organizational units within the Department as the Secretary deems appropriate. All studies and surveys described in this section shall utilize existing information to the extent possible, and shall require the collection of new information only as may be required. Appropriate resources shall be made available to reimburse respondents for costs associated with any additional data collection required by this section.

Reports to President and Congress.

(f) The Secretary and the Advisory Panel shall make interim reports to the President and the Congress no later than December 31, 1979, and December 31, 1980, and shall make a final report thereto no later than December 31, 1981, on the results of the studies conducted under this section. The Secretary and the Advisory Panel shall provide comments on each of the above reports and such additional recommendations, including recommendations for legislation, as the Secretary and the Panel may deem appropriate to the President and to the Congress no later than sixty days after the submission of such reports. Any other provisions of law, rule, or regulation to the contrary notwithstanding, such reports of the Panel shall not be submitted to any review outside of the Panel before their transmittal to the Congress, but the President and the Secretary may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

Comments and legislative recommendations.

Plan, submittal to Congress.

(g) (1) The Secretary shall submit to the Congress, within one hundred and twenty days after the date of the enactment of the Act, a plan for studies to be conducted under this section. The Secretary shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Secretary shall not commence such studies until the first day after the close of the first period of sixty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(h) Sums made available pursuant to section 183 of the Elementary and Secondary Education Act of 1965 and other funds available to any agency of the Department of Health, Education, and Welfare for purposes consistent with this section, shall be available to carry out the provisions of this section.

"State."

(i) For purposes of this section, the term "State" means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

PART B—PAPERWORK CONTROL

Control of Paperwork Amendments of 1978.

SHORT TITLE

20 USC 1221-3 note.

SEC. 1211. This part may be cited as the "Control of Paperwork Amendments of 1978".

GENERAL EDUCATION PROVISIONS ACT AMENDMENT

20 USC 1221e-1.

SEC. 1212. (a) Paragraph (3) of section 406(b) of the General Education Provisions Act is amended by inserting ", including State agencies responsible for postsecondary education," immediately after "local educational agencies".

(b) The General Education Provisions Act is amended by adding after section 400 the following new section:

"CONTROL OF PAPERWORK

Coordination.
20 USC 1221-3.

"SEC. 400A. (a)(1)(A) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary shall coordinate the collection of information and data acquisitioned activities of all Federal agencies, (i) whenever the respondents are primarily educational agencies or institutions, and (ii) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Federal Education Data Acquisition Council, establishment, membership, and duties.

"(B) There is hereby established a Federal Education Data Acquisition Council, to consist of members appointed by the Secretary who shall represent the public and the major agencies which collect and use education data, including one representative each of the Office of Management and Budget and of the Office of Federal Statistical Policy and Standards. The members representing the public may be appointed for not more than three years. The Council shall advise and assist the Secretary with respect to the improvement, development, and coordination of Federal education information and data acquisition activities, and shall review the policies, practices, and procedures established by the Secretary. The Council shall meet regularly during the year and shall be headed by an individual from an agency which has expertise in data collection but which undertakes no major data collection of education data.

Definitions.

"(2) For the purposes of this section, the term—

"(A) 'information' has the meaning given it by section 3502 of title 44, United State Code;

"(B) 'Federal agency' has the meaning given it by section 3502 of the same title; and

"(C) 'educational agency or institution' means any public or private agency or institution offering education programs.

"(3)(A) The Secretary shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A) of this subsection, in accordance with procedures approved by the Federal Education Data Acquisition Council. Such procedures shall be designed in order to enable the Secretary to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and, if so, to advise the heads of the relevant Federal agencies. Review and coordination.

"(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and except that an aggrieved agency may seek review of an adverse action by the Secretary under subparagraph (A) by the Director of the Office of Management under the rules and regulations established pursuant to section 3509 of title 44, United States Code, and the Director shall issue a decision thereon within 10 days after receipt of the request for review.

"(C) The procedures established by the Secretary shall include a review of plans for evaluations and for research when such plans are in their preliminary stages, in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

"(b)(1) The Secretary shall assist each Federal agency in performing the review and coordination required by this section and shall require of each agency a plan for each collection of information and data acquisition activity, which shall include— Assistance and plan requirement.

"(A) a detailed justification of how information once collected will be used;

"(B) the methods of analysis which will be applied to such data;

"(C) the timetable for the dissemination of the collected data; and

"(D) an estimate of the costs and man-hours required by each educational agency or institution to complete the request and an estimate of costs to Federal agencies to collect, process, and analyze the information, based upon previous experience with similar data or upon a sample of respondents.

"(2) In performing the review and coordination required by this section, the Secretary shall assure that—

"(A) no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it;

"(B) sampling techniques, instead of universal responses, will be used wherever possible, with special consideration being given to the burden being placed upon small school districts, colleges, and other educational agencies and institutions; and

"(C) no request for information or data will be approved if such information or data exist in the same or a similar form in the automated indexing system required to be developed pursuant to subsection (d).

"(3) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and Comments.

their representative organizations shall have an opportunity, during a thirty-day period, to comment to the Secretary on the collection of information and data acquisition activity. The exact data instruments for each proposed activity shall be available to the public upon request during this comment period.

"(4) No changes may be made in the plans for the acquisition of that information or data, except changes required as a result of the review described in this section, after such plans have been finally approved under this section, unless the changed plans go through the same approval process.

Waiver.

"(5) The Secretary may waive the requirements of this section for individual research and evaluation studies which are not designated for individual project monitoring or review, provided that—

"(A) the study shall be of a nonrecurring nature;

"(B) any educational agency or institution may choose whether or not to participate, and that any such decision shall not be used by any Federal agency for purposes of individual project monitoring or funding decisions;

"(C) the man-hours necessary for educational agencies and institutions to respond to requests for information or data shall not be excessive, and the requests shall not be excessive in detail, unnecessary, redundant, ineffective, or excessively costly; and

Announcement in Federal Register.

"(D) the Federal agency requesting information or data has announced the plans for the study in the Federal Register.

Notification.

The Secretary shall inform the relevant agency or institution concerning the waiver decision within thirty days following such an announcement, or the study shall be deemed waived and may proceed. Any study waived under the provisions of this subsection shall be subject to no other review than that of the agency requesting information or data from educational agencies or institutions.

"(6) Nothing in this section shall be construed to interfere with the

42 USC 2000a note.

enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law.

"(c) The Secretary shall, insofar as practicable, and in accordance with the provisions of this Act, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of

20 USC 1221e-1.

section 406(f)(2)(A), with summaries of information collected and the data acquired by Federal agencies, unless such data were acquired on a confidential basis.

"(d) The Secretary shall, insofar as practicable—

Standard definitions and terms.

"(1) develop standard definitions and terms consistent, wherever possible, with those established by the Office of Federal Statistical Policy and Standards, Department of Commerce, to be used by all Federal agencies in dealing with education-related information and data acquisition requests;

Automated indexing system.

"(2) develop an automated indexing system for cataloging all available data;

Uniform reporting dates.

"(3) establish uniform reporting dates among Federal agencies for the information and data acquisition required after review under this section;

Listings, publication.

"(4) publish annually a listing of education data requests, by Federal agency, and for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from each such program; and

Authority, identification.

"(5) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative auhority specifically requiring such col-

lection, if any, and require the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

"(e)(1) Subject to the provisions of paragraph (2), the Secretary shall develop, in consultation with Federal and State agencies and local educational agencies, procedures whereby educational agencies and institutions are permitted to submit information required under any Federal educational program to a single Federal or State educational agency. Procedures, consultation.

"(2) Any procedures developed under paragraph (1) shall be considered regulations for the purpose of section 431 and shall be submitted subject to disapproval in accordance with section 431(e) of this Act for a period of not to exceed 60 days computed in accordance with such section. 20 USC 1232.

"(f) The Secretary shall submit a report to the Congress not less than once every three years, describing the implementation of this section. Such report shall contain recommendations for revisions to Federal laws which the Secretary finds are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Department. Report and recommendations to Congress.

"(f)(1) The Secretary is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education, for the development or improvement of education management information systems. Education management information systems, grants.

"(2) Any State educational agency is eligible for a grant of funds under this subsection subject to the following conditions: Eligibility.

"(A) The agency agrees to use such funds for the development or improvement of its management information system and agrees to coordinate all data collection for Federal programs administered by the agency through such a system.

"(B) The agency agrees to provide funds to local educational agencies and institutions of higher education for the development or improvement of management information systems when such grants are deemed necessary by the State educational agency.

"(C) The State agency agrees to take specific steps, in cooperation with the Secretary and with local educational agencies or institutions of higher education in the State, as appropriate, to eliminate excessive detail and unnecessary and redundant information requests within the State and to achieve the collection of information in the most efficient and effective possible manner so as to avoid imposing undue burdens on local educational agencies or institutions of higher education.

"(g) For the purpose of carrying out this subsection— Appropriation authorization.

"(1) there are authorized to be appropriated for salaries and expenses $600,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,200,000 for each of the two succeeding fiscal years;

"(2) there are authorized to be appropriated for grants under paragraph (6) the sums of $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $50,000,000 for each of the two succeeding fiscal years; and

"(3) the sums appropriated according to paragraphs (1) and (2) shall be appropriated as separate line items.".

(c) Section 406 of such Act is amended— 20 USC 1221e-1.

(1) by striking out subsection (g), and

(2) by redesignating subsection (h), and all references thereto, as subsection (g).

SEC. 1213. Subpart 2 of part C of the General Education Provisions Act is amended by adding immediately before section 431 thereof the following new section:

"APPLICATIONS

20 USC 1231g.

"SEC. 430. (a) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Commissioner is authorized to provide for the submission of applications for assistance effective for three fiscal years under any applicable program with whatever amendments to such applications being required as the Commissioner determines essential.

Uniform submission dates, establishment.

"(b) The Commissioner shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

"(c) The Commissioner shall, insofar as is practicable, develop and require the use of—

"(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

APPLICATIONS

"(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

"(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Commissioner, and such application shall be used as the single application for as many of these programs as is practicable.".

PART C—FEDERAL, STATE AND LOCAL RESPONSIBILITIES

STATE AND LOCAL ADMINISTRATION

SEC. 1231. (a) The General Education Provisions Act is further amended—

20 USC 1232d, 1226a-1.

(1) by redesignating section 435 as section 415, by inserting such section (as so redesignated) immediately after section 414, and by deleting such section from its previous location;

20 USC 1232f, 1221e-1a.

(2) by redesignating section 437 as section 406A, by inserting such section immediately after section 406, and by deleting such section from its previous location; and

20 USC 1232c, 1232e.

(3) by striking out sections 434 and 436 and by inserting immediately after section 433 the following new subpart:

"Subpart 3—Administration of Education Programs and Projects by States and Local Educational Agencies

"STATE EDUCATIONAL AGENCY MONITORING AND ENFORCEMENT

Plan submittal and requirements. 20 USC 1232c.

"SEC. 434. (a) In the case of any applicable program in which Federal funds are made available to local agencies in a State through or

under the supervision of a State board or agency, the Commissioner may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Commissioner may require such plan to provide—

"(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

"(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

"(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Commissioner, relating to the administration of such programs.

"(b) In order to enforce the Federal requirements under any applicable program the State may— Enforcement.

"(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

"(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

"(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

Any withholding of payments under paragraph (3) of this subsection shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

"SINGLE STATE APPLICATION

"SEC. 435. (a) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject, in the case of programs under titles I and IV of the Elementary and Secondary Education Act of 1965, to the provisions of title V of such Act) to the Commissioner a general application containing the assurances set forth in subsection (b). Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, 20 USC 1232d.

Ante, pp. 2153, 2229, 2240.

board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

Assurances.

"(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

Administration.

"(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

"(3) that the State will adopt and use proper methods of administering each applicable program, including—

"(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

"(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

"(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

"(D) the dissemination throughout the State of information on program requirements and successful practices, and

"(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

"(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

"(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

Reports and records.

"(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 437 of this Act, and afford access to the records as the Commissioner may find necessary to carry out his duties; and

Post, p. 2346.

Program participation.

"(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

Consultation.

"(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

"(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days; Proposals, publication and comments.

"(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and Hearings.

"(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

"(c) Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

"SINGLE LOCAL EDUCATIONAL AGENCY APPLICATION

"SEC. 436. (a) Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b). That application shall cover the participation by that local education agency in all such programs. 20 USC 1232e.

"(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances— Assurances.

"(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications; Administration.

"(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

"(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

"(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 437, and provide access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties: Reports and records.

"(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program; Program participation.

"(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public; Public availability.

"(7) that in the case of any project involving construction—

"(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

"(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals; and

29 USC 794.

"(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

"(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.".

20 USC 1088f-1.

(b) Section 497A(a) of the Higher Education Act of 1965 is amended by striking out "or of section 434(c) of the General Education Provisions Act.".

(c) Part C of the General Education Provisions Act is further amended by inserting immediately after section 436 the following:

"Subpart 4—Records; Privacy; Limitation on Withholding Federal Funds

"RECORDS

20 USC 1232f.

"SEC. 437. (a) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency) shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activity for which the funds are used.

Audits, access.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in subsection (a), or which may relate to the compliance of the recipient with any requirement of an applicable program.".

ENFORCEMENT

20 USC 1221.

SEC. 1232. The General Education Provisions Act is amended by adding at the end thereof the following new part:

"PART E—ENFORCEMENT

"EDUCATION APPEAL BOARD

"SEC. 451. (a) The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the 'Board') the functions of which shall be to conduct— Establishment and functions. 20 USC 1234.

"(1) audit appeal hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 453 of this Act,

"(3) cease and desist hearings pursuant to section 454 of this Act, and

"(4) other proceedings designated by the Commissioner.

"(b) The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not full-time employees of the Federal Government. Membership.

"(c) The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman. Chairman.

"(d) For the purposes of conducting hearings as provided in subsection (a) the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel— Hearing panels.

"(1) the majority of members shall not be individuals in the full-time employment of the Federal Government,

"(2) the membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

"(3) the Chairman of the Board shall designate one member of each such panel to be the presiding officer.

"(e) The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557 respecting—

"(1) the receipt of oral or written testimony,

"(2) notice of the issues to be considered,

"(3) the right to counsel,

"(4) intervention of third parties,

"(5) transcripts of proceedings, and

"(6) such other matters as may be necessary to carry out the functions of the Board.

"(f) If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section. Appeal board, designation.

"AUDIT DETERMINATIONS

"SEC. 452. (a) Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 435(a) of this title, or conducted under title VI and title VII of the Elementary and Secondary Education Act of 1965 or under the Emergency School Aid Act, has been made by a State or by a local educational agency, or Notification. 20 USC 1234a. *Ante*, p. 2343. *Ante*, pp. 2252, 2268. *Ante*, p. 2252.

that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

Review, application.

"(b) A State or a local educational agency that has received written notice of a final audit determination and that desires to have such determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board. The Board shall return to the Commissioner for such action as he deems appropriate any final audit determination which, in the judgment of the Board, contains insufficient detail to identify with particularity those expenditures which are not allowable. Unless the Board determines that a final audit determination lacks sufficient detail, the burden shall be upon the State or local educational agency to demonstrate the allowability of expenditures disallowed in the final audit determination.

"(c) When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this part.

"(d) A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

"(1) the Commissioner for good cause shown, modifies or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

"(2) the State or the local educational agency files a petition for judicial review as provided in section 455 of this Act.

"(e) A final audit determination by the Commissioner under subsection (a) with respect to which review has not been requested pursuant to subsection (b), or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966.

31 USC 951 note.

Claim compromises.

"(f)(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

Publication in Federal Register.

"(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commis-

sioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments. Comments.

"(g) No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a).

"(h) The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

"WITHHOLDINGS

"SEC. 453. (a) Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgated under section 497A of the Higher Education Act of 1965 apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms. Notification. 20 USC 1234b. 20 USC 1088f-1.

"(b) The notification required under subsection (a) shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportunity for a hearing to be held on a date at least thirty days after the notification has been sent to the recipent. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 451(e) of this Act. Notice and hearing.

"(c) Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

"(d) The decision of the Board in any proceeding brought under this section shall become final unless within sixty days following receipt by the recipient of written notice of the decision—

"(1) the Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

"(2) the recipient files a petition for judicial review as provided in section 455 of this Act.

"CEASE AND DESIST ORDERS

"SEC. 454. (a) Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds, in lieu of proceeding under section 453 of this Act, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint. Complaints. 20 USC 1234c. Notice and hearing.

"(b) The State or the local educational agency upon which such a

complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

Testimony, filing. Report.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

"(d) The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 455 of this Act.

Enforcement.

"(e) A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

"(1) the withholding of any portion of the amount payable, including amounts payable for administrative costs, under the affected program to the State or the local educational agency against which the final order has been issued, or

Certification.

"(2) the Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order.

"JUDICIAL REVIEW

Entitlement. 20 USC 1234d.

"SEC. 455. (a) Any recipient of funds under an applicable program that would be adversely affected by any action under section 452, 453, or 454 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judical review of such action in accordance with the provision of this section.

Ante, p. 2343.

Petition, filing and copy.

"(b) Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

"(c) The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The

judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"USE OF RECOVERED FUNDS

"SEC. 456. (a) Whenever the Commissioner has recovered funds following a final audit determination with respect to any applicable program, he may consider those funds to be additional funds available for that program and may arrange to repay to the State or the local agency affected by that action not to exceed 75 percent of those funds upon his determination that— State or local agency, repayment. 20 USC 1234e.

"(1) the practices or procedures of the State or local agency that resulted in the audit determination have been corrected, and that the State or the local agency is in all other respects in compliance with the requirement of that program;

"(2) the State or the local agency has submitted to the Commissioner a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally granted.

"(b) Any payments by the Commissioner under this section shall be subject to such other conditions as the Commissioner deems necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the State or local agency with parents or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the Commissioner may authorize amounts made available under this section to remain available for expenditure, subject to such conditions as he deems appropriate, for up to three fiscal years following the fiscal year in which the audit determination referred to in subsection (a) was made.

"(d) At least thirty days prior to entering into an arrangement under this section, the Commissioner shall publish in the Federal Register a notice of his intent to do so and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least thirty days to submit comments to the Commissioner regarding the proposed arrangement.". Notice, publication in Federal Register. Comments.

PART D—GENERAL ADMINISTRATIVE PROVISIONS

OFFICE OF NON-PUBLIC EDUCATION

SEC. 1241. Section 403 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection: Establishment. 20 USC 1221c.

"(d)(1) There shall be, in the Office of Education, an Office of Non-Public Education to insure the maximum potential participation of nonpublic school students in all Federal educational programs for which such children are eligible.

"(2) The Office shall be headed by the Deputy Commissioner for Non-Public Education, who shall be appointed by the Commissioner.".

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

Grant or cooperative agreement.
20 USC 1221e.

SEC. 1242. Section 405 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(k)(1) In addition to other responsibilities of the Institute under this section, the Institute shall carry out, by grant to or cooperative agreement (subject to the provisions of the Federal Grant and Cooperative Agreement Act of 1977) with a nonprofit education organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communication. Such a National Assessment shall—

"(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

"(B) report periodically data on changes in knowledge and skills of such students over a period of time;

"(C) conduct special assessments of other educational areas, as the need for additional national information arises; and

"(D) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills of reading, mathematics, and communication, and on making comparisons of such assessments with the national profile and change data developed by the National Assessment.

Management.

"(2)(A) The education organization through which the Institute carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee established by such organization. The Assessment Policy Committee shall be composed of—

Assessment Policy Committee, establishment and membership.

"(i) five members appointed by the education organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public, and

"(ii) twelve members appointed by the education organization from the categories of membership specified in subparagraph (B).

"(B) Members of the Assessment Policy Committee appointed in accordance with division (ii) of subparagraph (A) shall be—

"(i) one chief State school officer;

"(ii) two State legislators;

"(iii) two school district superintendents;

"(iv) one chairman of a State board of education;

"(v) one chairman of a local school board;

"(vi) one Governor of a State; and

"(vii) four classroom teachers.

"(C) The Director of the Institute shall serve as an ex officio member of the Assessment Policy Committee. The Director shall also appoint a member of the National Council on Education Research to serve as a nonvoting member of the Assessment Policy Committee.

"(D) Members appointed in accordance with divisions (i) and (ii) of subparagraph (A) shall be appointed for terms of three years, except that (i) in the case of members appointed for fiscal year 1979, one third of the membership shall be appointed for terms of one year each and one third shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be for such terms as

remain unexpired. No member shall be appointed to serve more than two consecutive terms.

"(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. Duties.

"(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and concerned members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias. Review.

"(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

"(6) The Director of the Institute shall provide for a review of the National Assessment at least once every three years. This review shall provide an opportunity for public comment on the conduct and usefulness of National Assessment and shall result in a report to the Congress and to the Nation on the findings and recommendations, if any, stemming from the review. Review, comments and report to Congress.

"(7) There are authorized to be appropriated $10,500,000 for each fiscal year ending prior to October 1, 1983, to carry out the provisions of this subsection.". Appropriation authorization.

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 1243. (a) Section 406(g) of the General Education Provisions Act (as redesignated by section 1212(c)) is amended by striking out "October 1, 1978" both places it appears therein, and by inserting instead "October 1, 1983". *Ante*, p. 2341.

(b)(1) Section 408(a) of such Act is amended by inserting "or by delegation of authority pursuant to law" immediately after "vested in him by law". 20 USC 1221e-3.

(2) Section 408(a)(1) of that Act is amended by inserting after "operation of" a comma and the following: "and governing the applicable programs administered by".

GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

SEC. 1244. Section 408 of the General Education Provisions Act is further amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection: Contracts, qualifications and terms, public availability.

"(b) The administrative head of an education agency shall ensure that, in contracting under the authority of this section for the services of independent persons in the competitive review of grant applications, all such persons are qualified, by education and experience, to perform such services. The qualifications of such persons and the terms of such contracts, other than information which identify such person, shall be readily made available to the public.".

(4) Section 408(d) of such Act (as redesignated by paragraph (3) of this subsection) is amended by striking out "For the purposes of

this section" and inserting in lieu thereof "For the purposes of this title".

AVAILABILITY OF APPROPRIATIONS

20 USC 1225.

SEC. 1245. (a) Section 412(b) of the General Education Provisions Act is amended by striking out "ending prior to October 1, 1979.".

(b) Section 412(b) of such Act is further amended by inserting "(1)" immediately after the subsection designation thereof and by inserting at the end of subsection (b) the following new paragraph:

"(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

"(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

"(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.".

EVALUATION

20 USC 1226c.

SEC. 1246. (a) Section 417(a)(1) of the General Education Provisions Act is amended by adding, after "effectiveness of applicable programs", the following: "(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)".

(b) Section 417(a)(1) is further amended by striking out "Committee on Labor and Public Welfare" and inserting in lieu thereof "Committee on Human Resources".

20 USC 1226d.

(c) Section 418(b)(1)(A) of such Act is amended by adding, after "expenditures", the following: "(including, where applicable, State and local expenditures)".

REVIEW OF APPLICATIONS

20 USC 1231b–2.

SEC. 1247. Section 425(a) of General Education Provisions Act is amended by striking out "or (3)" and inserting in lieu thereof the following: "(3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4)".

TECHNICAL ASSISTANCE; DISSEMINATION

Contracts and grants, awards.
20 USC 1231c.

SEC. 1248. Section 426 of the General Education Provisions Act is amended by redesignating subsection (c) of such section as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) In awarding contracts and grants for the development of curricula or instructional materials, the Commissioner and the Director of the National Institute of Education shall—

"(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

"(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

"(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.".

MAINTENANCE OF EFFORT

SEC. 1249. Section 431A of the General Education Provisions Act is amended to read as follows:

"MAINTENANCE OF EFFORT DETERMINATION

"SEC. 431A. (a) In prescribing regulations for carrying out the requirements of section 403(a)(10) for fiscal year 1979 and section 404(a)(7) for subsequent fiscal years of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall determine the amount so expended on the basis of per pupil or aggregate expenditures. 20 USC 1232-1. 20 USC 1803, 3084. 20 USC 821 note, 1206.

"(b) The Commissioner may waive, for one fiscal year only, the requirements of this section if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this subsection is granted, the Commissioner shall reduce the amount of the Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by section 403(a)(10) for fiscal year 1979, and section 404(a)(7) for subsequent fiscal years of the Elementary and Secondary Education Act of 1965 or section 307(b) of the Adult Education Act. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under such sections, for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required. Waiver. 20 USC 1232-1.

"(c) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this section. Criteria.

"(d) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendments of 1978, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.". 20 USC 1226a.

PROTECTION OF PUPIL RIGHTS

SEC. 1250. Section 439 of the General Education Provisions Act (relating to protection of pupil rights) is amended by inserting "(a)" 20 USC 1232h.

after "439" and by adding at the end thereof a new subsection as follows:

"(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

"(1) political affiliations;

"(2) mental and psychological problems potentially embarrassing to the student or his family;

"(3) sex behavior and attitudes;

"(4) illegal, anti-social, self-incriminating and demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

"(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.".

PART E—EFFECTIVE DATES

EFFECTIVE DATES

20 USC 1232c note.

SEC. 1261. The amendments made by section 1231 shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 shall take effect 120 days after the enactment of this Act.

TITLE XIII—REVISION OF OTHER EDUCATION PROGRAMS

PART A—ADULT EDUCATION

STATEMENT OF PURPOSE

SEC. 1301. Section 302 of the Adult Education Act (hereafter in this part referred to as the "Act") is amended to read as follows:

"STATEMENT OF PURPOSE

20 USC 1201.

"SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

"(1) enable all adults to acquire basic skills necessary to function in society,

"(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

"(3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.".

DEFINITION OF ADULT EDUCATION

SEC. 1302. Section 303(b) of the Act is amended by inserting "lack sufficient mastery of basic educational skills to enable them to function effectively in society or who" immediately after "(1)". 20 USC 1202.

GRANTS TO STATES

SEC. 1303. (a) Section 304 of the Act is amended by striking out "private nonprofit agencies" each place it appears and inserting in lieu thereof "by public or private nonprofit agencies, organizations, and institutions" and by adding at the end thereof the following: "Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.". Consultation and comments. 20 USC 1203.

(b) Section 304 of such Act is further amended by redesignating subsection (b) as subsection (a) and by adding at the end thereof the following new subsection:

"(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.".

NORTHERN MARIANA ISLANDS

SEC. 1304. (a) Section 303(g) is amended by inserting "the Northern Mariana Islands," immediately after "the Pacific Islands,".

(b) Section 305(a) of the Act is amended by inserting "the Northern Mariana Islands," immediately after "the Pacific Islands,". 20 USC 1204.

STATE PLANS

SEC. 1305. Section 306 of the Act is amended to read as follows:

"STATE PLANS

"SEC. 306. (a) A State shall be eligible to receive its allotment under section 305 if— Allotment eligibility. 20 USC 1205.

"(1) it has on file with the Commissioner a general State application under section 434 of the General Education Provisions Act, and *Ante*, p. 2342.

"(2) it has submitted to the Commissioner at such times (not more frequently than one every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b).

"(b) A State plan under this title shall— Funds program.

"(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high *Ante*, p. 2356.

rates of unemployment, adults with limited English language skills, and institutionalized adults;

"(2) provide for the administration of the program by the State educational agency;

"(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

"(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

"(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

"(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

"(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations;

"(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;

"(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

"(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

"(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703 (a) of title VII of the Elementary and Secondary Education Act of 1965) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII and bilingual vocational education programs under the Vocational Education Act of 1963; *Ante*, p. 2269. *Ante*, p. 2268. 20 USC 2301 note.

"(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

"(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions; and

"(14) provide such further information and assurances as the Commissioner may by regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.

"(c) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.". Notice and hearing.

PAYMENTS

SEC. 1306. Section 307 of the Act is amended to read as follows:

"PAYMENTS

"SEC. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum. Federal share. 20 USC 1206.

"(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.".

RESEARCH, EVALUATION, AND CLEARINGHOUSE

SEC. 1307. (a) The Act is amended—

(1) by redesignating section 309, relating to use of funds for special experimental demonstration projects and teacher training, as section 310, 20 USC 1208.

(2) by striking out section 309A, relating to the clearinghouse on an adult education, and 20 USC 1208-1.

20 USC 1208a, 1208b, 1209, 1210, 1211, 1211a, 1211b.

(3) by redesignating section 310, relating to special projects for the elderly, section 310A, relating to State Advisory Councils, section 311, relating to the National Advisory Council on Adult Education, section 312, relating to limitations, section 313, relating to authorizations, section 314, relating to Indian programs, section 315, relating to Indochinese refugees, as sections 311, 312, 313, 314, 315, 316, and 317, respectively.

(b) The Act is further amended by inserting after section 308 the following new section:

"RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION, AND INFORMATION CLEARINGHOUSE

Programs, grants and contracts. 20 USC 1207a.

"SEC. 309. (a)(1) Subject to appropriations under this section, the Commissioner shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

"(A) to develop new and promising approaches and innovative methods which are designed to address those problems and which may have national significance or be of special value in promoting effective programs under this Act, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services;

"(B) to determine, using appropriate objective evaluation criteria, which projects and approaches assisted under clause (A) and under section 310 of this Act have achieved their stated goals and are capable of achieving comparable levels of effectiveness at additional locations; and

Ante, p. 2359.

"(C) to disseminate throughout the Nation information about those approaches or methods pertaining to adult basic education which are most effective, by establishing and operating a clearinghouse on adult education which shall collect, select, and disseminate to the public information pertaining to the education of adults, those approaches and methods of educating adults which are most effective, and ways of coordinating adult education programs with manpower and other education programs.

"(2) The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of programs conducted under section 304 of this Act.

20 USC 1203.

"(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act and subject to appropriations under this section, the Director of the National Institute of Education, in consultation with the Commissioner, shall directly, and through grants and contracts with public and private agencies, institutions, and organizations, carry out a program to conduct research on the special needs of individuals requiring adult education.

20 USC 1221e.

Appropriation authorization.

"(c) There are authorized to be appropriated for the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, $2,000,000 for the fiscal year ending September 30, 1981, and $3,000,000 for each succeeding fiscal year prior to October 1, 1983.".

SPECIAL PROJECTS FOR THE ELDERLY

20 USC 1208a.

SEC. 1308. Section 311 of the Act (as redesignated by section 1307) is amended by striking out "October 1, 1978 and for the period begin-

ning July 1, 1976 and ending September 30, 1976" and inserting in lieu thereof "October 1, 1983".

NATIONAL ADVISORY COUNCIL

SEC. 1309. Section 313(b) of the Act (as redesignated by section 1307) is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1984". 20 USC 1209.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1310. Section 315 of the Act (as redesignated by section 1307) is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 315. (a) Except as otherwise provided, there are authorized to be appropriated $210,000,000 for fiscal year 1979; $230,000,000 for fiscal year 1980; $250,000,000 for fiscal year 1981; $270,000,000 for fiscal year 1982; and $290,000,000 for fiscal year 1983 to carry out the provisions of this title. 20 USC 1211.

"(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) for that year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title. The amount provided to a State under this subsection shall not be less than $50,000 for any fiscal year, except that such amount shall not be less than $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

SEC. 1311. (a)(1) Section 314(a)(4) of the Act (as redesignated by section 307) is amended by striking out "on Indian reservations" and inserting in lieu thereof "among Indians". 20 USC 1211a.

(2) Section 314 of the Act (as redesignated by section 1307) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e) respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) The Commissioner is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.". Grants.

(b) Section 316(e) of the Act (as redesignated by section 1307) is amended by redesignating subsections (b), (c), and (d) as subsections "October 1, 1983".

INDOCHINA REFUGEES

SEC. 1312. Section 317(a) of the Act (as redesignated by section 1307) is amended by striking out "1977" and inserting in lieu thereof "1983". 20 USC 1211b.

ADULT EDUCATION PROGRAM FOR IMMIGRANTS

SEC. 1313. The Act is further amended by adding at the end thereof the following:

"ADULT EDUCATION PROGRAM FOR ADULT IMMIGRANTS

Grants and contracts. 20 USC 1211c.

"SEC. 318. (a) The Commissioner is authorized to enter into grants and contracts with State and local education agencies and other public or private nonprofit agencies, organizations, or institutions to provide programs of adult education and adult basic education to immigrant adults in need of such services. Such grants and contracts may be used for—

"(1) programs of instruction of adult immigrants in basic reading, mathematics, development, and enhancement of necessary skills, and promotion of literacy among adult immigrants for the purpose of enabling them to become productive members of American society;

"(2) administrative costs of planning and operating such programs of instruction;

"(3) educational support services which meet the need of adult immigrants including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

"(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

Ante, p. 1909. 20 USC 2301 note.

Application submittal, review, and recommendations.

"(b)(1) Any applicant for a grant or contract under this section shall first submit its application to the State educational agency. The State educational agency shall expeditiously review and make recommendations to the Commissioner regarding the quality of each such application, consistent with the purposes of section 306(b) (12) and (13) of this title. A copy of the recommendations made by the State educational agency shall be simultaneously submitted to the applicant.

Ante, p. 2359.

"(2) Any applicant which has submitted an application in accordance with paragraph (1) of this subsection, which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the Commissioner of such application.

"(c) Applications for a grant or contract under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

20 USC 1204. *Ante*, p. 2359.

"(d) Notwithstanding the provisions of sections 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section.

"(e) Not less than 50 per centum of the funds appropriated under this section shall be used by the Commissioner to enter into contracts with private nonprofit agencies, organizations, and institutions.

Appropriation authorization.

"(f) For the purposes of making grants and entering into contracts under this section, there is hereby authorized to be appropriated such sums as may be necessary for fiscal year 1979 and each of the four succeeding fiscal years.".

PART B—HIGHER EDUCATION

TEACHER TRAINING PROGRAMS

Appropriation authorization. 20 USC 1119.

SEC. 1321. (a)(1) Section 531 of the Higher Education Act of 1965 is amended by striking out "and for each of the fiscal years ending

prior to October 1, 1979," and inserting in lieu thereof the following: "and the fiscal year 1978, and $100,000,000 for the fiscal year 1979,".

(2) Section 531 of such Act is further amended by inserting at the end thereof the following new sentence: "In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each State shall receive grants sufficient to assure the establishment of one such teacher center in that State in such fiscal year." 20 USC 1119.

(b)(1) Section 532(c)(1) of such Act is amended by inserting after "local educational agencies" the following: "or any consortium of local educational agencies (including statewide programs)". 20 USC 1119a.

(2) Section 532(c)(2) of such Act is amended by adding at the end thereof the following new sentence: "The Commissioner shall, upon receipt of such petition, request further consideration by the State educational agency.".

(3) Section 532(c) of such Act is amended by adding at the end thereof the following new paragraph: Application, transmittal.

"(3) If, subsequent to the expiration of thirty days after the Commissioner's petitioning the State educational agency, such agency has not transmitted such application, then such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.".

AMENDMENT FOR ADVANCES FOR RESERVED FUNDS OF STATE LOAN INSURANCE PROGRAMS

SEC. 1322. (a) Section 422(c)(5) of the Higher Education Act of 1965 is amended by striking out "the effective date of this subsection" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "the date of enactment of this subsection". 20 USC 1072.

(b) The amendments made by subsection (a) of this section shall take effect on October 1, 1977. Effective date. 20 USC 1072 note.

DIRECT LOANS TO STUDENTS; CONFORMING AMENDMENT

SEC. 1323. (a) Section 465(a)(2)(A) is amended by striking out "described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965 (using a low-income factor of $3,000)" and inserting in lieu thereof "counted under section 111(c) of the Elementary and Secondary Education Act of 1965". 20 USC 1087ee. *Ante*, p. 2153.

PART C—INDOCHINESE REFUGEE CHILDREN

EXTENTION OF PROGRAM

SEC. 1331. (a) Section 201(a) of the Indochina Refugee Children Assistance Act of 1976 is amended by inserting after "1977" a comma and the following: ", and for the period beginning October 1, 1978, and ending September 30, 1981". 20 USC 1211b note.

(b) Section 201(a)(3) of such Act is amended by inserting before the period at the end thereof a comma and the following: "and who are paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Naturalization Act on or after January 1, 1977". 8 USC 1182.

20 USC 1211b note.

(c)(1) Section 202(a) of such Act is amended by inserting after "1977" a comma and the following: "and for the period October 1, 1978, through September 30, 1981".

(2)(A) Section 202(b)(1) of such Act is amended by striking out "is entitled" and inserting "is eligible to receive" and by inserting after "1977" a comma and the following: "and for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1981".

(B) Section 202(b)(1) of such Act is further amended by striking out clauses (B) and (C) of such section and inserting in lieu thereof "(B) an amount not to exceed $450.".

20 USC 1211b note.

(d) Section 203 of such Act is amended by striking out everything after "may be used" and inserting in lieu thereof "only in accordance with the provisions of section 103".

20 USC 1211b note.

(e) Section 204(a) of such Act is amended by inserting after "1977" a comma and the following: "and for the period October 1, 1978, through September 30, 1981".

Applications. 20 USC 1211b note.

(f) Section 205(a)(3) of such Act is amended to read as follows:

"(3) provide such data and assurances as the Commissioner may prescribe—

"(A) to demonstrate that the costs of the additional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period for which assistance is made available under this title; and

"(B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;".

20 USC 1211b note.

(g) Section 206(b) of such Act is amended by striking out "1 per centum" and inserting in lieu thereof "5 per centum".

20 USC 1211b note.

(h) Section 208 of such Act is amended by inserting after "1977" a comma and the following: "and for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1982".

(i) The heading of title II of such Act is amended to read as follows:

"TITLE II—PROGRAM FOR SUBSEQUENT FISCAL YEARS".

PART D—EDUCATION OF THE HANDICAPPED

TECHNICAL AMENDMENT

20 USC 1411.

SEC. 1341. (a) Section 611(a)(3) of the Education of the Handicapped Act is amended by striking out "the average of the", and by striking out "October 1 and February 1" and inserting in lieu thereof "December 1".

20 USC 1411 note.

(b) The amendments made by subsection (a) of this section shall take effect with respect to determinations made in fiscal year 1979 and thereafter.

PART E—GUIDANCE AND COUNSELING

EXTENSION OF PROGRAM

20 USC 2532.

SEC. 1351. Section 342(a) of the Education Amendments of 1976 is amended by striking out "fiscal year 1978 and 1979" and inserting in lieu thereof "fiscal years 1978 through 1983".

TITLE XIV—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

Defense Dependents' Education Act of 1978.

SHORT TITLE

SEC. 1401. This title may be cited as the "Defense Dependents' Education Act of 1978". 20 USC 921 note.

ESTABLISHMENT OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1402. (a) The Secretary of Defense shall establish and operate a program (hereinafter in this title referred to as the "defense dependents' education system") to provide a free public education through secondary school for dependents in overseas areas. 20 USC 921.

(b) (1) The Secretary shall ensure that individuals eligible to recieve a free public education under subsection (a) receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a), the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,
(B) individuals in need of compensatory education,
(C) individuals with an interest in vocational education,
(D) gifted and talented individuals, and
(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

OFFICE OF DEPENDENTS' EDUCATION

SEC. 1403. (a) (1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education. Establishment. 20 USC 922.

(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this title referred to as the "Director"), who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics. Director.

(b) Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this Act through the Director.

(c) The Director shall— Duties.

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act, for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another.

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 1410, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

Offices.

(d)(1) The Director shall establish appropriate regional or area offices for the Office of Dependents' Education in order to provide for thorough and efficient administration of the defense dependents' education system.

Reports to Congress.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system. Whenever the Office of Dependents' Education is reorganized after the submission of the report required under the preceding sentence, the Secretary of Defense shall submit an additional report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Office of Dependents' Education is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

TUITION-PAYING STUDENTS

Enrollment authorization. 20 USC 923.

SEC. 1404. (a) Subject to subsection (b) and in accordance with regulations issued under subsection (c), the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

Payment, rate.

(b)(1) Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

Regulations.

(c) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

ANNUAL EDUCATIONAL ASSESSMENT

20 USC 924.

SEC. 1405. (a) The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other

means as the Director determines to be suitable for assessing student performance.

(b) The results of each annual assessment under subsection (a) with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system. Results, availability.

SCHOOL CONSTRUCTION BY THE DIRECTOR OF DEPENDENTS' EDUCATION

SEC. 1406. The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director. 20 USC 925.

SCHOOL SYSTEM FOR DEPENDENTS IN OVERSEAS AREAS

SEC. 1407. (a) The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system. Establishment and operation. 20 USC 926.

(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) on a tuition-free basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary. Tuition provision, regulations.

(c)(1)(A) Chapter 7 of title 37, United States Code, relating to allowances authorized for members of the uniformed services, is amended by adding after section 428 the following new section:

"§ 429. Travel and transportation allowances: minor dependent schooling 37 USC 429.

"Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978 for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.". Regulations.

(B) The table of sections at the beginning of chapter 7 of title 37, United States Code, is amended by adding after the item relating to section 428 the following new item:

"429. Travel and transportation allowances: minor dependent schooling.".

ELIGIBILITY FOR SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 1408. (a) The National School Lunch Act is amended by adding at the end thereof the following new section:

"DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

Federal payments and commodities, availability. 42 USC 1769b.

"SEC. 22. (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

Lunch programs, administration, eligibility, and regulations.

"(b) The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced-price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

"(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

Appropriation authorization.

"(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each lunch for each student eligible for a free lunch, and (2) the full cost of each lunch, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price lunch.

"(e) The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section.".

(b) The Child Nutrition Act of 1966 is amended—

42 USC 1773.

(1) by inserting "and the Department of Defense" after "States" in the first sentence of section 4(a); and

(2) by adding at the end thereof the following new section:

"DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

Federal payments and commodities, availability. 42 USC 1789.

"SEC. 20. (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

Breakfast programs, administration, eligibility, and regulations.

"(b) The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and

reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

"(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each breakfast for each student eligible for a free breakfast, and (2) the full cost of each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price breakfast. Appropriation authorization.

"(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.".

ALLOTMENT FORMULA

SEC. 1409. (a) The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration— Regulation. 20 USC 927.

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 1402(b)(1); and

(4) such other factors as the Director considers appropriate.

(b) Any regulation under subsection (a) shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Department of Health, Education, and Welfare in accordance with section 431 of the General Education Provisions Act. 20 USC 1232.

(c) The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this Act. 20 USC 1401 note.

SCHOOL ADVISORY COMMITTEES

SEC. 1410. (a)(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation Establishments. 20 USC 928.

of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school.

Membership.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

Qualifications, regulations.

(c) Members of school advisory committees established under this section shall serve without pay.

Compensation.

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. (a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

Establishment and membership. 20 USC 929.

(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the "Assistant Secretary"), who shall be the chairman of the Council;

(2) twelve individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

(3) a representative of each of—

(A) the Commissioner of Education, Department of Health, Education, and Welfare,

(B) the Director of the National Institute of Education, Department of Health, Education, and Welfare,

(C) the Director of the Educational Directorate of the National Science Foundation,

(D) the Chairman of the National Endowment for the Arts,

(E) the Chairman of the National Endowment for the Humanities, and

(F) the Secretaries of the military departments.

The Director shall be the Executive Secretary of the Council.

Director.

(b) The term of office of each member of the Council appointed under subsection (a)(2) shall be three years, except that—

Term.

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of

two years, and four shall serve for a term of three years, as determined by the Assistant Secretary at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) shall serve more than two full terms on the Council.

(c) The Council shall meet at least four times each year. The functions of the Council shall be to— Functions.

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of this title, and

(4) perform such other tasks as may be required by the Assistant Secretary.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Compensation. 5 USC 5332 note.

(e) The Council shall continue in existence until terminated by law. Termination.

STUDY OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1412. (a)(1) As soon as practicable after the date of the enactment of this Act, the Director shall provide for a comprehensive study of the entire defense dependents' education system, which shall include a detailed analysis of the education programs and the facilities of the system. 20 USC 930.

(2) The study required by this subsection shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director not later than one year after the effective date of this title describing the results of the study and giving its assessment of the defense dependents' education system. Report.

(b) In designing the specifications for the study to be conducted pursuant to subsection (a)(1), and in selecting a contractor to conduct such study under subsection (a)(2), the Director shall consult with the Advisory Council on Dependents' Education established under section 1411 of this title. Consultation.

(c) The Director shall submit to the Congress not later than one year after the effective date of this title the report submitted to him Results and legislative recommendations, submittal to Congress.

under subsection (a)(2) describing the results of the study carried out pursuant to subsection (a)(1), together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(d) The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each study shall be submitted to the Congress in accordance with subsection (c), and the second sentence of such subsection shall apply with respect to the transmission of each such report.

Report to Congress.

REGULATIONS

20 USC 931.

SEC. 1413. Not later than 180 days after the effective date of this title, the Secretary of Defense shall issue regulations to carry out this title. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

DEFINITIONS

20 USC 932.

SEC. 1414. For purposes of this title:

(1) The term "dependent" means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one half or more of his support from such sponsor.

(2) The term "sponsor" means—

(A) a member of the Armed Forces serving on active duty, or

(B) a civilian officer or employee of the Department of Defense paid from appropriated funds.

(3) The term "overseas area" means any area situated outside the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United

States (excluding the Trust Territory of the Pacific Islands and Midway Island).

EFFECTIVE DATES

SEC. 1415. (a)(1) Except as provided in paragraph (2) this title shall take effect on July 1, 1979. 20 USC 921 note.

(2) Section 1407(b) and the amendments made by section 1407(c), 1408(a), and 1408(b) shall take effect on October 1, 1978.

(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education.

TITLE XV—MISCELLANEOUS PROVISIONS

PART A—INTERNATIONAL YEAR OF THE CHILD

DECLARATION OF PURPOSE OF THE INTERNATIONAL YEAR OF THE CHILD

SEC. 1501. The United Nations General Assembly, by a resolution approved at its thirty-first session, has designated the year 1979 as the International Year of the Child. This action was designed to focus national and international attention on various aspects of the needs of children and to encourage all nations, individually and in cooperation, to take appropriate and relevant actions to meet them. The General Assembly called upon member states and international organizations to participate fully in the International Year of the Child and to devote the year 1979 to efforts at the international, national and community levels to provide lasting improvements in the well-being of children. 22 USC 287 note.

ESTABLISHMENT OF A NATIONAL COMMISSION

SEC. 1502. (a) The President shall establish a National Commission on the International Year of the Child (hereinafter in this Act referred to as the "Commission"), and to appoint to the Commission not more than twenty-five members chosen from among citizens in private life. Membership. 22 USC 287 note.

(b) The President shall designate a Chairperson and two Vice Chairpersons from among the members. Chairperson.

(c) The President of the Senate and the Speaker of the House of Representatives may each designate two Members of the Senate and the House of Representatives, respectively, to serve on the Commission, in addition to the members to be appointed by the President.

FUNCTIONS OF THE COMMISSION

SEC. 1503. (a) The Commission shall promote: (i) effective and significant observance in the United States of 1979 as the International Year of the Child (hereinafter in this Act referred to as the "Year"), with particular reference to the goals stated in section 2; (ii) cooperation by the United States with UNICEF and other international organizations and with other nations to achieve the objectives of the Year. To these ends, the Commission shall seek to stimulate within the United States a better understanding of, and actions to meet, the needs of children both in this and in other countries. Such needs would 22 USC 287 note.

include, but not be limited to the social, health, educational, and developmental needs of children, as well as concern for the general conditions and rights of children.

(b) The Commission shall keep informed of activities undertaken or planned by various organizations and groups in the United States and abroad in observance of the Year and shall consult with such groups and stimulate such activities and programs through community, civic, local, State, regional, national, Federal, international, private and professional organizations.

(c) The Commission may conduct studies, inquiries, and hearings and hold meetings as it deems necessary. It may assemble and disseminate information and issue reports and other publications. It may also coordinate, sponsor, perform, or oversee projects, studies, events, and other activities that it deems necessary or desirable for the observance of the Year.

Recommendations and report to President.

(d) The Commission shall make recommendations to the President on national policies in furtherance of the goals of the Year; and shall make a final report to the President on its work and recommendations not later than March 31, 1980.

COORDINATION AND ADMINISTRATION

Subcommittees, authorization. 22 USC 287 note.

SEC. 1504. (a) The Commission is authorized to establish such subcommittees, the membership of which may include persons not members of the Commission, as it deems necessary to carry out the purpose of this Act.

(b) Each agency of the executive branch of the Government is authorized: (1) to furnish to the Commission, upon request of the Chairperson of the Commission, such information, advice, services, and funds as may be useful to the Commission for the fulfillment of its functions under this Act, and (2) to detail personnel to the Commission.

Compensation.

(c) Each member of the Commission or any of its subcommittees, who is not a member of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the daily equivalent of GS–15 for each day they are engaged in the actual performance of duties.

(d) The Commission may appoint such staff personnel as it considers necessary to carry out its duties under this Act without regard to the provisions of title 5, United States Code, governing appointment in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that not more than two individuals so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–15 of the General Schedule. Appointments shall be made without regard to political affiliation.

5 USC 5101 *et seq.*, 5301.

5 USC 5332 note.

(e) The Commission is authorized to accept and use services of voluntary and uncompensated personnel. Such personnel shall not be considered Federal employees for any purpose other than for purposes of chapter 81 of title 4, United States Code (relating to compensation for injury), and sections 2671 through 2680 of title 28, United States Code (relating to tort claims), and shall not perform the work of Federal employees.

5 USC 8101 *et seq.*

Travel allowances.

(f) Members or staff of the Commission or of a subcommittee thereof, shall be allowed travel expenses while attending meetings of the Commission or its subcommittees or otherwise engaged in the business

of the Commission away from their homes or regular places of business, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(g) The Commission is authorized to procure such temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code. Experts and consultants

(h) The Commission is authorized to accept, use, and dispose of contributions of money or property.

(i) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties. Contracts.

(j) The Commission may use the United States mails under the same conditions as other departments and agencies of the United States.

(k) The powers granted the Commission by this Act shall be in addition to those granted by Executive Order 12053. The powers granted the Commission by Executive Order 12053 may be employed to fulfill the responsibilities of the Commission under this Act. 3 CFR 1978 Comp., p. 174.

(l) The powers granted the Commission under this Act may be delegated to any member or employee of the Commission by the Commission Chairperson.

(m) Financial and administrative support services (including those related to budget and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairperson of the Commission and the Administrator of the General Services Administration.

WAIVERS OF CERTAIN OTHER PROVISIONS OF LAW

SEC. 1505. In order to expedite matters pertaining to the planning for, and work of, the Commission, the Commission is authorized to make purchases and contracts without regard to section 252 of title 41 of the United States Code, pertaining to advertising and competitive bidding, and may arrange for the printing of any material pertaining to the work of the Commission without regard to the Government Printing and Binding Regulations and any related laws or regulations. 22 USC 287 note.

TERMINATION DATE

SEC. 1506. The Commission shall continue in existence until thirty days after submission of its final report to the President pursuant to section 1503(d), at which time it shall terminate, but the life of the Commission shall in no case extend beyond April 30, 1980. 22 USC 287 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1507. There are authorized to be appropriated, without fiscal year limitations such sums as may be necessary to carry out the provisions of this Act. Such sums shall remain available for obligation until expended. No funds authorized hereunder may be used for lobbying activities. 22 USC 287 note.

PART B—NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

ESTABLISHMENT

Commission on Proposals for the National Academy of Peace and Conflict Resolution.
20 USC 1172 note.

SEC. 1511. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

20 USC 1172 note.

SEC. 1512. (a) The Commission shall undertake a study to consider—

(1) whether to establish a National Academy of Peace and Conflict Resolution;

(2) the size, cost, and location of an Academy;

(3) the effects which the establishment of an Academy would have on existing institutions of higher education;

(4) the relationship which would exist between an Academy and the Federal Government;

(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and

(6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

(1) review the theory and techniques of peaceful resolution of conflict between nations; and

(2) study existing institutions which assist in resolving conflict in the areas of international relations.

MEMBERSHIP

20 USC 1172 note.

SEC. 1513. (a) The Commission shall be composed of nine members as follows—

(1) three appointed by the President pro tempore of the Senate;

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

Compensation.

5 USC 5332 note.

(d) (1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their service on the Commission

Travel allowances.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members. Meetings.

DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 1514. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to— 20 USC 1172 note. 5 USC 5101 *et seq.*, 5301.

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

POWERS OF COMMISSION

SEC. 1515. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission. 20 USC 1172 note.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

REPORTS

SEC. 1516. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate. Transmittal to President and Congress. 20 USC 1172 note. Legislative recommendations.

TERMINATION

SEC. 1517. The Commission shall cease to exist sixty days after transmitting its final report under section 1516. 20 USC 1172 note.

AUTHORIZATION OF APPROPRIATION

20 USC 1172 note.

SEC. 1518. There is authorized to be appropriated not to exceed $500,000 to carry out this title.

DEFINITIONS

20 USC 1172 note.

SEC. 1519. For purposes of this title—

(1) the term "Academy" means the National Academy of Peace and Conflict Resolution;

(2) the term "Chairman" means the Chairman of the Commission selected under section 1513(e);

(3) the term "Commission" means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term "Federal agency" means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

PART C—MISCELLANEOUS AMENDMENTS; EFFECTIVE DATES

PREPARATION OF CENSUS DATA

Availability. 20 USC 2711 note. *Ante*, p. 2153.

SEC. 1521. For the purpose of establishing a reliable statistical basis for the rendering of determinations under section 111(c) of the Elementary and Secondary Education Act of 1965, and for other purposes, the Secretary of Commerce shall take such steps as may be necessary to ensure that data developed from the 1980 decennial census will be available to the Secretary of Health, Education, and Welfare and to the Commissioner of Education identifying data for children under 18 years of age, by single year of age, for school districts. Such data shall relate to the family characteristics of these children, including income, education, and such other family characteristics as may be appropriate and available from the decennial census.

AUTHORIZATION OF APPROPRIATIONS FOR RACIALLY ISOLATED SCHOOL DISTRICTS

SEC. 1522. There is authorized to be appropriated $1,200,000 for each fiscal year prior to October 1, 1981, for assistance to local educational agencies which are racially isolated as a result of geographic location of the school district of such agencies, and which have adopted and are implementing, or will adopt and implement, a plan to aid schoolchildren in overcoming the educational disadvantage of minority group isolation.

AVAILABILITY OF EDUCATION REPORTS

20 USC 1226c-1.

SEC. 1523. Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Human Resources of the Senate.

GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS

SEC. 1524. There is hereby authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands. Appropriation authorization.

TERRITORIAL TEACHER TRAINING ASSISTANCE

SEC. 1525. There is hereby authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Commissioner of Education shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Commissioner may make grants to or contracts with any organization that he deems qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training. Appropriation authorization. Grants and contracts.

STUDY OF EVALUATION PRACTICES AND PROCEDURES

SEC. 1526. The Commissioner of Education shall conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and shall include in the first annual report to Congress submitted more than one year after the date of enactment of this Act proposals and recommendations for the revision or modification of any part or all of such practices and procedures. Such proposals and recommendations shall include provisions— 20 USC 1231a note.

(1) to ensure that evaluations are based on uniform methods and measurements;

(2) to ensure the integrity and independence of the evaluation process; and

(3) to ensure appropriate follow-up on the evaluations that are conducted.

TELEVISION PROGRAM ASSISTANCE

SEC. 1527. (a) The Secretary is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast. Grants and contracts. 20 USC 1221j.

(b) The Assistant Secretary for Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production. Administration.

LIMITATION ON CONTRACTING AUTHORITY

SEC. 1528. Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such amounts as are provided in advance in appropriations Acts.

REPEAL

Repeals.
20 USC 1901, 1921, 1941-1944, 1961-1966, 1981-1983.

SEC. 1529. Title VII of the Education Amendments of 1974 is repealed.

GENERAL EFFECTIVE DATE

20 USC 2701 note.

SEC. 1530. Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act shall take effect October 1, 1978.

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1137 (Comm. on Education and Labor) and No. 95-1753 (Comm. of Conference).
SENATE REPORT No. 95-856 accompanying S. 1753 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 1, 12, July 13, considered and passed House.
Aug. 23, S. 1753 considered in Senate.
Aug. 24, considered and passed Senate, amended, in lieu of S. 1753.
Oct. 12, Senate agreed to conference report.
Oct. 15, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Nov. 1, Presidential statement.

Public Law 95-562
95th Congress

An Act

To amend the Perishable Agricultural Commodities Act.

Nov. 1, 1978
[S. 976]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Perishable Agricultural Commodities Act, amendment.

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

Potatoes.
7 USC 499a note.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

Licenses.

(1) inserting immediately before the period at the end of the second sentence the following: "and to be furnished thereafter";

(2) striking out "$100" in the third sentence and inserting in lieu thereof the following: "$150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

Fees.

(3) inserting immediately after "referred to above:" in the fourth sentence the following: "*Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "*further*" immediately after "*Provided*" in the fourth sentence.

SEC. 3. Section 13 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499m), is amended by renumbering subsections (b) through (e) as subsections (c) through (f) and adding a new subsection (b) as follows:

"(b) The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 2(4) of this Act is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 6(b) of this Act to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this Act and that such commission merchant, dealer, or

Inspection of records.
7 USC 499b.

7 USC 499f.

broker will pay all reparation awards, subject to its right of appeal under section 7(c) of this Act: *Provided*, That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.".

Suspension of license.

SEC. 4. Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by—

(1) striking out "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "or"; and

Farm labor contractor, exclusion.

(2) adding at the end thereof a new paragraph (10) as follows:

"(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided*, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided further*, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.".

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1620, accompanying H.R. 13845 (Comm. on Agriculture).
SENATE REPORT No. 95-1156 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 8, considered and passed Senate.
Oct. 3, 4, H.R. 13845 considered and passed House; passage vacated and S. 976, amended, passed in lieu.
Oct. 13, Senate concurred in House amendments with an amendment.
Oct. 13, House concurred in Senate amendment.

Public Law 95-563
95th Congress

An Act

To provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies.

Nov. 1, 1978
[H.R. 11002]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Act of 1978".

Contract Disputes Act of 1978.
41 USC 601 note.

DEFINITIONS

SEC. 2. As used in this Act— 41 USC 601.

(1) the term "agency head" means the head and any assistant head of an executive agency, and may "upon the designation by" the head of an executive agency include the chief official of any principal division of the agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office): a military department as defined by section 102 of title 5, United States Code, and a wholly owned Government corporation as defined by section 846 of title 31, United States Code, the United States Postal Service, and the Postal Rate Commission;

(3) The term "contracting officer" means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority;

(4) the term "contractor" means a party to a Government contract other than the Government;

(5) The term "Administrator" means the Administrator for Federal Procurement Policy appointed pursuant to the Office of Federal Procurement Policy Act;

(6) The term "agency board" means an agency board of contract appeals established under section 8 of this Act; and

(7) The term "misrepresentation of fact" means a false statement of substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

APPLICABILITY OF LAW

SEC. 3. (a) Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28, United States Code) entered into by an executive agency for— 41 USC 602.

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair or maintenance of real property; or,

(4) the disposal of personal property.

Tennessee Valley Authority contracts.

(b) With respect to contracts of the Tennessee Valley Authority, the provisions of this Act shall apply only to those contracts which contain a disputes clause requiring that a contract dispute be resolved through an agency administrative process. Notwithstanding any other provision of this Act, contracts of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system shall be excluded from the Act.

(c) This Act does not apply to a contract with a foreign government, or agency thereof, or international organization, or subsidiary body thereof, if the head of the agency determines that the application of the Act to the contract would not be in the public interest.

MARITIME CONTRACTS

41 USC 603.

SEC. 4. Appeals under paragraph (g) of section 8 and suits under section 10, arising out of maritime contracts, shall be governed by the Act of March 9, 1920, as amended (41 Stat. 525, as amended; 46 U.S.C. 741–752) or the Act of March 3, 1925, as amended (43 Stat. 1112, as amended; 46 U.S.C. 781–790) as applicable, to the extent that those Acts are not inconsistent with this Act.

FRAUDULENT CLAIMS

41 USC 604.

SEC. 5. If a contractor is unable to support any part of his claim and it is determined that such inability is attributable to misrepresentation of fact or fraud on the part of the contractor, he shall be liable to the Government for an amount equal to such unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing said part of his claim. Liability under this subsection shall be determined within six years of the commission of such misrepresentation of fact or fraud.

DECISION BY THE CONTRACTING OFFICER

Contractor claims.
41 USC 605.

SEC. 6. (a) All claims by a contractor against the government relating to a contract shall be in writing and shall be submitted to the contracting officer for a decision. All claims by the government against a contractor relating to a contract shall be the subject of a decision by the contracting officer. The contracting officer shall issue his decisions in writing, and shall mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this Act. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding. The authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine. This section shall not authorize any agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.

Information to contractor.

(b) The contracting officer's decision on the claim shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as

authorized by this Act. Nothing in this Act shall prohibit executive agencies from including a clause in government contracts requiring that pending final decision of an appeal, action, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the contracting officer's decision.

(c) (1) A contracting officer shall issue a decision on any submitted claim of $50,000 or less within sixty days from his receipt of a written request from the contractor that a decision be rendered within that period. For claims of more than $50,000, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable. Certification.

(2) A contracting officer shall, within sixty days of receipt of a submitted certified claim over $50,000—

(A) issue a decision; or

(B) notify the contractor of the time within which a decision will be issued. Notification.

(3) The decision of a contracting officer on submitted claims shall be issued within a reasonable time, in accordance with regulations promulgated by the agency, taking into account such factors as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the contractor.

(4) A contractor may request the agency board of contract appeals to direct a contracting officer to issue a decision in a specified period of time, as determined by the board, in the event of undue delay on the part of the contracting officer.

(5) Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit on the claim as otherwise provided in this Act. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option, stay the proceedings to obtain a decision on the claim by the contracting officer.

CONTRACTOR'S RIGHT OF APPEAL TO BOARD OF CONTRACT APPEALS

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 6, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 8. 41 USC 606.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) (1) Except as provided in paragraph (2) an agency board of contract appeals may be established within an executive agency when the agency head, after consultation with the Administrator, determines from a workload study that the volume of contract claims justifies the establishment of a full-time agency board of at least three members who shall have no other inconsistent duties. Workload studies will be updated at least once every three years and submitted to the Administrator. Establishment, consultation. 41 USC 607.

(2) The Board of Directors of the Tennessee Valley Authority may establish a board of contract appeals for the Authority of an indeterminate number of members. Membership.

(b) (1) Except as provided in paragraph (2), the members of agency boards shall be selected and appointed to serve in the same manner as

hearing examiners appointed pursuant to section 3105 of title 5 of the United States Code, with an additional requirement that such members shall have had not fewer than five years' experience in public contract law. Full-time members of agency boards serving as such on the effective date of this Act shall be considered qualified. The chairman and vice chairman of each board shall be designated by the agency head from members so appointed. The chairman of each agency board shall receive compensation at a rate equal to that paid a GS–18 under the General Schedule contained in section 5332, United States Code, the vice chairman shall receive compensation at a rate equal to that paid a GS–17 under such General Schedule, and all other members shall receive compensation at a rate equal to that paid a GS–16 under such General Schedule. Such positions shall be in addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 of such General Schedule under existing law.

5 USC 5332 note.

Appointment criteria and chairman.

Compensation.

(2) The Board of Directors of the Tennessee Valley Authority shall establish criteria for the appointment of members to its agency board of contract appeals established in subsection (a)(2), and shall designate a chairman of such board. The chairman of such board shall receive compensation at a rate equal to the daily rate paid a GS–18 under the General Schedule contained in section 5332, United States Code for each day he is engaged in the actual performance of his duties as a member of such board. All other members of such board shall receive compensation at a rate equal to the daily rate paid a GS–16 under such General Schedule for each day they are engaged in the actual performance of their duties as members of such board.

Appeals, arrangements.

(c) If the volume of contract claims is not sufficient to justify an agency board under subsection (a) or if he otherwise considers it appropriate, any agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by a board of contract appeals of another executive agency. In the event an agency head is unable to make such an arrangement with another agency, he shall submit the case to the Administrator for placement with an agency board. The provisions of this subsection shall not apply to the Tennessee Valley Authority.

Jurisdiction.

(d) Each agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer (1) relative to a contract made by its agency, and (2) relative to a contract made by any other agency when such agency or the Administrator has designated the agency board to decide the appeal. In exercising this jurisdiction, the agency board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the Court of Claims.

(e) An agency board shall provide to the fullest extent practicable, informal, expeditious, and inexpensive resolution of disputes, and shall issue a decision in writing or take other appropriate action on each appeal submitted, and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

Appeal disposition acceleration.

(f) The rules of each agency board shall include a procedure for the accelerated disposition of any appeal from a decision of a contracting officer where the amount in dispute is $50,000 or less. The accelerated procedure shall be applicable at the sole election of only the contractor. Appeals under the accelerated procedure shall be resolved, whenever possible, within one hundred and eighty days from the date the contractor elects to utilize such procedure.

(g) (1) The decision of an agency board of contract appeals shall be final, except that— Judicial review.

(A) a contractor may appeal such a decision to the Court of Claims within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) the agency head, if he determines that an appeal should be taken, and with the prior approval of the Attorney General, transmits the decision of the board of contract appeals to the United States Court of Claims for judicial review, under section 2510 of title 28, United States Code, as amended herein, within one hundred and twenty days from the date of the agency's receipt of a copy of the board's decision.

(2) Notwithstanding the provisions of paragraph (1), the decision of the board of contract appeals of the Tennessee Valley Authority shall be final, except that—

(A) a contractor may appeal such a decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code within one hundred twenty days after the date of receipt of a copy of such decision, or

(B) The Tennessee Valley Authority may appeal the decision to a United States district court pursuant to the provisions of section 1337 of title 28, United States Code, within one hundred twenty days after the date of the decision in any case.

(h) Pursuant to the authority conferred under the Office of Federal Procurement Policy Act, the Administrator is authorized and directed, as may be necessary or desirable to carry out the provisions of this Act, to issue guidelines with respect to criteria for the establishment, functions, and procedures of the agency boards (except for a board established by the Tennessee Valley Authority). Guidelines. 41 USC 401 note.

(i) Within one hundred and twenty days from the date of enactment of this Act, all agency boards, except that of the Tennessee Valley Authority, of three or more full time members shall develop workload studies for approval by the agency head as specified in section 8(a)(1). Workload studies.

SMALL CLAIMS

SEC. 9. (a) The rules of each agency board shall include a procedure for the expedited disposition of any appeal from a decision of a contracting officer where the amount in dispute is $10,000 or less. The small claims procedure shall be applicable at the sole election of the contractor. Procedure rules, provisions. 41 USC 608.

(b) The small claims procedure shall provide for simplified rules of procedure to facilitate the decision of any appeal thereunder. Such appeals may be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

(c) Appeals under the small claims procedure shall be resolved, whenever possible, within one hundred twenty days from the date on which the contractor elects to utilize such procedure.

(d) A decision against the Government or the contractor reached under the small claims procedure shall be final and conclusive and shall not be set aside except in cases of fraud.

(e) Administrative determinations and final decisions under this section shall have no value as precedent for future cases under this Act.

(f) The Administrator is authorized to review at least every three years, beginning with the third year after the enactment of the Act, Review.

the dollar amount defined in section 9(a) as a small claim, and based upon economic indexes selected by the Administrator adjust that level accordingly.

ACTIONS IN COURT: JUDICIAL REVIEW OF BOARD DECISIONS

41 USC 609.

SEC. 10. (a)(1) Except as provided in paragraph (2), and in lieu of appealing the decision of the contracting officer under section 6 to an agency board, a contractor may bring an action directly on the claim in the United States Court of Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(2) In the case of an action against the Tennessee Valley Authority, the contractor may only bring an action directly on the claim in a United States district court pursuant to section 1337 of title 28, United States Code, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(3) Any action under paragraph (1) or (2) shall be filed within twelve months from the date of the receipt by the contractor of the decision of the contracting officer concerning the claim, and shall proceed de novo in accordance with the rules of the appropriate court.

(b) In the event of an appeal by a contractor or the Government from a decision of any agency board pursuant to section 8, notwithstanding any contract provision, regulation, or rules of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent, or arbitrary, or capricious, or so grossly erroneous as to necessarily imply bad faith, or if such decision is not supported by substantial evidence.

(c) In any appeal by a contractor or the Government from a decision of an agency board pursuant to section 8, the court may render an opinion and judgment and remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case.

(d) If two or more suits arising from one contract are filed in the Court of Claims and one or more agency boards, for the convenience of parties or witnesses or in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits to or among the agency boards involved.

(e) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPENA, DISCOVERY, AND DEPOSITION

41 USC 610.

SEC. 11. A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board.

In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority, shall have jurisdiction to issue the person an order requiring him to appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

INTEREST

SEC. 12. Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 6(a) from the contractor until payment thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board. 41 USC 611.

APPROPRIATIONS

SEC. 13. (a) Any judgment against the United States on a claim under this Act shall be paid promptly in accordance with the procedures provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a). 41 USC 612.

(b) Any monetary award to a contractor by an agency board of contract appeals shall be paid promptly in accordance with the procedures contained in subsection (a) above.

(c) Payments made pursuant to subsections (a) and (b) shall be reimbursed to the fund provided by section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a) by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d)(1) Notwithstanding the provisions of subsection (a) through (c), any judgment against the Tennessee Valley Authority on a claim under this Act shall be paid promptly in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831(h)). 16 USC 831h.

(2) Notwithstanding the provisions of subsection (a) through (c), any monetary award to a contractor by the board of contract appeals for the Tennessee Valley Authority shall be paid in accordance with the provisions of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831(h)).

AMENDMENTS AND REPEALS

SEC. 14. (a) The first sentence of section 1346(a)(2) of title 28, United States Code, is amended by inserting before the period a comma and the following: "except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978".

(b) Section 2401(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(c) Section 1302 of the Act of July 27, 1956, as amended (70 Stat. 694, as amended; 31 U.S.C. 724a), is amended by adding after "2677 of title 28" the words "and decisions of boards of contract appeals".

(d) Section 2414 of title 28, United States Code, is amended by striking out "Payment" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, payment".

(e) Section 2517(a) of title 28, United States Code, is amended by striking out "Every" at the beginning and inserting in lieu thereof "Except as provided by the Contract Disputes Act of 1978, every".

(f) Section 2517(b) of title 28, United States Code, is amended by inserting after "case or controversy" the following: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged,".

(g) There shall be added to subsection (c) of section 5108 of title 5, United States Code, a paragraph (17) reading as follows:

"(17) the heads of executive departments or agencies in which boards of contract appeals are established pursuant to the Contract Disputes Act of 1978, and subject to the standards and procedures prescribed by this chapter, but without regard to subsection (d) of this section, may place additional positions, not to exceed seventy in number, in GS–16, GS–17, and GS–18 for the independent quasi-judicial determination of contract disputes, with the allocation of such positions among such executive departments and agencies determined by the Administrator for Federal Procurement Policy on the basis of relative case load."

5 USC 5332 note.

Cases, referral.

(h)(1) Section 2510 of title 28, United States Code, is amended by—

(A) inserting "(a)" immediately before such section; and

(B) adding the following new subsection at the end thereof:

"(b)(1) The head of any executive department or agency may, with the prior approval of the Attorney General, refer to the Court of Claims for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which such head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contracts Disputes Act of 1978. The head of each executive department or agency shall make any referral under this section within one hundred and twenty days of the receipt of a copy of the final appeal decision.

"(2) The Court of Claims shall review the matter referred in accordance with the standards specified in section 10(b) of the Contracts Disputes Act of 1978. The Court shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon, take additional evidence, or remand the matter pursuant to the authority specified in section 1491 of this title.".

28 USC 1491.

(2)(A) The section heading of such section is amended to read as follows:

"§ 2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

(B) The item relating to section 2510 in the table of sections for chapter 165 of title 28, United States Code, is amended to read as follows:

"2510. Referral of cases by the Comptroller General or the head of an executive department or agency.".

(i) Section 1491 of title 28, United States Code, is amended by adding the following sentence at the end of the first paragraph thereof: "The Court of Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.". Jurisdiction.

SEVERABILITY CLAUSE

SEC. 15. If any provision of this Act, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. 41 USC 613.

EFFECTIVE DATE OF ACT

SEC. 16. This Act shall apply to contracts entered into one hundred twenty days after the date of enactment. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then before the contracting officer or initiated thereafter. 41 USC 601 note.

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1556 (Comm. on the Judiciary).
SENATE REPORT No. 95-1118, accompanying S. 3178 (Comm. on Governmental Affairs and Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Nov. 1, Presidential Statement.

Public Law 95-564
95th Congress

An Act

Nov. 1, 1978
[H.R. 11209]

To provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Communications Satellite Act of 1962 is amended by adding at the end thereof the following new title:

Communications Satellite Act of 1962, amendment.
47 USC 701 note.
International Maritime Satellite Telecommunications Act.

"TITLE V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

"SHORT TITLE

47 USC 751 note.

"SEC. 501. This title may be cited as the 'International Maritime Satellite Telecommunications Act'.

"DECLARATION OF POLICY AND PURPOSE

47 USC 751.

"SEC. 502. (a) The Congress hereby declares that it is the policy of the United States to provide for the participation of the United States in the International Maritime Satellite Organization (hereinafter in this title referred to as 'INMARSAT') in order to develop and operate a global maritime satellite telecommunications system. Such system shall have facilities and services which will serve maritime commercial and safety needs of the United States and foreign countries.

"(b) It is the purpose of this title to provide that the participation of the United States in INMARSAT shall be through the Communications Satellite Corporation, which constitutes a private entity operating for profit, and which is not an agency or establishment of the Federal Government.

"DESIGNATED OPERATING ENTITY

Communications Satellite Corporation.
47 USC 752.

"SEC. 503. (a)(1) The Communications Satellite Corporation is hereby designated as the sole operating entity of the United States for participation in INMARSAT, for the purpose of providing international maritime satellite telecommunications services.

"(2) The corporation also shall have authority to participate in any other maritime satellite telecommunications system on an interim basis to serve the maritime commercial and safety needs of the United States through an interim operating arrangement in accordance with subsection (b).

"(3) The corporation may participate in and is hereby authorized to sign the operating agreement or other pertinent instruments of INMARSAT as the sole designated operating entity of the United States.

"(b)(1) The corporation may participate in any maritime satellite telecommunications system under subsection (a)(2) only if—

"(A) the corporation signs the operating agreement of INMARSAT before beginning such participation;

"(B) such participation is in the nature of an interim operating arrangement remaining in effect only until INMARSAT begins its operations; and

"(C) (i) in the case of participation which may be undertaken only pursuant to a treaty or executive agreement, such treaty or executive agreement is in effect; or

"(ii) in any case in which participation does not require any treaty or executive agreement, the President does not disapprove such participation during the period of 60 calendar days after the corporation notifies the President of such proposed participation.

"(2) If the corporation participates in an interim operating arrangement with a maritime satellite telecommunications system under this subsection, the provisions of this title relating to participation of the corporation in INMARSAT also shall apply to such interim participation.

Presidential disapproval, publication in Federal Register.

"(3) Any disapproval by the President under paragraph (1) (C) (ii) shall be published in the Federal Register as soon as practicable after the date of such disapproval.

"(c) The corporation—

"(1) may own and operate satellite earth terminal stations in the United States;

"(2) shall interconnect such stations, and the maritime satellite telecommunications provided by such stations, with the facilities and services of United States domestic common carriers and international common carriers, other than any common carrier or other entity in which the corporation has any ownership interest, as authorized by the Commission;

"(3) shall interconnect such stations and the maritime satellite telecommunications provided by such stations, with the facilities and services of private communications systems, unless the Commission finds that such interconnection will not serve the public interest; and

"(4) may establish, own, and operate the United States share of the jointly owned international space segment and associated ancillary facilities.

Financial obligation.

"(d) The corporation shall be responsible for fulfilling any financial obligation placed upon the corporation as a signatory to the operating agreement or other pertinent instruments, and any other financial obligation which may be placed upon the corporation as the result of a convention or other instrument establishing INMARSAT. The corporation shall be the sole United States representative in the managing body of INMARSAT.

Satellite earth terminal station.

"(e) (1) Any person, including the Federal Government or any agency thereof, may be authorized, in accordance with paragraph (2) or paragraph (3), to be the sole owner or operator, or both, of any satellite earth terminal station if such station is used for the exclusive purposes of training personnel in the use of equipment associated with the operation and maintenance of such station, or in carrying out experimentation relating to maritime satellite telecommunications services.

"(2) If the person referred to in paragraph (1) is the Federal Government or any agency thereof, such satellite earth terminal station shall have been authorized to operate by the executive department charged with such responsibility.

Authorization.

"(3) In any other case, such satellite earth terminal station shall have been authorized by the Commission.

"(f) The Commission may authorize ownership of satellite earth terminal stations by persons other than the corporation at any time the Commission determines that such additional ownership will enhance the provision of maritime satellite services in the public interest.

"(g) The Commission shall determine the operational arrangements under which the corporation shall interconnect its satellite earth terminal station facilities and services with United States domestic common carriers and international common carriers, other than any common carrier, system, or other entity in which the corporation has any ownership interest, and private communications systems when authorized pursuant to subsection (c)(3) for the purpose of extending maritime satellite telecommunications services within the United States and in other areas. The initial determination of operational arrangements shall be made by the Commission no later than 6 months after the effective date of this title, and the Commission shall thereupon transmit to the Congress a report relating to such determination.

Report to Congress.

"(h) Notwithstanding any provision of State law, the articles of incorporation of the corporation shall provide for the continued ability of the board of directors of the corporation to transact business under such circumstances of national emergency as the President or his delegate may determine would not permit a prompt meeting of the number of directors otherwise required to transact business.

"IMPLEMENTATION OF POLICY

47 USC 753.

"SEC. 504. (a) The Secretary of Commerce shall—

"(1) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this title;

"(2) take all necessary steps to ensure the availability and appropriate utilization of the maritime satellite telecommunications services provided by INMARSAT for general governmental purposes, except in any case in which a separate telecommunications system is required to meet unique governmental needs or is otherwise required in the national interest;

"(3) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries; and

"(4) take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the views of the Federal Government on utilization and user needs to INMARSAT.

"(b) The President shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and INMARSAT as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

"(c) The Commission shall—

"(1) institute such proceedings as may be necessary to carry out the provisions of section 503 of this title;

Recommendations to President.

"(2) make recommendations to the President for the purpose of assisting him in his issuance of instructions to the corporation;

"(3) grant such authorizations as may be necessary under title II and title III of the Communications Act of 1934 to enable the corporation— 47 USC 201, 301.

"(A) to provide to the public, in accordance with section 503(c)(2) of this title, space segment channels of communication obtained from INMARSAT; and

"(B) to construct and operate such satellite earth terminal stations in the United States as may be necessary to provide sufficient access to the space segment;

"(4) grant such other authorizations as may be necessary under title II and title III of the Communications Act of 1934 to carry out to the provisions of this title;

"(5) establish procedures to provide for the continuing review of the telecommunications activities of the corporation as the United States signatory to the operating agreement or other pertinent instruments; and

"(6) prescribe such rules as may be necessary to carry out the provisions of this title.

"(d) The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (b), the instructions issued by the President shall prevail. Instruction conflicts.

"STUDY OF STRUCTURE AND ACTIVITIES OF COMMUNICATIONS SATELLITE CORPORATION

"SEC. 505. (a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to effectively fulfill its obligations and carry out its functions under this Act and the Communications Act of 1934. 47 USC 754. 47 USC 609.

"(b) The Commission shall transmit a report to the Congress not later than 18 months after the effective date of this title relating to the study of the corporation conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate. Report to Congress.

"STUDY OF PUBLIC MARITIME COAST STATION SERVICES

"SEC. 506. (a) The Commission shall conduct a study of public maritime coast station services, with particular emphasis on high seas services, with a view toward determining whether the rules and regulations of the Commission and the assignment of licenses and radio frequencies in effect on the effective date of this title should be subject to any alteration in order to establish a systematic approach for the provision of modern and effective maritime telecommunications systems. 47 USC 755.

"(b) The Commission shall transmit a report to the Congress not later than 12 months after the effective date of this title relating to the study of public maritime coast station services conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recom- Report to Congress.

mendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

"STUDY OF RADIO NAVIGATION SYSTEMS

47 USC 756.

"SEC. 507. (a) The President, in conjunction with Government agencies which will or may be affected by the development of a Government-wide radio navigation plan, shall conduct a study of all Government radio navigation systems to determine the most effective manner of reducing the proliferation and overlap of such systems. The objective of such study shall be the development of such a plan.

Presidential report and recommendations, transmittal to Congress.

"(b) The President shall transmit a report to the Congress no later than 12 months after the effective date of this title relating to the study conducted under subsection (a) of this section. Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the President related to such findings and conclusions, and any recommendations of the President for such legislation or other action as the President considers necessary or appropriate for implementation of a Government-wide radio navigation plan.

"DEFINITIONS

47 USC 757.

"SEC. 508. For purposes of this title—

"(1) the term 'person' includes an individual, partnership, association, joint stock company, trust, or corporation;

"(2) the term 'satellite earth terminal station' means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

"(3) the term 'space segment' means any satellite (or capacity on a satellite) maintained under the authority of INMARSAT, for the purpose of providing international maritime telecommunications services, and the tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite; and

"(4) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1134, Pt. I (Comm. on Interstate and Foreign Commerce) and Pt. II. (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 95-1036 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 15, considered and passed House.
Aug. 7, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment with an amendment.
Oct. 13, House vacated proceedings of Oct. 12; receded, and concurred in Senate amendment with an amendment.
Oct. 13, Senate concurred in House amendment.

Public Law 95-565
95th Congress

An Act

To amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes.

Nov. 1, 1978
[S. 2788]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

United States Railway Association Amendments Act of 1978.
45 USC 701 note.

SEC. 2. (a) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(b) Section 216(b)(2) of such Act (45 U.S.C. 716(b)(2)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

45 USC 726.

(c) Section 216(f) of such Act (45 U.S.C. 726(f)) is amended by striking out "$2,100,000,000" and inserting in lieu thereof "$3,300,000,000".

SEC. 3. Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is further amended by redesignating subsection (f) thereof as subsection (g) and by inserting immediately after subsection (e) thereof a new subsection as follows:

Employee stock ownership plan.

"(f)(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied.

"(2) The employee stock ownership plan shall:

"(A) provide:

"(i) for a transfer to the plan and allocation to the accounts of plan participants in periodic installments of Series A preferred stock of the Corporation with a stated redemption value of at least $345,000,000 or any other securities in an amount determined by the Association, with the concurrence of the Finance Committee, as constituting a meaningful interest in the Corporation, or any combination thereof so determined by the Association, with the concurrence of the Finance Committee. The use of Series A preferred stock to fund the Employee Stock Ownership Plan shall not be interpreted to relieve ConRail of the responsibility for repaying in full to the United States Railway Association its indebtedness as represented by all shares originally issued under Public Law 94-210 and this Act;

"(ii) for immediate vesting of the rights of participants to such securities upon allocation, subject to defeasance as a result of the plan's termination which termination shall occur in the event that, by the end of the 120th month beginning after the month in which securities or interests therein are first allocated to participants' accounts, the Corporation has not

attained for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977, as determined pursuant to procedures adopted by the Corporation pursuant to regulations promulgated by the Association with the concurrence of the Finance Committee;

"(B) be an employee benefit plan which is designed to invest primarily in employer securities;

"(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may describe;

26 USC 4975.

"(D) have been approved by the Board of Directors of the Corporation to the extent and in the manner which may be required by the Corporation's articles of incorporation and bylaws then in effect; and

"(E) have been prepared in consultation with, and been approved by, the Association and the Finance Committee.

"(3) Notwithstanding any other provision of law, if a plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

26 USC 401.

"(A) stock transferred under paragraph (2) and allocated to the account of any participant under paragraph (2) shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until such stock or dividends are actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of the Internal Revenue Code of 1954 (treating the participant or his beneficiary as having a basis of 0 in the stock);

26 USC 72.

"(B) no amount shall be allocated to any participant under the plan in excess of the amount which might be allocated if the plan met the requirements of section 401 of the Internal Revenue Code of 1954; and

"(C) the plan must meet the requirements of sections 410 and 415 of the Internal Revenue Code of 1954.

26 USC 410, 415.

"(4) The Corporation shall adopt such terms and conditions governing the securities or interests therein to be transferred to the plan (including limitations on voting rights) as the Association, with the concurrence of the Finance Committee, determines are necessary to protect reasonably the interests of the United States in the litigation pursuant to section 303(c) of this Act and in the event of any action to further reorganize or restructure the Corporation's assets or capital structure.

45 USC 743.

"(5) The Corporation, the Association, and a representative appointed by the Chairman of the Railway Labor Executives' Association as representative of all the classes or crafts of employees of the Corporation shall engage in negotiations to agree upon a plan in accordance with the provisions of this subsection. The parties shall incorporate their agreement into a written plan instrument specifying

the terms and conditions set forth in this subsection and such other terms and conditions as they may decide upon, with the concurrence of the Finance Committee, unless the parties are unable to reach on an agreement on the plan following the exertion of every reasonable effort to do so, in accordance with the Railway Labor Act, in which event, the Corporation and the Association, with the concurrence of the Finance Committee, shall establish a written plan with such terms and conditions as they may agree upon in accordance with this subsection. Within one year after the effective date of this subsection, the Corporation shall transmit a draft of such plan to the Congress and shall report on its progress in establishing and administering the plan. The report shall include recommendations of contractual and statutory provisions necessary to reasonably (A) exempt any Trustee of the plan, the Corporation, the Association, any member of the Finance Committee, and any other person from any fiduciary duty, responsibility or liability for the acquisition of, investment in, or retention of any security or interest therein of the Corporation or for any other transaction contemplated by this subsection and (B) provide for the United States to indemnify, defend, and hold harmless such persons against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses actually incurred in connection with any matter so exempted in which it is determined that such persons were acting in good faith and in a manner they believed to not be opposed to the best interests of the plan.

Plan, transmittal to Congress.

"(6) Within fourteen months of the effective date of this subsection, the Association shall report to the Congress on the draft plan and on any legal obstacle to the ability of the Corporation to effectuate and implement an employee stock ownership plan of the nature contemplated by this subsection, including specific recommendations on amendments to this subsection and other relevant laws which would harmonize the requirements of this subsection with those other laws. The Department of Transportation and the Department of the Treasury, as each finds appropriate, shall provide separate comments to the Association for inclusion with such report.

Report to Congress.

"(7) For the purposes of this subsection, the officers of each duly authorized representative of the crafts or classes of the employees of the Corporation who have been given leaves of absence by the Corporation to serve as such officers, are to be eligible to participate in such plan on the same basis as are employees whose employment is governed by a collective bargaining agreement with the Corporation.".

SEC. 4. (a) The first section of the Act entitled "An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes", approved March 12, 1914 (38 Stat. 305; 43 U.S.C. 957), is amended by inserting after "to fix compensation of all officers, agents, or other employees designated by him;" the following: "and, notwithstanding any other provision of law or regulation, to fix relocation, travel and transportation expenses for the General Manager of the railroad designated under this Act".

43 USC 975.

(b) This section shall apply to the General Manager serving on the date of enactment of this section with respect to relocation, travel,

43 USC 975 note.

or transportation expenses which were incurred before or after the date of enactment of this section.

SEC. 5. Section 505 of the Railroad Revitalization and Regulatory Reform Act (45 U.S.C. 825) is amended by (a) striking the last sentence of subsection (d)(3) thereof; and (b) striking "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title" in subsection (e) thereof.

Railroad bridge, reconstruction.

SEC. 6. (a) The Consolidated Rail Corporation shall (1) carry out such reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, New York, as is necessary for the purposes of this section and make appropriate repairs and improvements in rail yards and tracks which service the rail system using such bridge, (2) restore freight service on such system at least to the extent provided prior to the fire damage to such bridge in 1974, and (3) take appropriate steps to promote the use of such system.

Appropriation authorization.

(b) There is authorized to be appropriated to the Secretary of Transportation not to exceed $9,000,000 for making payments to the Corporation to cover costs incurred pursuant to subsection (a)(1).

45 USC 747.

SEC. 7. Section 307 of the Regional Rail Reorganization Act is amended by inserting after subsection (b) a new subsection (c) as follows:

Report to Congress.

"(c) MONITORING OF THE CORPORATION.—(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

"(2) Within 90 days after the date of enactment of this subsection, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C) (i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this title.

Information, submittal to Congress.

"(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or group of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

Monitoring report, transmittal to Congress.

"(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins after the end of the 90-day period

for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring information periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policymaking, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred.".

Approved November 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1175, accompanying H.R. 12161 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-885 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 1, considered and passed Senate.
Oct. 6, 11, 15, H.R. 12161 considered and passed House; passage vacated, and S. 2788, amended, passed in lieu.

39-194 O—80—pt. 2——71 : QL3

Public Law 95-566
95th Congress

An Act

Nov. 1, 1978
[S. 2539]

To amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Middle Income Student Assistance Act".

Middle Income Student Assistance Act.
20 USC 1001 note.

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new division:

"(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.".

Basic educational opportunity grants.
20 USC 1070a.

(b) Section 411(a)(3)(C) of the Act is amended by adding at the end thereof the following: "In addition, such regulations shall—

"(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents.".

(c) Section 411(b)(3)(B)(i) is amended—

(1) by redesignating subdivisions (II), (III), and (IV) as subdivisions (IV), (V), and (VI), respectively; and

(2) by striking out subdivision (I) and inserting in lieu thereof the following:

"(I) the full amount in the case of any entitlement which exceeds $1,600;

"(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

"(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;".

(d) Section 411(b)(5) of the Act is amended to read as follows:

"(5) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

"(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

"(B) the appropriation for work-study payments under section 441 of this title does not at least equal $500,000,000; and

42 USC 2751.

"(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.".

SEC. 3. Section 415C(b)(4) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State". 20 USC 1070c-2.

SEC. 4. Section 417B(b) of the Higher Education Act of 1965 is amended by inserting immediately after paragraph (5) the following new sentence: "No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age.". 20 USC 1070d-1.

SEC. 5. (a)(1) Section 427(a)(2)(C)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,". 20 USC 1077.

(2) Section 428(b)(1)(M)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,". 20 USC 1078.

(b)(1) Section 428(a)(2) of the Act is amended—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) sets forth such student's estimated financial assistance."; and

(B) by redesignating subparagraph (C) as subparagraph (B) and by striking out subparagraph (D).

(2) Section 425(a)(1)(A) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)". 20 USC 1075.

(3) Section 428(a)(2)(B) of the Act (as redesignated by paragraph (1)(A) of this subsection) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period and by striking out clause (iv) of such section.

(4) Section 428(a) of the Act is amended by striking out paragraph (9).

(5) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

SEC. 6. Section 491(b)(3) of the Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.". 20 USC 1088. 20 USC 1141.

20 USC 1088f.

SEC. 7. Section 497 of the Act is amended by adding after subsection (c) thereof the following new subsection:

"(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.".

42 USC 2751, 20 USC 1088. 20 USC 1070b-2.

SEC. 8. Part B of title IV of the Act is further amended by inserting after section 439A the following new section:

20 USC 1087-3a.

"SEC. 439B. Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A, C, and E of this title, notwithstanding any other provisions of parts A, C, and E.".

20 USC 1070.

Effective date. 20 USC 1070a note.

SEC. 9. The amendments made by this Act shall take effect upon enactment, except that the amendments made by subsections (a), (b), and (c), of section 2 shall be effective with respect to periods of enrollment beginning on or after August 1, 1979.

Approved November 1, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-643 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 15, 16, considered and passed Senate.
Oct. 14, H.R. 11274 considered and passed House; passage vacated, and S. 2539, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Nov. 1, Presidential statement.

Public Law 95-567
95th Congress

An Act

To amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

Nov. 2, 1978
[H.R. 12605]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Telecommunications Financing Act of 1978".

Public Telecommunications Financing Act of 1978.
47 USC 609 note.

TITLE I—CONSTRUCTION AND PLANNING OF FACILITIES

DECLARATION OF PURPOSE

SEC. 101. Section 390 of the Communications Act of 1934 is amended to read as follows: 47 USC 390.

"DECLARATION OF PURPOSE

"SEC. 390. The purpose of this subpart is to assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 391 of the Communications Act of 1934 is amended to read as follows: 47 USC 391.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated $40,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Secretary pursuant to this subpart have been submitted within such fiscal year. Sums appropriated under this subpart may be used by the Secretary to cover the cost of administering the provisions of this subpart.".

CONSTRUCTION AND PLANNING

SEC. 103. (a) Section 392 of the Communications Act of 1934 is amended to read as follows: 47 USC 392.

"GRANTS FOR CONSTRUCTION AND PLANNING

"SEC. 392. (a) For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may require, including the total cost of such project, the amount of the grant requested for such project, and a 5-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

"(1) the applicant is (A) a public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

"(2) the operation of such public telecommunications facilities will be under the control of the applicant;

"(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

"(4) such public telecommunications facilities will be used only for the provision of public telecommunications services;

"(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

"(6) the applicant will make the most efficient use of the grant.

"(b) Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amount shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

"(c) The Secretary may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligible requirements of subsection (a) to receive construction assistance.

"(d) Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary, if such studies are conducted through the use of funds received under this section.

Rules and regulations.

"(e) The Secretary shall establish such rules and regulations as may be necessary to carry out this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

Post, p. 2408.

"(f) In establishing criteria for grants pursuant to section 393 and in establishing procedures relating to the order of priority established in subsection (e) in approving applications for grants, the Secretary shall give special consideration to applications which would increase minority and women's ownership of, operation of, and par-

ticipation in public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such other assistance and information as may be appropriate. Minorities and women, notice.

"(g) If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

"(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, association, or other entity described in subsection (a) (1); or

"(2) such facilities cease to be used only for the provision of public telecommunications services (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities.

"(h) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this subpart, including a complete and itemized inventory of all public telecommunications facilities under the control of such recipient, and records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit. Recordkeeping requirements.

"(i) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.". Books, documents, records, accessibility.

(b) (1) The provisions of section 392(g) of the Communications Act of 1934, as added by subsection (a), shall apply to any grant made under section 392 of such Act before, on, or after the date of the enactment of this Act. Any authority and responsibilities of the Secretary of Health, Education, and Welfare regarding the administration of such grants are hereby transferred to the Secretary of Commerce. 47 USC 392 note. *Ante*, p. 2405. Administration of grants, transferred to Commerce.

(2) Subject to the provisions of section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), the following are hereby transferred to the Secretary of Commerce for appropriate allocation—

(A) the personnel employed in connection with or in support of, or as an integral part of the mission of, the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

(B) the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A).

Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds originally were authorized and appropriated.

(3) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce and the Secretary of Health, Education, and Welfare, shall—

(A) make such determinations as may be necessary with regard to the transfer of the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

(B) make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A);

as the Director may deem necessary to accomplish the purposes of this Act and the amendments made by this Act.

CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

47 USC 393.

SEC. 104. Section 393 of the Communications Act of 1934 is amended to read as follows:

"CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE

"SEC. 393. (a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

Grants.

"(b) The Secretary shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) and designed to achieve—

"(1) the provision of new telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

"(2) the expansion of the service areas of existing public telecommunications entities;

"(3) the development of public telecommunications facilities owned by, operated by, and available to minorities and women; and

"(4) the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

Ante, p. 2405.

"(c) Of the funds appropriated pursuant to section 391 for any fiscal year, not less than 75 percent shall be available to extend delivery of public telecommunications services to areas not receiving such services through grants for facilities of new and existing public telecommunications entities, and preoperational expenses associated with such facilities. In choosing among applicants for grants, the Secretary shall compare the advantages of alternate technologies on the basis of costs and benefits.

Noncommercial radio broadcast station facilities.

"(d) Of the sums appropriated pursuant to section 391 for any fiscal year, a substantial amount shall be available for the expansion and development of noncommercial radio broadcast station facilities.".

LONG-RANGE PLANNING FOR FACILITIES

SEC. 105. Section 394 of the Communications Act of 1934 is amended to read as follows: 47 USC 394.

"LONG-RANGE PLANNING FOR FACILITIES

"SEC. 394. (a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with other parties, shall develop a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed 5-year projection of the broadcast and nonbroadcast public telecommunications facilities required to meet such objectives, and the expenditures necessary to provide such facilities. *Post*, p. 2405.

"(b) The plan required in subsection (a) shall be updated annually, and a summary of the activities of the Secretary in implementing the plan, shall be submitted concurrently to the President and the Congress not later than the 31st day of December of each year.". Report to President and Congress.

MISCELLANEOUS PROVISIONS

SEC. 106. (a) The heading for part IV of title III of the Communications Act of 1934 is amended to read as follows: 37 USC 390.

"PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING".

(b) The heading for subpart A of part IV of title III of the Communications Act of 1934 is amended to read as follows:

"Subpart A—Assistance for Public Telecommunications Facilities".

(c) The position of Deputy Assistant Secretary of Commerce for Communications and Information, established in Department of Commerce Organization Order Numbered 10-10 (effective March 26, 1978), shall be compensated at the rate of pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code. 5 USC 5316 note. Compensation.

TITLE II—TELECOMMUNICATIONS DEMONSTRATIONS

ASSISTANCE FOR DEMONSTRATION PROJECTS

SEC. 201. Part IV of title III of the Communications Act of 1934 is amended by striking out section 392A and section 395, by redesignating subpart B and subpart C as subpart C and subpart D, respectively, and by inserting after subpart A the following new subpart: 47 USC 392a, 395.

"Subpart B—Telecommunications Demonstrations

"ASSISTANCE FOR DEMONSTRATION PROJECTS

"SEC. 395. (a) It is the purpose of this subpart to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants 47 USC 395.

to, and enter into contracts with, public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

Application approval.

"(b) The Secretary may approve an application submitted under subsection (a) if he determines that—

"(1) the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this subpart;

"(2) demonstrations and related activities assisted under this subpart will remain under the administration and control of the applicant;

"(3) the applicant has the managerial and technical capability to carry out the project for which the application is made; and

"(4) the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

Contract with applicant.

"(c) Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sums available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"(d) Funds made available pursuant to this subpart shall not be available for the construction, remodeling, or repair of structures to house the facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incidental to the installation of such facilities or equipment.

"Nonbroadcast telecommunications facilities."

"(e) For purposes of this section, the term 'nonbroadcast telecommunications facilities' includes, but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other modes of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic, or other means.

Funding.

"(f) The funding of any demonstration pursuant to this subpart shall continue for not more than 3 years from the date of the original grant or contract.

Summary and evaluation.

"(g) The Secretary shall require that the recipient of a grant or contract under this subpart submit a summary and evaluation of the results of the demonstration at least annually for each year in which funds are received pursuant to this section.

Recordkeeping requirements.

"(h)(1) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Books, documents, records, accessibility.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, docu-

ments, papers, and records of the recipient that are pertinent to assistance received under this subpart.

"(i) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under this subpart or to determining the amounts of grants for such projects. Rules and regulations.

"(j) The Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Commission in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Corporation. Assistance.

"(k) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary to carry out the provisions of this subpart. Sums appropriated under this subsection for any fiscal year shall remain available for payment of grants or contracts for projects for which applications approved under this subpart have been submitted within one year after the last day of such fiscal year.". Appropriation authorization.

TITLE III—CORPORATION FOR PUBLIC BROADCASTING

DECLARATION OF POLICY

SEC. 301. Section 396(a) of the Communications Act of 1934 is amended to read as follows: 47 USC 396.

"SEC. 396. (a) The Congress hereby finds and declares that—

"(1) it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes;

"(2) it is in the public interest to encourage the growth and development of nonbroadcast telecommunications technologies for the delivery of public telecommunications services;

"(3) expansion and development of public telecommunications and of diversity of its programming depend on freedom, imagination, and initiative on both local and national levels;

"(4) the encouragement and support of public telecommunications, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

"(5) it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

"(6) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States; and

"(7) a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.".

CHAIRMAN OF THE BOARD

47 USC 396.

SEC. 302. Section 396(d)(1) of the Communications Act of 1934 is amended by striking out "President shall designate one of the members first appointed to the Board as Chairman; thereafter the".

COMPENSATION OF OFFICERS AND EMPLOYEES

SEC. 303. (a) Section 396(e)(1) of the Communications Act of 1934 is amended by inserting after the first sentence the following new sentence: "No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

47 USC 396 note.

(b) The amendment made by subsection (a) shall not be construed to reduce the annual rate of pay of any officer or employee of the Corporation for Public Broadcasting in any case in which (1) such officer or employee was appointed or named to any position in the Corporation before the date of the enactment of this Act; and (2) the annual rate of pay for such position, as in effect on such date of enactment, exceeds the maximum rate of pay established in section 396(e)(1) of the Communications Act of 1934, as amended by subsection (a).

PURPOSES AND ACTIVITIES OF CORPORATION

SEC. 304. Section 396(g) of the Communications Act of 1934 is amended to read as follows:

"Purposes and Activities of Corporation

"(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

"(A) facilitate the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

"(B) assist in the establishment and development of one or more interconnection systems to be used for the distribution of public telecommunications services so that all public telecommunications entities may disseminate such services at times chosen by the entities;

"(C) assist in the establishment and development of one or more systems of public telecommunications entities throughout the United States; and

"(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public telecommunications entities and systems from interference with, or control of, program content or other activities.

"(2) In order to carry out the purposes set forth in subsection (a), the Corporation is authorized to—

"(A) obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(B) contract with or make grants to public telecommunications entities, national, regional, and other systems of public telecommunications entities, and independent producers and production entities, for the production or acquisition of public telecommunications services to be made available for use by public telecommunications entities, except that—

"(i) to the extent practicable, proposals for the provision of assistance by the Corporation in the production or acquisition of programs or series of programs shall be evaluated on the basis of comparative merit by panels of outside experts, representing diverse interests and perspectives, appointed by the Corporation; and

"(ii) nothing in this subparagraph shall be construed to prohibit the exercise by the Corporation of its prudent business judgment with respect to any contract or grant to assist in the production or acquisition of any program or series of programs recommended by any such panel;

"(C) make payments to existing and new public telecommunications entities to aid in financing the production or acquisition of public telecommunications services by such entities, particularly innovative approaches to such services, and other costs of operation of such entities; Payments.

"(D) establish and maintain, or contribute to, a library and archives of noncommercial educational and cultural radio and television programs and related materials and develop public awareness of, and disseminate information about, public telecommunications services by various means, including the publication of a journal;

"(E) arrange, by grant to or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of public telecommunications services to public telecommunications entities;

"(F) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart;

"(G) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs;

"(H) make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination to the public of public telecommunications services; and

"(I) take such other actions as may be necessary to accomplish the purposes set forth in subsection (a).

Nothing contained in this paragraph shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.), except that the Corporation is prohibited from— Prohibitions.

"(A) owning or operating any television or radio broadcast station, system, or network, community antenna television system,

interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

"(B) producing programs, scheduling programs for dissemination, or disseminating programs to the public.

"(4) All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4).

Post, p. 2415.

Study, completion.

"(5) The Corporation, in consultation with public broadcast stations, shall undertake a study to determine the manner in which personal services of volunteers should be included in determining the level of non-Federal financial support pursuant to subsection (k)(2)(A). The study, which shall be completed not later than 180 days after the effective date of this paragraph, shall include an examination of any fiscal, administrative, or other factors which should be taken into account in determining the manner in which such services should be so included, and shall include proposed valuation standards. Upon completion, the study and the proposed valuation standards shall be submitted to the Comptroller General of the United States for approval.

Submission to Comptroller General.

"(6) The Corporation, in consultation with interested parties, shall create a 5-year plan for the development of public telecommunications services. Such plan shall be updated annually by the Corporation.".

INTERCONNECTION SERVICE

47 USC 396.

SEC. 305. Section 396(h) of the Communications Act of 1934 is amended to read as follows:

"Interconnection Service

"(h)(1) Nothing in this Act, or in any other provision of law, shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for public television or radio services, subject to such rules and regulations as the Commission may prescribe.

"(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for, in whole or in part, with funds authorized under this part, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of educational and cultural programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of noncommercial educational and cultural programs and program information relating to such programs, to public telecommunications entities, at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of noncommercial educational and cultural programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.".

ANNUAL REPORT TO CONGRESS

SEC. 306. Section 396(i) of the Communications Act of 1934 is amended to read as follows:

"Report to Congress

"(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15th day of February of each year. The report shall include— Report to President and Congress.

"(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

"(B) a comprehensive and detailed inventory of funds distributed by Federal agencies to public telecommunications entities during the preceding fiscal year; and

"(C) the summary of the annual report provided to the Secretary pursuant to section 398(b)(4). *Post*, p. 2420.

"(2) The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (1), or any other matter which such committees may determine.".

FINANCING; OPEN MEETINGS AND FINANCIAL RECORDS

SEC. 307. (a) Section 396(k) of the Communications Act of 1934 is amended to read as follows: 47 USC 396.

"Financing; Open Meetings and Financial Records

"(k)(1)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund (hereinafter in this subsection referred to as the 'Fund'), to be administered by the Secretary of the Treasury. Public Broadcasting Fund. Establishment.

"(B) There is authorized to be appropriated to the Fund, for each of the fiscal years 1978, 1979, and 1980, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $121,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $160,000,000 for fiscal year 1980 Appropriation authorizations.

"(C) There is authorized to be appropriated to the Fund, for each of the fiscal years 1981, 1982, and 1983, an amount equal to 50 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $180,000,000 for fiscal year 1981, $200,000,000 for fiscal year 1982, and $220,000,000 for fiscal year 1983.

"(D) Funds appropriated under this subsection shall remain available until expended.

"(2)(A) The funds authorized to be appropriated by this subsection shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs, except that the Corporation may not use any funds appropriated under this subpart for purposes of conducting any reception, or providing any other entertainment, for any officer or employee of the Federal Government or any State or local government. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years referred to

in paragraph (1) for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall make available to the Corporation, from such funds as may be appropriated to the Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

"(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies will be necessary to meet its financial obligations in the succeeding quarter.

Reservation for distribution.

"(3)(A) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations an amount equal to—

"(i) not less than 40 percent of the funds disbursed by the Corporation from the Fund under this section in each fiscal year in which the amount disbursed is $88,000,000 or more, but less than $121,000,000;

"(ii) not less than 45 percent of such funds in each fiscal year in which the amount disbursed is $121,000,000 or more, but less than $160,000,000; and

"(iii) not less than 50 percent of such funds in each fiscal year in which the amount disbursed is $160,000,000 or more.

Annual budget, establishment.

"(B)(i) The Corporation shall establish an annual budget according to which it shall make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, for acquisition of such programs by public telecommunications entities, for interconnection facilities and operations, for distribution of funds among public telecommunications entities, and for engineering and program-related research. A significant portion of funds available under the budget established by the Corporation under this subparagraph shall be used for funding the production of television and radio programs. Of such portion, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs.

Funds, distribution to outside entities.

"(ii) All funds contained in the annual budget established by the Corporation under clause (i) shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

"(iii) During each of the fiscal years 1981, 1982, and 1983, the annual budget established by the Corporation under clause (i) shall consist of not less than 95 percent of the funds made available by the Secretary of the Treasury to the Corporation pursuant to paragraph (2)(A).

"(iv) In determining the amount of funds which shall be made available for radio programming and operations under this subparagraph, the Corporation shall take into account the increased financial needs relating to radio programming and operations resulting from the expansion and development of noncommercial radio broadcast station facilities through the use of funds made available pursuant to section 393(d).

Ante, p. 2408.

"(C) In fiscal year 1981, the Corporation may expend an amount equal to not more than 5 percent of the funds made available by the Secretary of the Treasury during such fiscal year pursuant to paragraph (2)(A) for those activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B).

"(D) In fiscal years 1982 and 1983, the amount which the Corporation may expend for activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (B) shall be 105 percent of the amount derived for the preceding fiscal year.

Open meetings.

"(4) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the board, or of any such committee or body, and no person shall be required, as a condition to attendance at any such meeting, to register such person's name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent any such board, committee, or body from holding closed sessions to consider matters relating to individual employees, proprietary information, litigation and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of any such organization. If any such meeting is closed pursuant to the provisions of this paragraph, the organization involved shall thereafter (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting.

Funds distribution, restriction.

"(5) Funds may not be distributed pursuant to this subsection to any public telecommunications entity that does not maintain for public examination copies of the annual financial and audit reports, or other information regarding finances, submitted to the Corporation pursuant to subsection (1)(3)(B).

Review.

"(6)(A) The Corporation, in consultation with public television and radio licensees, shall review annually the percentage of funds reserved pursuant to paragraph (3)(A), and the criteria and conditions regarding the division and distribution of such funds among public television and radio stations.

Funds, distribution.

"(B) The funds reserved for public broadcast stations pursuant to paragraph (3)(A) shall be divided into two portions, one to be distributed among radio stations and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on the air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

Limitation.

"(7) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, 50 percent of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(8) The funds distributed pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes relating to the provision of public television and radio programming, including, but not limited to—

"(A) producing, acquiring, broadcasting, or otherwise disseminating public television or radio programs;

"(B) procuring national or regional program distribution services that make public television or radio programs available for broadcast or other dissemination at times chosen by stations;

"(C) acquiring, replacing, or maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of public television and radio programs; and

"(D) developing and using nonbroadcast communications technologies for public television or radio programming purposes.

Community advisory board.

"(9)(A) Funds may not be distributed pursuant to this subpart to any public broadcast station unless such station establishes a community advisory board. Any such station shall undertake good faith efforts to assure that the composition of its advisory board reasonably reflects the diverse needs and interests of the communities served by such station.

Review.

"(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

"(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall the board have any authority to exercise any control over the daily management or operation of the station.

Time limitation.

"(D) In the case of any public broadcast station in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

"(E) The provision of subparagraph (A) prohibiting the distribution of funds to any public broadcast station unless such station establishes a community advisory board shall be the exclusive remedy for the enforcement of the provisions of this paragraph.

Funds distribution, prohibition.

"(10) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any

successor organization) unless assurances are provided to the Corporation that no officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization), as the case may be, will be compensated at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) Section 396(k)(10) of the Communications Act of 1934, as added by subsection (a), shall not be construed to reduce the annual rate of pay of any officer or employee of the Public Broadcasting Service or National Public Radio (or any successor organization) in any case in which (1) such officer or employee was appointed or named to any position in the Public Broadcasting Service or National Public Radio (or any successor organization) before the date of the enactment of this Act; and (2) the annual rate of pay for such position, as in effect on such date of enactment, exceeds the maximum rate of pay established in section 396(k)(10) of the Communications Act of 1934, as added by subsection (a). 47 USC 396 note. *Ante*, p. 2415.

FINANCIAL MANAGEMENT AND RECORDS

SEC. 308. Section 396(l)(3) of the Communications Act of 1934 is amended to read as follows: 47 USC 396.

"(3)(A) Not later than 1 year after the effective date of this paragraph, the Corporation, in consultation with the Comptroller General, and as appropriate with others, shall develop accounting principles which shall be used uniformly by all public telecommunications entities receiving funds under this subpart, taking into account organizational differences among various categories of such entities. Such principles shall be designed to account fully for all funds received and expended for public telecommunications purposes by such entities. Accounting principles, development.

"(B) Each public telecommunications entity receiving funds under this subpart shall be required— Recordkeeping requirements.

"(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

"(ii) to undergo an annual audit by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Comptroller General; and

"(iii) to furnish annually to the Corporation a copy of the audit report required pursuant to clause (ii), as well as such other information regarding finances (including an annual financial report) as the Corporation may require.

"(C) Any recipient of assistance by grant or contract under this section, other than a fixed price contract awarded pursuant to competitive bidding procedures, shall keep such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(D) The Corporation or any of its duly authorized representatives shall have access to any books, documents, papers, and records Books, documents, papers, and records, accessibility.

of any recipient of assistance for the purpose of auditing and examining all funds received or expended for public telecommunications purposes by the recipient. The Comptroller General of the United States or any of his duly authorized representatives also shall have access to such books, documents, papers, and records for the purpose of auditing and examining all funds received or expended for public telecommunications purposes during any fiscal year for which Federal funds are available to the Corporation.".

EQUAL EMPLOYMENT OPPORTUNITY

47 USC 398.

SEC. 309. Section 398 of the Communications Act of 1934 is amended to read as follows:

"FEDERAL INTERFERENCE OR CONTROL PROHIBITED; EQUAL EMPLOYMENT OPPORTUNITY

"SEC. 398. (a) Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under, this Act; or (2) except to the extent authorized in subsection (b), to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over public telecommunications, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public telecommunications entity.

Equal opportunity employment.

Ante, p. 2409.

"(b)(1) Equal opportunity in employment shall be afforded to all persons by the Public Broadcasting Service and National Public Radio (or any successor organization) and by all public telecommunications entities receiving funds pursuant to subpart C (hereinafter in this subsection referred to as 'recipients'), and no person shall be subjected to discrimination in employment by any recipient on the grounds of race, color, religion, national origin, or sex.

Rules and regulations.

"(2)(A) The Secretary is authorized and directed to enforce this subsection and to prescribe such rules and regulations as may be necessary to carry out the functions of the Secretary under this subsection.

"(B) The Secretary shall provide for close coordination with the Commission in the administration of the responsibilities of the Secretary under this subsection which are of interest to or affect the functions of the Commission so that, to the maximum extent possible consistent with the enforcement responsibilities of each, the reporting requirements of public telecommunications entities shall be uniformly based upon consistent definitions and categories of information.

"(3)(A) The Corporation shall incorporate into each grant agreement or contract with any recipient entered into on or after the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A), a statement indicating that, as a material part of the terms and conditions of the grant agreement or contract, the recipient will comply with the provisions of paragraph (1) and the rules and regulations prescribed pursuant to paragraph (2)(A). Any person which desires to be a recipient (within the meaning of paragraph (1)) of funds under subpart C shall, before receiving any such funds, provide to the Corporation any information which the Corporation may require to satisfy itself that such person is affording equal opportunity in employment in accordance with the

requirements of this subsection. Determinations made by the Corporation in accordance with the preceding sentence shall be based upon guidelines relating to equal oportunity in employment which shall be established by rule by the Secretary.

"(B) If the Corporation is not satisfied that any such person is affording equal opportunity in employment in accordance with the requirements of this subsection, the Corporation shall notify the Secretary, and the Secretary shall review the matter and make a final determination regarding whether such person is affording equal opportunity in employment. In any case in which the Secretary conducts a review under the preceding sentence, the Corporation shall make funds available to the person involved pursuant to the grant application of such person (if the Corporation would have approved such application but for the finding of the Corporation under this paragraph) pending a final determination of the Secretary upon completion of such review. The Corporation shall monitor the equal employment opportunity practices of each recipient throughout the duration of the grant or contract.

Review.

Monitoring of equal opportunity practices.

"(C) The provisions of subparagraph (A) and subparagraph (B) shall take effect on the effective date of the rules and regulations prescribed by the Secretary pursuant to paragraph (2)(A).

"(4) Based upon its responsibilities under paragraph (3), the Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary on or before the 15th day of February of each year. The report shall contain information in the form required by the Secretary. The Corporation shall submit a summary of such report to the President and the Congress as part of the report required in section 396(i). The Corporation shall provide other information in the form which the Secretary may require in order to carry out the functions of the Secretary under this subsection.

Report.

Report summary to President and Congress.
Ante, p. 2414.

"(5) Whenever the Secretary makes a final determination, pursuant to the rules and regulations which the Secretary shall prescribe, that a recipient is not in compliance with paragraph (1), the Secretary shall, within 10 days after such determination, notify the recipient in writing of such determination and request the recipient to secure compliance. Unless the recipient within 120 days after receipt of such written notice—

"(A) demonstrates to the Secretary that the violation has been corrected; or

"(B) enters into a compliance agreement approved by the Secretary;

the Secretary shall direct the Corporation to reduce or suspend any further payments of funds under this part to the recipient and the Corporation shall comply with such directive. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose funds have been reduced or suspended under this paragraph may apply at any time to the Secretary for such certification.

Reduction or suspension of payments.

"(c) Nothing in this section shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the content or distribution of public telecommunications programs and services, or over the curriculum or program of instruction of any educational institution or school system.".

TITLE IV—MISCELLANEOUS PROVISIONS; EFFECTIVE DATE

DEFINITIONS

47 USC 397.

SEC. 401. Section 397 of the Communications Act of 1934 is amended to read as follows:

"DEFINITIONS

"SEC. 397. For the purposes of this part—

"(1) The term 'construction' (as applied to public telecommunications facilities) means acquisition (including acquisition by lease), installation, and modernization of public telecommunications facilities and planning and preparatory steps incidental to any such acquisition, installation, or modernization.

"(2) The term 'Corporation' means the Corporation for Public Broadcasting authorized to be established in subpart C.

"(3) The term 'interconnection' means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to public telecommunications entities.

"(4) The term 'interconnection system' means any system of interconnection facilities used for the distribution of programs to public telecommunications entities.

"(5) The term 'meeting' means the deliberations of at least the number of members of a governing or advisory body, or any committee thereof, required to take action on behalf of such body or committee where such deliberations determine or result in the joint conduct or disposition of the governing or advisory body's business, or the committee's business, as the case may be, but only to the extent that such deliberations relate to public broadcasting.

"(6) The terms 'noncommercial educational broadcast station' and 'public broadcast station' mean a television or radio broadcast station which—

"(A) under the rules and regulations of the Commission in effect on the effective date of this paragraph, is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or

"(B) is owned and operated by a municipality and which transmits only noncommercial programs for education purposes.

"(7) The term 'noncommercial telecommunications entity' means any enterprise which—

"(A) is owned and operated by a State, a political or special purpose subdivision of a State, a public agency, or a nonprofit private foundation, corporation, or association; and

"(B) has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave, or laser transmission through the atmosphere.

"(8) The term 'nonprofit' (as applied to any foundation, corporation, or association) means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (including, to the extent provided in the second sentence of this paragraph, the personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or instrumentality of the United States; or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials with respect to the provision of educational or instructional television or radio programs.

Such term includes the fair market value of personal services of volunteers, as computed using the valuation standards established by the Corporation and approved by the Comptroller General pursuant to section 396(g)(5), but only with respect to such services provided to public telecommunications entities after such standards are approved by the Comptroller General and only, with respect to such an entity in a fiscal year, to the extent that the value of the services does not exceed 5 percent of the total non-Federal financial support of the entity in such fiscal year. *Ante*, p. 2412.

"(10) The term 'preoperational expenses' means all nonconstruction costs incurred by new telecommunications entities before the date on which they begin providing service to the public, and all nonconstruction costs associated with expansion of existing entities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating public telecommunications entity.

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs.

"(12) The term 'public telecommunications entity' means any enterprise which—

"(A) is a public broadcast station or a noncommercial telecommunications entity; and

"(B) disseminates public telecommunications services to the public.

"(13) The term 'public telecommunications facilities' means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including, but not limited to, studio equipment, cameras, microphones, audio and video storage or reproduction equipment, or both, signal processors and switchers, towers, antennas, transmitters, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber communications equipment, and other means of transmitting, emitting,

storing, and receiving images and sounds, or intelligence, except that such term does not include the buildings to house such apparatus (other than small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities).

"(14) The term 'public telecommunications services' means noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material that may be transmitted by means of electronic communications.

"(15) The term 'Secretary' means the Secretary of Commerce when such term is used in subpart A, and the Secretary of Health, Education, and Welfare when such term is used in subpart B, subpart C, and this subpart.

"(16) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(17) The term 'system of public telecommunications entities' means any combination of public telecommunications entities acting cooperatively to produce, acquire, or distribute programs, or to undertake related activities.".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ANNUAL REPORT

Report to Congress.

SEC. 402. The National Telecommunications and Information Administration shall submit an annual report to the Congress not later than January 31 of each calendar year, beginning with calendar year 1980. Each such report shall relate to the preceding calendar year and shall contain information on the activities of the Administration with respect to domestic communications, international communications, Federal Government communications, spectrum plans and policies, and any other matters.

EFFECTIVE DATE

47 USC 390 note.

SEC. 403. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1178 (Comm. on Interstate and Foreign Commerce) and No. 95-1774 (Comm. of Conference).

SENATE REPORT No. 95-858 accompanying S. 2883 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 10, considered and passed House.

Sept. 19, considered and passed Senate, amended, in lieu of S. 2883.

Oct. 13, House agreed to conference report.

Oct. 14, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:

Nov. 2, Presidential statement.

Public Law 95-568
95th Congress

An Act

To amend the Economic Opportunity Act of 1964, and for other purposes.

Nov. 2, 1978
[H.R. 7577]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Opportunity Amendments of 1978".

Economic Opportunity Amendments of 1978.
42 USC 2701 note.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to extend and revise programs under title I through title IX of the Economic Opportunity Act of 1964 (hereinafter in this Act referred to as the "Act").

42 USC 2701 note
42 USC 2711-2995.

RESEARCH AND DEMONSTRATIONS

SEC. 3. (a) Section 103 of the Act (42 U.S.C. 2713) is amended by striking out ", whenever feasible,".

(b) Title I of the Act (42 U.S.C. 2711 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There is authorized to be appropriated for the purpose of carrying out the provisions of this title $5,000,000 for fiscal year 1979, $6,000,000 for fiscal year 1980, and $8,000,000 for fiscal year 1981.". 42 USC 2716.

URBAN AND RURAL COMMUNITY ACTION PROGRAMS

SEC. 4. (a) Section 210(c) of the Act (42 U.S.C. 2790(c)) is amended by inserting after the first sentence thereof the following new sentences: "The Director, in determining whether a county or multicounty unit is eligible to be served by a community action agency under this title, shall not apply, as the sole criterion for eligibility, any requirement or restriction relating to the number of individuals residing in the county or multicounty unit if at least 20 per centum of the families and unrelated individuals residing in such unit have incomes below the poverty line as determined by the Bureau of Census from the most recent census or survey. No new community action agency may be designated under subsection (a) within a county or multicounty unit if—

Community action agency, eligibility for service.

New community action agencies, designation restrictions.

"(1) such county or multicounty unit has a population of less than 50,000;

"(2) such county or multicounty unit was served by an existing community action agency on June 1, 1978; and

"(3) the new community action agency would serve a smaller geographical area than that served by an existing community action agency on June 1, 1978.".

(b) Section 210(d) of the Act (42 U.S.C. 2790(d)) is amended by inserting ", in accordance with regulations promulgated by the Director" after "determines".

(c) The first sentence of section 211(b) of the Act (42 U.S.C. 2791(b)) is amended—

(1) by inserting ", and not less than fifteen," after "fifty-one"; and

(2) by inserting "currently holding office" after "officials" the first place it appears in clause (1).

(d) Section 213 of the Act (2 U.S.C. 2796) is amended by adding at the end thereof the following new subsection:

Annual review.

"(c) The Director shall annually review, and consult with State economic opportunity offices authorized under section 231(a), for the purposes of updating and simplifying, all relevant regulations and guidelines applicable to programs funded under this Act, except with respect to programs funded under title V and or title X.".

42 USC 2921, 2996.

FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS

SEC. 5. (a)(1) Section 222(a) of the Act (42 U.S.C. 2809(a)) is amended by inserting after the fourth sentence thereof the following new sentence: "In no event shall the Director provide financial assistance under this title to a public or private nonprofit agency other than a community action agency in an area in which a community action agency exists without prior notification of such financial assistance to the board of such community action agency and to any State economic opportunity office in the State in which financial assistance is provided.".

(2) Section 222(a) of the Act is amended—

(A) by redesignating paragraph (5) thereof as paragraph (1);

(B) by redesignating paragraph (7) thereof as paragraph (2);

(C) by redesignating paragraph (10) thereof as paragraph (3);

(D) by redesignating paragraph (11) thereof as paragraph (4);

(E) by redesignating paragraph (12) thereof as paragraph (5); and

(F) by redesignating paragraph (13) thereof as paragraph (6).

(b)(1) The last sentence of section 222(a)(1) of the Act, as so redesignated by subsection (a)(2), is amended by inserting before the period at the end thereof a comma and the following: "or through a local public or private nonprofit organization or agency providing services to migrant or seasonal farmworkers or Native Americans".

(2) The last sentence of section 222(a)(2) of the Act, as so redesignated by subsection (a)(2), is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and other Federal agencies providing services to the elderly poor. The Director shall seek, to the maximum extent feasible, the utilization of agencies funded under section 221 for the provision of such services available under titles III, V, and VII of the Older Americans Act of 1965, or such other Federal programs serving the elderly poor.".

Utilization of funded agencies.
42 USC 2808.
42 USC 3021, 3041, 3045a.

(c)(1) The second sentence of section 222(a)(4) of the Act, as so redesignated by subsection (a)(2), is amended by striking out "serving" and inserting in lieu thereof "or to local public or private nonprofit organizations or agencies providing services to migrant or seasonal farmworkers or Native Americans which serve".

(2) The third sentence of section 222(a)(4) of the Act, as so redesignated by subsection (a)(2), is amended by inserting "and programs under the Comprehensive Employment and Training Act of 1973" after "Mainstream programs".

Ante, p. 1909.

(d) Section 222(a)(5) of the Act, as so redesignated by subsection (a)(2), is amended by adding the following new sentence at the end thereof: "In carrying out programs to lessen the impact of the high cost

of energy to migrants, other seasonally employed farmworkers, and Native Americans, the Director shall utilize local public or private nonprofit organizations or agencies where feasible. Eligibility for any of the programs authorized under this section shall not be based solely on delinquency in payment of fuel bills.". Eligibility basis.

(e) Section 222(a)(6) of the Act, as so redesignated by subsection (a)(2), is amended to read as follows:

"(6) A program to be known as 'Summer Youth Recreation' designed to provide recreational opportunities for low-income children during the summer months. Funds made available for this paragraph shall be allocated by the Director among community action agencies where feasible, or other public or private nonprofit agencies where no such community action agency exists or is able to administer a program, to provide recreational opportunities for low-income children during the summer months.". Summer Youth Recreation.

(f) Section 222(a) of the Act is amended by adding the following new paragraph at the end thereof:

"(7) A program to be known as 'Demonstration Employment and Training Opportunities' designed to establish experimental employment and training programs and projects for low-income persons who are unemployed or underemployed, with special emphasis on youth, the structurally unemployed (especially those dependent on public assistance), single heads of households with dependent children, older workers, and veterans. The Director may make grants to community action agencies, community economic development corporations (as designated under title VII), and public or private nonprofit organizations and agencies for experimental programs and activities including, but not limited to, providing innovative approaches to employment and training programs, which shall, if necessary, make available to participants comprehensive supportive services; developing programs and linkages for low-income persons to achieve satisfactory transition from either unemployment or federally subsidized jobs to employment that is not federally subsidized; and developing training programs, with special consideration for community development corporations, designed to place disadvantaged youth in the private sector. The Director and the Secretary of Labor shall assure a full exchange of information concerning the employment and training programs subject to their respective jurisdictions in order to assure the most effective and responsive demonstration programs and activities. Any employment and training activities assisted in whole or part with funds made available under this paragraph shall be subject to the applicable conditions, labor standards, and benefits set forth in the Comprehensive Employment and Training Act of 1973 and other related laws.". Demonstration Employment and Training Opportunities. Grants. 42 USC 2981. Exchange of information. *Ante*, p. 1909.

(g) The first sentence of section 225(c) of the Act (42 U.S.C. 2812(c)) is amended to read as follows: "Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to section 221 and section 222(a) shall not exceed 80 per centum of the approved cost of the assisted programs or activities.". Limitation. 42 USC 2808, *ante*, p. 2426.

SUPPLEMENTAL PROGRAMS AND ACTIVITIES

SEC. 6. (a) Section 230 of the Act (42 U.S.C. 2824) is amended— 42 USC 2823.

(1) by striking out "may" in the first sentence and inserting in lieu thereof "shall"; and

(2) by striking out "may" in the last sentence and inserting in lieu thereof "shall, to the extent feasible,".

(b)(1) Section 231(a)(1) of the Act (42 U.S.C. 2824(a)(1)) is amended by inserting before the semicolon at the end thereof a comma and the following: "with priority to programs funded under section 221 and section 222".

42 USC 2808, 2809.

(2) Section 231(a) of the Act (42 U.S.C. 2824(a)) is amended—

(A) in paragraph (3) thereof, by striking out "and" at the end thereof;

(B) in paragraph (4) thereof, by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(5) to advise the Director and the chief elected official of the State on the status and impact of State and Federal programs and services affecting low-income individuals in the State; and

"(6) to assist programs funded under section 221 and section 222 in coordinating and utilizing services available through other State agencies.".

(c) The third sentence of section 232(b) of the Act (42 U.S.C. 2825(b)) is amended by striking out "minimizing" and inserting in lieu thereof "preventing".

42 USC 2823. 42 USC 2829, 2830.

(d) Part C of title II of the Act (42 U.S.C. 2824 et seq.) is amended by striking out section 236 and by redesignating section 237 as section 236.

(e) Section 236 of the Act, as so redesingated by subsection (d), is amended by striking out "two" and inserting in lieu thereof "six".

GENERAL AND TECHNICAL PROVISIONS

SEC. 7. (a) Part D of title II of the Act (42 U.S.C. 2832 et seq.) is amended by striking out section 240.

(b) Section 244(2) of the Act (42 U.S.C. 2836(2)) is amended by striking out "$15,000" each place it appears therein and inserting in lieu thereof "$18,000", and by striking out "(particularly in large metropolitan areas)".

(c) Section 245 of the Act (42 U.S.C. 2837) is amended by striking out "eleven" and inserting in lieu thereof "fourteen".

SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

SEC. 8. (a) Title III of the Act (42 U.S.C. 2855 et seq.) is amended—

(1) by striking out the title "PART A—RURAL LOAN PROGRAMS";

42 USC 2861–2865, 2871.

(2) by striking out part B and part C thereof; and

(3) by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

42 USC 2856.

"SEC. 307. There is authorized to be appropriated for the purpose of carrying out the provisions of this title $3,000,000 for fiscal year 1979, $5,000,000 for fiscal year 1980, and $7,000,000 for fiscal year 1981.".

(b)(1) Section 301 of the Act (42 U.S.C. 2841) is amended by striking out "part" and inserting in lieu thereof "title".

(2) Section 306(d) of the Act (42 U.S.C. 2855(d)) is amended by striking out "part" each place it appears therein and inserting in lieu thereof "title".

ASSISTANCE FOR MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

SEC. 9. Title IV of the Act (42 U.S.C. 2701 et seq.) is amended to read as follows:

"TITLE IV—ASSISTANCE FOR MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

"STATEMENT OF PURPOSE

"SEC. 401. The purpose of this title is to assist migrant and seasonal farmworkers and their families to improve their living conditions and develop skills necessary for a productive and self-sufficient life in an increasingly complex and technological society. 42 USC 2901.

"FINANCIAL ASSISTANCE

"SEC. 402. (a) The Director may provide financial assistance to assist State and local agencies, private nonprofit institutions, and cooperatives in developing and carrying out programs to fulfill the purpose of this title. 42 USC 2902.

"(b) Programs assisted under this title may include projects or activities—

"(1) to meet the immediate needs of migrant and seasonal farmworkers and their families, such as day care for children, education, health services, improved housing and sanitation (including the provision and maintenance of emergency and temporary housing and sanitation facilities), legal advice and representation, and consumer training and counseling;

"(2) to promote increased community acceptance of migrant and seasonal farmworkers and their families; and

"(3) to equip unskilled migrant and seasonal farmworkers and members of their families, as appropriate, through education and developmental programs to meet the changing demands in agricultural employment brought about by technological advancement and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available federally assisted employment or training programs.

"LIMITATIONS ON ASSISTANCE

"SEC. 403. (a) Assistance may not be extended under this title unless the Director determines that the applicant will maintain its prior level of effort in similar activities. 42 USC 2903.

"(b) The Director shall establish necessary procedures or requirements to assure that programs under this title are carried out in coordination with other programs or activities providing assistance to the persons and groups served. Necessary procedures or requirements.

"TECHNICAL ASSISTANCE, TRAINING AND EVALUATION

"SEC. 404. The Director may provide directly or through grants, contracts, or other arrangements, such technical assistance or training of personnel as may be required to implement effectively the purpose of this title. 42 USC 2904.

"SPECIAL RESPONSIBILITIES

42 USC 2905. "SEC. 405. The Director shall be responsible for coordinating programs under this title with other Federal programs designed to assist or serve migrant and seasonal farmworkers, for reviewing and monitoring such programs, and for insuring that programs assisted under this title cooperate with and receive the cooperation of programs assisted under section 221 in communities which such programs mutually serve. Programs under this title shall be administered at the national level.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 2906. "SEC. 406. There are authorized to be appropriated for carrying out the purposes of this title $3,000,000 for fiscal year 1979, $5,000,000 for fiscal year 1980, $8,000,000 for fiscal year 1981.".

HEADSTART AND FOLLOW THROUGH

SEC. 10. (a) Section 512 of the Act (42 U.S.C. 2928a) is amended by striking out "1975 through 1977" and inserting in lieu thereof "1979 through 1981".

(b) (1) Section 513(a) of the Act (42 U.S.C. 2928b(a)) is amended to read as follows:

"(a) (1) Of the sums appropriated pursuant to section 512 for any fiscal year beginning after September 30, 1978, the Secretary shall allot such sums in accordance with paragraphs (2) through (4).

"(2) The Secretary shall allot at least 78 percent among the States, in accordance with the latest satisfactory data available, so that equal proportions are distributed on the basis of—

"(A) the relative number of recipients receiving payments under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act in each State as compared to all States; and

42 USC 601.

"(B) the relative number of related children from birth through 5 years of age living with families with incomes below the poverty line in each State as compared to all States.

"(3) (A) Subject to the provisions of subsection (b), the Secretary shall reserve 20 percent of the sums so appropriated for each fiscal year for use in accordance with the following order of priorities:

"(i) funding shall be given with equal consideration to Indian and migrant Headstart programs and to services for handicapped children, except that—

"(I) there shall be made available, for use by Indian and migrant Headstart programs, nationally, no less funds for fiscal year 1979 and thereafter than were obligated for use by Indian and migrant Headstart programs in fiscal year 1978, and

"(II) cost-of-living adjustments (which shall, at the minimum reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor) shall be made with respect to such Indian and migrant Headstart programs in fiscal year 1979 and thereafter;

"(ii) payments shall be made available to each State or territory, if necessary, to maintain such State or territory at a level of funding equal to its level of funding for fiscal year 1978;

"(iii) training and technical assistance activities which, at a minimum, are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities; and

"(iv) subject to the provisions of subparagraph (B), the remainder in accordance with such criteria and procedures as the Secretary shall prescribe by regulation.

Additional financial assistance.

"(B) Additional financial assistance for a fiscal year may be provided to a State if funds are available after meeting the requirements of clauses (i) through (iii) of subparagraph (A), for purposes other than assistance to Indian and migrant programs, services for handicapped children, payments under subparagraph (A)(ii), and training and technical assistance activities, only if such State's allotment for such fiscal year under paragraph (2) and subparagraph (A)(ii) is not greater than 175 percent of the amount such State is eligible to receive in such fiscal year under paragraph (2).

"(4)(A) Subject to the provisions of subparagraph (E), the Secretary shall reserve 2 percent of the sums appropriated for—

"(i) allotment among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, according to their respective needs, and

"(ii) the provision of assistance to States in accordance with the provisions of subparagraph (C).

Total amount of assistance.

"(B) A State shall receive the total amount of assistance calculated under subparagraph (C) for any fiscal year if—

"(i) such State receives an allotment under paragraph (2) and paragraph (3)(A)(ii) which is greater than 100 percent and less than 140 percent of the amount such State is eligible to receive under paragraph (2); or

"(ii) such State receives an allotment under paragraph (2) only and such allotment, as compared to the total amount of assistance received by such State in the previous fiscal year, represents an increase which is less than 50 percent of the percentage increase in the appropriation for such fiscal year for which the determination is made as compared to the appropriation for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Except as provided in subparagraph (D), each State specified in subparagraph (B) shall receive a total amount of assistance for any fiscal year which is equal to the sum of—

"(i) the amount of the allotment received by such State under paragraph (2);

"(ii) the amount of any payments received by such State under paragraph (3)(A)(ii); and

"(iii) an amount equal to the difference between—

"(I) an amount equal to the sum of the total amount of assistance received by such State for the fiscal year preceding the fiscal year for which the determination is made; and the amount derived by multiplying the total amount of assistance received by such State for the most recent fiscal year by a percentage equal to one-half of the percentage increase in the appropriation for that fiscal year for which the determination is made as compared to the appropriation for the fiscal year preceding the fiscal year for which the determination is made; and

"(II) the total of the payments received by such State under paragraph (2) and paragraph (3)(A)(ii) for the fiscal year for which the determination is made.

In the case of any fiscal year for which there is no increase in the appropriation as compared to the appropriation for the preceding fiscal year, each State specified in subparagraph (B) shall receive a total amount of assistance for such fiscal year which is equal to the total amount of assistance such State received for such preceding fiscal year. In the case of any fiscal year for which there is a reduction in the appropriation as compared to the appropriation for the preceding fiscal year, the Secretary shall make such adjustments in the total amount of assistance which each State otherwise would receive under this subparagraph as may be necessary to assure an equitable distribution of such assistance under this subparagraph.

"(D) For fiscal year 1979, each State described in subparagraph (B) shall receive payments in an amount equal to 69 percent of the percentage increase, up to 9 percent, in the appropriation for fiscal year 1979 over the appropriation for fiscal year 1978, or 50 percent of the percentage increase in the appropriation for fiscal year 1979 over the appropriation for fiscal year 1978, whichever is greater.

"(E)(i) Any funds not allotted according to the provisions of this paragraph for any fiscal year shall be allotted according to the provisions of paragraph (2) to those States which, for such fiscal year, receive an allotment under paragraph (2) only.

"(ii) If sums reserved under subparagraph (A) of this paragraph are insufficient in any fiscal year to carry out the provisions of subparagraphs (A), (B), (C), and (D) of this paragraph, the Secretary shall transfer from sums reserved under paragraph (3) an amount necessary to carry out such provisions.".

42 USC 2928b. (2) Section 513 of the Act is amended by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively and by inserting the following new subsection after subsection (a):

42 USC 2928a. "(b) Whenever funds appropriated pursuant to section 512 for any fiscal year beginning after September 30, 1978, are equivalent to, or exceed $800,000,000, the Secretary, pursuant to the provision of subsection (a)(3), shall reserve not more than 20 percent of $800,000,000 or 15 percent of the funds so appropriated, whichever is greater.".

(c) Section 514 of the Act (42 U.S.C. 2928c) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall require that the practice of significantly involving parents and area residents affected by the program in selection of Headstart agencies be continued.".

(d) Section 515(b)(1) of the Act (42 U.S.C. 2928d(b)(1)) is amended by inserting "directly participate in decisions that" before "influence".

(e) Section 517(b) of the Act (42 U.S.C. 2928f(b)) is amended by striking out "six" and inserting in lieu thereof "twelve".

(f) Section 518(a) of the Act (42 U.S.C. 2928g(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "Such" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, such";

(3) by redesignating clause (1) and clause (2) as clause (A) and clause (B), respectively;

(4) by striking out "(1)" after "clause" and inserting in lieu thereof "(A)"; and

(5) by adding at the end thereof the following new paragraph:

"(2) Whenever a Headstart program is operated in a community with a population of 1,000 or less individuals and (A) there is no other preschool program in the community, (B) the community is located in a medically underserved area as designated by the Secretary pursuant to section 330(b)(3) of the Public Health Service Act and is located in a health manpower shortage area as designated by the Secretary pursuant to sections 332(a)(1) of such Act, (C) the community is in a location which, by reason of remoteness, does not permit reasonable access to the types of services described in clauses (A) and (B), and (D) not less than 50 per centum of the families to be served in the community are eligible under the eligibility criteria established by the Secretary under paragraph (1) of this subsection, the Headstart program in each such locality shall establish the criteria for eligibility, except that no child residing in such community whose family is eligible under such eligibility criteria shall, by virtue of such project's eligibility criteria, be denied an opportunity to participate in such program.". Criteria for eligibility. 42 USC 254c. 42 USC 254e.

(g) Section 523(b) of the Act (42 U.S.C. 2928(b)) is amended— 42 USC 2928*l*.

(1) by inserting "(1)" after "subsection (a)";

(2) by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)(2)"; and

(3) by striking out "thirty" the second place it appears therein and inserting in lieu thereof "ninety".

(h) Subsections (c) and (d) of section 523 of the Act (42 U.S.C. 2928(c), (d)) are amended by striking out "Director" each place it appears therein and inserting in lieu thereof "Secretary". 42 USC 2928*l*.

(i) Section 524(b) of the Act (42 U.S.C. 2928m(b)) is amended to read as follows:

"(b) The Secretary shall operate the programs and projects covered by this part in accordance with Headstart performance standards. Any revisions in such standards shall result in standards which are no less comprehensive than those in effect on the date of the enactment of the Economic Opportunity Amendments of 1978. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this part.". Administration. *Ante*, p. 2425.

FOLLOW THROUGH PROGRAM

SEC. 11. (a) Section 551(a)(1) of the Act (42 U.S.C. 2929(a)(1)) is amended by adding at the end thereof the following new sentence: "Other children in kindergarten and primary grades, including such other children enrolled in private nonprofit elementary schools, who were previously enrolled in preschool programs of a compensatory nature which received Federal financial assistance may participate in such Follow Through programs.".

(b) Section 551(a)(3) of the Act is amended by striking out "the Secretary determines", and by inserting "educational, health, nutritional, social, and other" after "comprehensive".

(c) The first sentence of section 552(a) of the Act (42 U.S.C. 2929a(a)) is amended to read as follows:

"(a) There is authorized to be appropriated for carrying out the purposes of this part $70,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981.".

(d) Part B of title V of the Act (42 U.S.C. 2929 et seq.) is amended—

(1) by striking out section 553; 42 USC 2929b.

(2) by redesignating section 554 as section 557; and 42 USC 2929c.

(3) by inserting after section 552 the following new sections:

"RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

Grants or contracts. 42 USC 2929b.

"SEC. 553. (a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public and private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or in otherwise furthering the purposes of this part.

Overall plan, establishment.

"(b) The Secretary shall establish an overall plan to govern the approval of research, demonstration, or pilot projects and the use of all research authority under this part. Such plan shall set forth specific objectives to be achieved and priorities among such objectives.

"ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, AND PILOT PROJECT CONTRACTS

42 USC 2929b-1.

"SEC. 554. (a) The Secretary shall make a public announcement concerning—

"(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency or organization for any research, demonstration, or pilot project under this part; and

"(2) the results, findings, data, or recommendations made or reported as a result of such activities.

"(b) The public announcements required by subsection (a)(1) shall be made not later than 30 days of making such grants or contracts, and the public announcements required by subsection (a)(2) shall be made not later than 90 days of the receipt of such results.

"(c) The Secretary shall take necessary action to assure that all studies, proposals, and data produced or developed with Federal funds employed under this part shall become the property of the United States.

Summaries, submission to Congress.

"(d) The Secretary shall publish summaries of the results of activities carried out pursuant to this part not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such summaries.

"EVALUATION

42 USC 2929b-2.

"SEC. 555. (a) The Secretary shall provide, directly or through grants or contracts, for the continuing evaluation of programs under this part, including evaluations that measure and evaluate the impact of programs authorized by this part, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanism for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluation.

General standards, publication.

"(b) The Secretary shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this part. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this part.

"(c) In carrying out evaluations under this part, the Secretary shall, whenever feasible, arrange to obtain the specific views of persons parti-

cipating in and served by programs and projects assisted under this part about such programs and projects.

"(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries. Research studies and evaluation summaries, submission to congressional committees.

"(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this section become the property of the United States.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 556. The Secretary may provide, directly or through grants or other appropriate arrangements (1) technical assistance to Follow Through programs in developing, conducting, and administering programs under this part, and (2) training for specialized or other personnel which is needed in connection with Follow Through programs.". Grants. 42 USC 2929b-3.

DAY CARE PROJECTS

SEC. 12. Section 583 of the Act (42 U.S.C. 2933) is amended by striking out "ten" and inserting in lieu thereof "thirteen".

ADMINISTRATION AND COORDINATION

SEC. 13. (a)(1) The first sentence of section 601(c) of the Act (42 U.S.C. 2941(c)) is amended by striking out "Subject to the provisions of subsection (e) of this section, the" and inserting in lieu thereof "The".

(2) The last sentence of section 601(c) of the Act (42 U.S.C. 2941(c)) is amended to read as follows: "The Director shall promulgate rules and regulations regarding the final approval of grants and contracts.".

(3) Section 601 of the Act (42 U.S.C. 2941) is amended by striking out subsections (e), (f), (g), and (h).

(b) Section 602(d) of the Act (42 U.S.C. 2942(d)) is amended by striking out "with the approval of the President,".

(c)(1) The first sentence of section 605(a) of the Act (42 U.S.C. 2945(a)) is amended by striking out "twenty-one" and inserting in lieu thereof "fifteen".

(2) The second sentence of section 605(a) of the Act (42 U.S.C. 2945(a)) is amended to read as follows: "Of such members, five shall be appointed from among poor persons, five shall be appointed from among individuals who represent poor persons, and five shall be appointed from among members of the general public.".

(3) Section 605 of the Act (42 U.S.C. 2965) is amended by adding at the end thereof the following new subsection: 42 USC 2945.

"(d) The Advisory Council may not make expenditures or incur obligations, from sums available to carry out this section, which exceed $225,000 for fiscal year 1979, $250,000 for fiscal year 1980, and $275,000 for fiscal year 1981.".

(d) Section 608 of the Act (42 U.S.C. 2948) is amended by inserting before the period at the end thereof a comma and the following: "and shall include the types of services delivered by community action agencies and other programs funded under this Act".

42 USC 2950, 2951.

(e) Part A of title VI of the Act (42 U.S.C. 2941 et seq.) is amended by redesignating section 610 as section 609 and section 610–1 as section 610.

42 USC 2951.

(f) Section 610(b) of the Act, as so redesignated by subsection (e), is amended by striking out "$6,000" and inserting in lieu thereof "$8,000".

(g) Section 615 of the Act (42 U.S.C. 2965) is amended by striking out "eleven" and inserting in lieu thereof "fourteen".

(h) Section 620 of the Act (42 U.S.C. 2970) is amended by striking out the last sentence thereof.

42 USC 2971, 2971a–2971g.

(i) Part A of title VI of the Act (42 U.S.C. 2940 et seq.) is amended by striking out section 621, and by redesignating section 622 through section 628 as section 621 through section 627, respectively.

(j) Section 632(3) of the Act (42 U.S.C. 2974(3)) is amended by inserting after "time." the following new sentence: "The Director shall consult with community action agencies and State offices of economic opportunity in the development of such plan.".

42 USC 2980.

(k) Part B of title VI of the Act (42 U.S.C. 2972 et seq.) is amended by redesignating section 638 as section 639 and by inserting after section 637 the following new section:

"REGIONAL OFFICES

42 USC 2979a.

"SEC. 638. (a) The Director may utilize regional Community Services Administration offices for the purpose of—

"(1) carrying out the national responsibilities and directives delegated to them;

"(2) processing and finalizing grants and contracts authorized under this Act;

"(3) monitoring and evaluating programs funded under this Act within that designated region;

"(4) monitoring and evaluating on an annual basis all relevant regulations and guidelines applicable to programs funded under this Act within that designated region; and

"(5) providing technical assistance to local community action agencies and other programs funded under this Act.

"(b) The Director shall monitor and evaluate at least annually the activities of regional offices as described in subsection (a).".

COMMUNITY ECONOMIC DEVELOPMENT

42 USC 2981b.

SEC. 14. (a) Section 703 of the Act (42 U.S.C. 2981(b)) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 703. For the purpose of carrying out this title, there is authorized to be appropriated $70,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, and $105,000,000 for fiscal year 1981. Any sums appropriated under this section shall remain available until expended.".

(b) Title VII of the Act (42 U.S.C. 2981 et seq.) is amended by inserting after section 703 the following new section:

"ADVISORY COMMUNITY INVESTMENT BOARDS

Establishment. 42 USC 2981c.

"SEC. 704. (a) The President is authorized to establish a National Advisory Community Investment Board (hereinafter in this section referred to as the 'Investment Board'). Such Investment Board shall

be composed of fifteen members appointed, for staggered terms and without regard to the civil service laws, by the President, in consultation with the Director. Such members shall be representative of the investment and business communities and appropriate fields of endeavor related to this title. The Investment Board shall meet at the call of the chairperson, but not less often than three times each year. The Director and the administrator of community economic development programs shall be ex officio members of the Investment Board.

Membership.

Meetings.

Ex officio members.

"(b) The Investment Board shall promote cooperation between private investors and businesses and community development corporation projects through—

Cooperation between private investors and others.

"(1) advising the Director and the community development corporations on ways to facilitate private investment;

"(2) advising businesses and other investors of opportunities in community development corporation projects; and

"(3) advising the Director, Community development corporations, and private investors and businesses of ways in which they might engage in mutually beneficial efforts.

"(c) The governing body of each Community Development Corporation may establish an advisory community investment board composed of not to exceed 15 members who shall be appointed by the governing body after consultation with appropriate local officials. Each such board shall promote cooperation between private investors and businesses and the governing body of the Community Development Corporation through—

Advisory community investment board; establishment, membership.

"(1) advising the governing body on ways to facilitate private investors;

"(2) advising businesses and other investors of opportunities in Community Development Corporation projects; and

"(3) advising the governing body, private investors, and businesses of ways in which they might engage in mutually beneficial efforts.".

(c) Section 712(a) of the Act (42 U.S.C. 2982a(a)) is amended—

(1) by striking out "economic and" in paragraph (1), and by inserting "and commercial" after "business";

(2) by inserting "physical" after "community" in paragraph (2);

(3) by inserting before the semicolon in paragraph (3) a comma and the following: "and in section 222(a)(7) of this Act"; 42 USC 2809.

(4) by striking out "economic" in paragraph (4) and inserting in lieu thereof "business and commercial"; and

(5) by inserting "recreation services," after "energy conservation," in paragraph (4).

(d) Section 713(b) of the Act (42 U.S.C. 2982b(b)) is amended by striking out "an" and inserting in lieu thereof "a substantial".

(e) Section 713 of the Act (42 U.S.C. 2982b) is amended by adding at the end thereof the following new subsection:

"(d) Financial assistance for commercial development under this part shall not be extended until the community economic development program that has applied for assistance under this title has specified in some detail its development goals and its development timetable. The Director, in providing continued financial assistance to a community economic development program, shall give serious consideration to the experience that program has had in meeting development goals or in adhering to development timetables.".

(f) Section 714 of the Act (42 U.S.C. 2982c) is amended to read as follows:

"FEDERAL SHARE

42 USC 2982c.
Ante, p. 2437.

"SEC. 714. (a)(1) Assistance provided under this title to any program described in section 712(a) shall not exceed 90 per centum of the cost of such program including costs of administration unless the Director determines that the assistance in excess of such percentage is required in furtherance of the purposes of this title. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

Non-Federal contributions.

Grantees.

"(2) The assistance referred to in paragraph (1) shall be made available (A) for deposit to the order of grantees which have demonstrated successful program performance, under conditions which the Director deems appropriate, within thirty days following approval of the grant agreement by the Director and such grantee, or (B) whenever the Director deems appropriate, in accordance with applicable rules and regulations prescribed by the Secretary of the Treasury, and including any other conditions which the Director deems appropriate, within 30 days following approval of the grant agreement by the Director and such grantee.

Proceeds from Federal property.

"(b) Property acquired as a result of capital investments made by any community development corporation with funds granted as its Federal share of the cost of programs carried out under this title, and the proceeds from such property, shall become the property of the community development corporation and shall not be considered to be Federal property. The Federal Government retains the right to direct that on severance of the grant relationship the assets purchased with grant funds shall continue to be used for the original purpose for which they were granted.".

Assets purchased with grant funds.

42 USC 2983a.

(g) Section 722(b) of the Act (42 U.S.C. 2983) is amended by inserting "or local public and private nonprofit organizations or agencies" after "local cooperative associations".

(h) The first sentence of section 731(a) of the Act (42 U.S.C. 2984 (a)) is amended to read as follows: "The Director is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations, to families and local cooperatives and the designated supportive organizations of cooperatives eligible for financial assistance under this title, to community action agencies and other community-based organizations eligible for financial assistance under title II of this Act, or to public and private nonprofit organizations or agencies, for business facilities and community development projects, including community development credit unions, which the Director determines will carry out the purposes of this part.".

42 USC 2781.

(i) Section 732(b) of the Act (42 U.S.C. 2984a(b)) is amended by striking out "1975" and inserting in lieu thereof "1979".

(j) Section 742(a)(2) of the Act (42 U.S.C. 2985a(a)(2)) is amended—

(1) by striking out "prescribe such" and inserting in lieu thereof "promulgate";

(2) by striking out "as may be necessary and appropriate"; and

(3) by inserting ", including, but not limited to, programs under section 8(a) of the Small Business Act" before the period.

15 USC 637.

(k) Title VII of the Act (42 U.S.C. 2981 et seq.) is amended by striking out section 745 and by redesignating sections 746, 747, 748, and 749 as sections 745, 746, 747, and 748, respectively.

42 USC 2985c-1, 2985d-2985g.

(l) Section 746(b) of the Act, as so redesignated by subsection (k), is amended by inserting "and demonstration projects" after "research". 42 USC 2985e.

NATIVE AMERICAN PROGRAMS

SEC. 15. Section 814 of the Act (42 U.S.C. 2992d) is amended by striking out "1975 through 1977" and inserting in lieu thereof "1979 through 1981".

EVALUATION

SEC. 16. Title IX of the Act (42 U.S.C. 2995 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 904. There is authorized to be appropriated for the purpose of carrying out the provisions of this title $4,000,000 for fiscal year 1979, $7,000,000 for fiscal year 1980, and $10,000,000 for fiscal year 1981.". 42 USC 2995c.

TECHNICAL AMENDMENTS

SEC. 17. (a)(1) Section 2 of the Act (42 U.S.C. 2701) is amended by striking out "his capabilities" and inserting in lieu thereof "the capabilities of such individual".

(2) Section 102(c) of the Act is amended by striking out "him" the first place it appears therein and inserting in lieu thereof "such chief executive officer", and by striking out "him" the last place it appears therein and inserting in lieu thereof "the Director". 42 USC 2712.

(3)(A) Section 210(d) of the Act (42 U.S.C. 2790(d)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(B) Section 210(f) of the Act is amended—

(i) by striking out "In carrying out his responsibilities under this part the Director" and inserting in lieu thereof "The Director, in carrying out the responsibilities of the Director under this part,"; and

(ii) by striking out "him, as he" and inserting in lieu thereof "the Director, as the Director".

(4) Section 211(d)(1) of the Act (42 U.S.C. 2791(d)(1)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(5) Section 213(b) of the Act (42 U.S.C. 2796(b)) is amended by striking out "He" and inserting in lieu thereof "The Director".

(6)(A) Section 221(a) of the Act (42 U.S.C. 2808(a)) is amended by striking out "He" and inserting in lieu thereof "The Director".

(B) Section 221(b) of the Act (42 U.S.C. 2808(b)) is amended by striking out "he" each place it appears therein and inserting in lieu thereof "the Director".

(C) Section 221(d) of the Act (42 U.S.C. 2808(d)) is amended by striking out "He" and inserting in lieu thereof "The Director".

(D) Section 221(e) of the Act (42 U.S.C. 2808(e)) is amended by striking out "he" each place it appears therein and inserting in lieu thereof "the Director".

(7)(A) The second sentence of section 222(a) of the Act (42 U.S.C. 2809(a)) is amended by striking out "him" and inserting in lieu thereof "the Director".

(B) The fourth sentence of section 222(a) of the Act (42 U.S.C. 2809(a)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(C) Section 222(a)(4) of the Act, as so redesignated by section 6(a)(2), is amended— *Ante*, p. 2426.

(i) by striking out "he" each place it appears therein and inserting in lieu thereof "the Director"; and

(ii) by striking out "his adjusted family income" and inserting in lieu thereof "the adjusted family income of such applicant".

(8)(A) Section 225(a) of the Act (42 U.S.C. 2812(a)) is amended by striking out "He" and inserting in lieu thereof "The Director", and by striking out "he" and inserting in lieu thereof "the Director".

(B) Section 225(b) of the Act (42 U.S.C. 2812(b)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(C) Section 225(c) of the Act (42 U.S.C. 2812(c)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(D) Section 225(d) of the Act (42 U.S.C. 2812(d)) is amended by striking out "satisfies himself" and inserting in lieu thereof "is satisfied".

(9) Section 227(c) of the Act (42 U.S.C. 2814(c)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(10) Section 231(d) of the Act (42 U.S.C. 2824(d)) is amended—

(A) by striking out "he" each place it appears therein and inserting in lieu thereof "the Director";

(B) by striking out "his findings" and inserting in lieu thereof "the findings of the Director"; and

(C) by striking out "him" and inserting in lieu thereof "the Director".

(11)(A) Section 232(a) of the Act (42 U.S.C. 2825(a)) is amended by striking out "He" and inserting in lieu thereof "The Director".

(B) Section 232(d) of the Act (42 U.S.C. 2825(d)) is amended by striking out "him" and inserting in lieu thereof "the Director".

(12) Section 235(b) of the Act (42 U.S.C. 2828(b)) is amended by striking out "satisfies himself" and inserting in lieu thereof "is satisfied".

(13)(A) Section 241(b) of the Act (42 U.S.C. 2833(b)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(B) Section 241(c) of the Act (42 U.S.C. 2833(c)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(14) Section 242 of the Act (42 U.S.C. 2834) is amended by striking out "him" and inserting in lieu thereof "the Director".

(15)(A) Section 243(c) of the Act (42 U.S.C. 2835(c)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(B) Section 243(d) of the Act (42 U.S.C. 2835(d)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(16)(A) Section 244(4) of the Act (42 U.S.C. 2836(4)) is amended—

(i) in subparagraph (A) thereof, by striking out "his or her" and inserting in lieu thereof "the";

(ii) in subparagraph (A) thereof, by inserting "of such individual" after "religious beliefs"; and

(iii) in subparagraph (B) thereof, by striking out "he or she" and inserting in lieu thereof "such individual".

(B) Section 244(7) of the Act (42 U.S.C. 2836(7)) is amended—

(i) by striking out "he" each place it appears therein and inserting in lieu thereof "the Director";

(ii) by striking out "him" and inserting in lieu thereof "the Director"; and

(iii) by striking out "his judgment" and inserting in lieu thereof "the judgment of the Director".

(17) Section 513(b) of the Act (42 U.S.C. 2928b(b)) is amended by striking out "he" and inserting in lieu thereof "the Secretary". *Ante*, p. 2432.

(18) Section 516 of the Act (42 U.S.C. 2928e) is amended by striking out "him" and inserting in lieu thereof "the Secretary".

(19)(A) Section 517(b) of the Act (42 U.S.C. 2928f(b)) is amended—

(i) by striking out "he" each place it appears therein and inserting in lieu thereof "the Secretary";

(ii) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(iii) by striking out "his judgment" and inserting in lieu thereof "the judgment of the Secretary".

(B) Section 517(c) of the Act (42 U.S.C. 2928f(c)) is amended by striking out "He" and inserting in lieu thereof "The Secretary".

(20) Section 519(1) of the Act (42 U.S.C. 2928h(1)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(21) Section 525(a) of the Act (42 U.S.C. 2928n(a)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(22) Section 551(a) of the Act (42 U.S.C. 2929(a)(2)) is amended by striking out "he" each place it appears therein and inserting in lieu thereof "the Secretary".

(23) Section 552(b) of the Act (42 U.S.C. 2929a(b)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(24) Section 582(e) of the Act (42 U.S.C. 2932(e)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(25)(A) Section 601(d)(1) of the Act (42 U.S.C. 2941(d)(1)) is amended by striking out "his designee" and inserting in lieu thereof "the designee of the Director".

(B) Section 601(d)(3) of the Act (42 U.S.C. 2941(d)(3)) is amended by striking out "his official capacity" and inserting in lieu thereof "the official capacity of such officer".

(26)(A) That portion of section 602 of the Act (42 U.S.C. 2942) which precedes paragraph (a) of such section is amended—

(i) by striking out "him" and inserting in lieu thereof "the Director"; and

(ii) by striking out "his functions" and inserting in lieu thereof "the functions of the Director".

(B) Section 602(c) of the Act (42 U.S.C. 2942(c)) is amended—

(i) by striking out "he" and inserting in lieu thereof "the Director";

(ii) by striking out "him" and inserting in lieu thereof "the Director"; and

(iii) by striking out "his functions" and inserting in lieu thereof "the functions of the Director".

(C) Section 602(d) of the Act (42 U.S.C. 2942(d)) is amended—

(i) by striking out "his functions" and inserting in lieu thereof "the functions of the Director"; and

(ii) by striking out "his powers" and inserting in lieu thereof "the powers of the Director".

(D) Section 602(h) of the Act (42 U.S.C. 2942(h)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(E) Section 602(i) of the Act (42 U.S.C. 2942(i)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(F) Section 602(k) of the Act (42 U.S.C. 2942(k)) is amended by striking out "him" each place it appears therein and inserting in lieu thereof "the Director".

(G) Section 602(l) of the Act (42 U.S.C. 2942(l)) is amended by striking out "him" each place it appears therein and inserting in lieu thereof "the Director".

(H)(i) Section 602(m)(2) of the Act (42 U.S.C. 2942(m)(2)) is amended by striking out "him" and inserting in lieu thereof "the Director".

(ii) Section 602(m)(2)(B) of the Act (42 U.S.C. 2942(m)(2)(B)) is amended by striking out "his intention" and inserting in lieu thereof "the intention of the Director".

(I) Section 602(n) of the Act (42 U.S.C. 2942(n)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(27) Section 603(c) of the Act (42 U.S.C. 2943(c)) is amended by striking out "in his" and inserting in lieu thereof "while acting in an".

(28) Section 606(c) of the Act (42 U.S.C. 2946(c)) is amended by striking out "he" and inserting in lieu thereof "the Comptroller General".

42 USC 2950. (29) Section 609 of the Act, as so redesignated in section 13(e), is amended by striking out "his responsibilities" and inserting in lieu thereof "the responsibilities of the Director".

42 USC 2951. (30) Section 610(b) of the Act, as so redesignated in section 13(e), is amended—

(A) by striking out "he" and inserting in lieu thereof "such person"; and

(B) by striking out "his immediately preceding employment" and inserting in lieu thereof "the immediately preceding employment of such person".

(31) Section 611 of the Act (42 U.S.C. 2961) is amended—

(A) by striking out "his poverty" and inserting in lieu thereof "the poverty of such person";

(B) by striking out "his lack of income" and inserting in lieu thereof "the lack of income of such person";

(C) by striking out "his refusal" and inserting in lieu thereof "the refusal of such person"; and

(D) by striking out "his health, age, education, and ability" and inserting in lieu thereof "the health, age, education, and ability of such person".

42 USC 2971g. (32) Section 627 of the Act, as so redesignated in section 13(i), is amended—

(A) by striking out "or his delegate" each place it appears therein; and

(B) by striking out "him" and inserting in lieu thereof "the Director".

(33)(A) Section 631(a) of the Act (42 U.S.C. 2973(a)) is amended by striking out "his stead in the event of his unavoidable absence" and inserting in lieu thereof "place of such member in the event of the unavoidable absence of such member".

(B) Section 631(c) of the Act (42 U.S.C. 2973(c)) is amended—

(i) by striking out "him" and inserting in lieu thereof "the Executive Secretary"; and

(ii) by striking out "his duties" and inserting in lieu thereof "the duties of the Executive Secretary".

(34)(A) That portion of section 632 of the Act (42 U.S.C. 2974) which precedes paragraph (1) is amended by striking out "his other powers" and inserting in lieu thereof "the other powers of the Director".

(B) Section 632(1) of the Act (42 U.S.C. 2974(1)) is amended by striking out "his own initiative" and inserting in lieu thereof "the initiative of the Director".

(35) Section 635(b) of the Act (42 U.S.C. 2977(b)) is amended by striking out "He" and inserting in lieu thereof "The Director".

(36) That portion of section 713(a) of the Act (42 U.S.C. 2982b(a)) which precedes paragraph (1) is amended by striking out "he" each place it appears therein and inserting in lieu thereof "the Director".

(37)(A) Section 731(b) of the Act (42 U.S.C. 2984(b)) is amended by striking out "him" and inserting in lieu thereof "the Director", and by striking out "he" and inserting in lieu thereof "the Director".

(B) Section 731(c)(3) of the Act (42 U.S.C. 2984(c)(3)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(39)(A) Section 803(b) of the Act (42 U.S.C. 2991b(b)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(B) Section 803(c) of the Act (42 U.S.C. 2991b(c)) is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(40)(A) Section 807(b) of the Act (42 U.S.C. 2991f(b)) is amended by striking out "his decision" and inserting in lieu thereof "the decision of the Secretary".

(B) Section 807(c) of the Act (42 U.S.C. 2991f(c)) is amended by striking out "his decision" and inserting in lieu thereof "the decision of the Secretary".

(41) Section 812(a) of the Act (42 U.S.C. 2992b(a)) is amended—

(A) by striking out "his functions, powers, and duties" and inserting in lieu thereof "the functions, powers, and duties of the Secretary"; and

(B) by striking out "he" and inserting in lieu thereof "the Secretary".

(42)(A) Section 901(a)(2) of the Act (42 U.S.C. 2995(a)(2)) is amended by striking out "his responsibilities" and inserting in lieu thereof "the responsibilities of the Director".

(B) Section 901(a)(3) of the Act (42 U.S.C. 2995(a)(3)) is amended by striking out "he" and inserting in lieu thereof "the Director".

(43) Section 902(a) of the Act (42 U.S.C. 2995a(a)) is amended by striking out "him" and inserting in lieu thereof "the Director".

(b) The second sentence of section 225(c) of the Act (42 U.S.C. 2812(c)) is amended by striking out "title, non-Federal" and inserting in lieu thereof "title. Non-Federal".

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1151 (Comm. on Education and Labor) and No. 95-1766 (Comm. of Conference).

SENATE REPORT No. 95-892 accompanying S. 2090 (Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 24, 26, considered and passed House.

Aug. 1, 2, S. 2090 considered and passed Senate; proceedings vacated, and H.R. 7577, amended, passed in lieu.

Oct. 15, House and Senate agreed to conference report.

Public Law 95-569
95th Congress

An Act

Nov. 2, 1978
[S. 1029]

To authorize the Smithsonian Institution to construct support museum facilities.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That (a) the first section of the Act entitled "An Act to authorize the Smithsonian Institution to plan museum support facilities", approved September 19, 1975 (Public Law 94-98), is amended by inserting ", and to construct," after "to prepare plans for".

Smithsonian Institution. Construction of support museum facilities. 20 USC 50 *note*.

(b) The first section of such Act is further amended by adding at the end thereof the following new sentence: "No appropriation shall be made to construct the facilities authorized by this Act until the Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate, by resolution approve the final plans and specifications of such facilities.".

(c) Effective October 1, 1979, section 3 of such Act is amended to read as follows:

Appropriation authorization. Transfers to GSA.

"SEC. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out the purposes of this Act. Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.".

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1559 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-783 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 9, considered and passed Senate.
Sept. 25, considered and passed House, amended.
Oct. 2, Senate concurred in House amendments with an amendment.
Oct. 14, House concurred in Senate amendment.

Public Law 95-570
95th Congress

An Act

To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

Nov. 2, 1978
[H.R. 11003]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 105 and 106 of title 3, United States Code, are amended to read as follows:

White House Office and Executive Residence. Personnel employment, authority clarification.

"ASSISTANCE AND SERVICES FOR THE PRESIDENT

Appointment.

"SEC. 105. (a)(1) Subject to the provisons of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

"(B) 25 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 50 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

5 USC 5332 note.

"(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

Appointment.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the Executive Residence at the White House without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(B) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

Experts and consultants, temporary or intermittent services.

"(c) The President is authorized to procure for the White House Office and the Executive Residence at the White House, as provided in appropriation Acts, temporary or intermittent services of experts

and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5—

"(1) in the case of the White House Office, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and

"(2) in the case of the Executive Residence, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for GS-18 of the General Schedule of section 5332 of title 5.

5 USC 5332 note.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured for a period in excess of one year if the President determines such procurement is necessary.

Appropriation authorization.

"(d) There are authorized to be appropriated each fiscal year to the President such sums as may be necessary for—

"(1) the care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House;

"(2) the official expenses of the White House Office;

"(3) the official entertainment expenses of the President;

"(4) the official entertainment expenses for allocation within the Executive Office of the President; and

"(5) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the President.

Sums appropriated under this subsection for expenses described in paragraphs (1), (3), and (5) may be expended as the President may determine, notwithstanding the provisions of any other law. Such sums shall be accounted for solely on the certificate of the President, except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraph (1), (3), or (5).

Certification and report to Congress.

The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.

"(e) Assistance and services authorized pursuant to this section to the President are authorized to be provided to the spouse of the President in connection with assistance provided by such spouse to the President in the discharge of the President's duties and responsibilities. If the President does not have a spouse, such assistance and services may be provided for such purposes to a member of the President's family whom the President designates.

"ASSISTANCE AND SERVICES FOR THE VICE PRESIDENT

"SEC. 106. (a) In order to enable the Vice President to provide assistance to the President in connection with the performance of functions specially assigned to the Vice President by the President in the discharge of executive duties and responsibilities, the Vice President is authorized—

Appointment.

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 5 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

"(B) 3 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

5 USC 5332 note.

"(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.

Experts and consultants.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured under paragraph (2) of this subsection for a period in excess of one year if the Vice President determines such procurement is necessary.

"(b) In order to carry out the executive duties and responsibilities referred to in subsection (a), there are authorized to be appropriated each fiscal year to the Vice President such sums as may be necessary for—

Appropriation authorization.

"(1) the official expenses of the Office of the Vice President;

"(2) the official entertainment expenses of the Vice President; and

"(3) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the Vice President.

Sums appropriated under this subsection for expenses described in paragraphs (2) and (3) may be expended as the Vice President may determine, notwithstanding the provisions of any other law. Such sums shall be accounted for solely on the certificate of the Vice President, except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraph (2) or (3). The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.

Certification and report to Congress.

"(c) Assistance and services authorized pursuant to this section to the Vice President are authorized to be provided to the spouse of the Vice President in connection with assistance provided by such spouse to the Vice President in the discharge of the Vice President's executive duties and responsibilities. If the Vice President does not have a spouse, such assistance and services may be provided for such purposes to a member of the Vice President's family whom the Vice President designates.".

(b) The items relating to sections 105 and 106 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows:

3 USC 101.

"105. Assistance and services for the President.
"106. Assistance and services for the Vice President.".

3 USC 101.

SEC. 2. (a) Chapter 2 of title 3, United States Code, is amended by striking out section 107 and inserting in lieu thereof the following new sections:

"DOMESTIC POLICY STAFF AND OFFICE OF ADMINISTRATION; PERSONNEL

"SEC. 107. (a) In order to enable the Domestic Policy Staff to perform its functions, the President (or his designee) is authorized—

Appointment.

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 6 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(B) 18 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

5 USC 5332 note.

"(C) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

Experts and consultants, temporary or intermittent services.

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109 (b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5.

"(b) (1) In order to enable the Office of Administration to perform its functions, the President (or his designee) is authorized—

Appointment.

"(A) without regard to such other provisions of law as the President may specify which regulate the employment and compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(i) 5 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(ii) 5 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and

Experts and consultants, temporary or intermittent services.

"(B) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.

"(2) In addition to any authority granted under paragraph (1) of this subsection, the President (or his designee) is authorized to employ individuals in the Office of Administration in accordance with section 3101 of title 5 and provisions relating thereto. Any individual so employed under the authority granted under such section 3101 shall be subject to the limitation specified in section 114 of this title.

"(c) There are authorized to be appropriated each fiscal year such sums as may be necessary for the official expenses of the Domestic Policy Staff and the Office of Administration. Appropriation authorization.

"ASSISTANCE TO THE PRESIDENT FOR UNANTICIPATED NEEDS

"SEC. 108. (a) There is authorized to be appropriated to the President an amount not to exceed $1,000,000 each fiscal year to enable the President, in his discretion, to meet unanticipated needs for the furtherance of the national interest, security, or defense, including personnel needs and needs for services described in section 3109(b) of title 5, and administrative expenses related thereto, without regard to any provision of law regulating the employment or compensation of persons in the Government service or regulating expenditures of Government funds. Appropriation authorization. 3 USC 108.

"(b) The President shall transmit a report to each House of the Congress for each fiscal year beginning on or after the effective date of this subsection which sets forth the purposes for which expenditures were made under this section for such fiscal year and the amount expended for each such purpose. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report. Report, transmittal to Congress.

"(c) An individual may not be paid under the authority of this section at a rate of pay in excess of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.".

(b) The items relating to sections 107 and 108 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows: 3 USC 101.

"107. Domestic Policy Staff and Office of Administration; personnel.
"108. Assistance to the President for unanticipated needs.".

SEC. 3. (a) Chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new sections:

"DETAIL OF EMPLOYEES OF EXECUTIVE DEPARTMENTS

"SEC. 112. The head of any department, agency, or independent establishment of the executive branch of the Government may detail, from time to time, employees of such department, agency, or establishment to the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration. Any such office to which an employee has been detailed for service to such office shall reimburse the detailing department, agency, or establishment for the pay of each employee thereof— 3 USC 112. Reimbursement.

"(1) who is so detailed, and

"(2) who is performing services which have been or would otherwise be performed by an employee of such office,

for any period occurring during any fiscal year after 180 calendar days after the employee is detailed in such year.

"PERSONNEL REPORT

"SEC. 113. (a) The President shall transmit to each House of the Congress, and make available to the public, reports containing information described in subsection (b) for each fiscal year beginning on Report, transmittal to Congress. 3 USC 113.

or after the effective date of this section. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report and shall contain a statement of such information for such year.

Contents.

"(b) Each report required under subsection (a) shall contain—

"(1) the number of employees who are paid at a rate of basic pay equal to or greater than the rate of basic pay then currently paid for level V of the Executive Schedule of section 5316 of title 5 and who are employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration, and the aggregate amount paid to such employees;

"(2) the number of employees employed in such offices who are paid at a rate of basic pay which is equal to or greater than the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5 but which is less than the rate then currently paid for level V of the Executive Schedule of section 5316 of title V and the aggregate amount paid to such employees;

5 USC 5332 note.

"(3) the number of employees employed in such offices who are paid at a rate of basic pay which is less than the minimum rate then currently paid for GS–16 of the General Schedule of section 5332 of title V, and the aggregate amount paid to such employees;

"(4) the number of individuals detailed under section 112 of this title for more than 30 days to each such office, the number of days in excess of 30 each individual was detailed, and the aggregate amount of reimbursement made as provided by the provisions of section 112 of this title; and

"(5) the number of individuals whose services as experts or consultants are procured under this chapter for service in any such office, the total number of days employed, and the aggregate amount paid to procure such services.

The information required under this subsection to be in any report shall be shown both in the aggregate and by office involved.

"GENERAL PAY LIMITATION

3 USC 114.

"SEC. 114. Notwithstanding any provision of law, other than the provisions of this chapter, no employee of the White House Office, the Executive Residence at the White House, the Domestic Policy Staff, or the Office of Administration, nor any employee under the Vice President appointed under section 106 of this title, may be paid at a rate of basic pay in excess of the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.".

5 USC 5332 note.

3 USC 101.

(b) The table of sections for chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new items:

"112. Detail of employees of executive departments.
"113. Personnel report.
"114. General pay limitation.".

SEC. 4. Section 103 of title 3, United States Code, relating to travel expenses of the President, is amended by striking out "$40,000" and inserting in lieu thereof "$100,000".

SEC. 5. (a) Section 102 of title 3, United States Code, is amended by striking out "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House".

(b) (1) Section 109 of title 3, United States Code, is amended—

(A) by striking out from the section caption "EXECUTIVE MANSION" and inserting in lieu thereof "THE EXECUTIVE RESIDENCE AT THE WHITE HOUSE", and

(B) by striking out from the text "Executive Mansion" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 109 in the table of sections for chapter 2 of such title 3 is amended by striking out "Executive Mansion" and inserting in lieu thereof "the Executive Residence at the White House".

(c) (1) Section 110 of title 3, United States Code, is amended—

(A) by inserting in the section caption, immediately before "WHITE HOUSE" the following: "THE EXECUTIVE RESIDENCE AT THE";

(B) by striking out "President's House" and inserting in lieu thereof the following: "Executive Residence at the White House"; and

(C) by striking out "White House" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 110 in the table of sections for chapter 2 of such title is amended by inserting immediately before "White House" the following: "the Executive Residence at the".

(d) Section 202 of such title is amended by striking out "Executive Mansion and grounds" and inserting in lieu thereof "White House". 3 USC 202.

SEC. 6. (a) The amendments made by this Act shall apply to any fiscal year which begins on or after October 1, 1978. 3 USC 102 note.

(b) In the case of an individual— 3 USC 107 note.

(1) who is an employee of the Office of Administration as of the date of the enactment of this Act, and

(2) whose position would be terminated or whose rate of basic pay would be reduced (but for this subsection) by reason of section 107(b) of title 3, United States Code (as amended by this Act),

such employee may be allowed to continue to hold such position and receive basic pay at the rate in effect on the effective date of this Act during the period which begins on such date and ends 2 years after such date so long as such employee continues as an employee of the Office of Administration.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-979 (Comm. on Post Office and Civil Service) and No. 95-1639 (Comm. of Conference).

SENATE REPORTS: No. 95-868 (Comm. on Governmental Affairs) and No. 95-1258 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Apr. 4, considered in House and failed of passage.

Apr. 13, considered and passed House.

July 13, 14, considered and passed Senate, amended.

Oct. 7, Senate agreed to conference report.

Oct. 15, House agreed to conference report.

Public Law 95-571
95th Congress

An Act

Nov. 2, 1978
[H.R. 14224]

To authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Minnesota Chippewa Indians, Mille Lacs Band. Land acquisition.

SECTION 1. (a) The Secretary of the Interior is authorized, if he finds legal title to such lands to be in private ownership, to acquire by purchase the following described lands: Government lot 4, section 28, township 43 north, range 27 west, fourth principal meridian, Mille Lacs County, Minnesota.

(b) Lands acquired by the Secretary pursuant to subsection (a) shall be held by the United States in trust for, and for the benefit and use of, the Mille Lacs Band of the Minnesota Chippewa Indians.

Appropriation authorization.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the purposes of this Act. The purchase price of said lands shall be an amount equal to their fair market value.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 14, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-572
95th Congress

An Act

To amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service.

Nov. 2, 1978
[S. 2075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jury System Improvements Act of 1978.

SHORT TITLE

SECTION 1. This Act may be cited as the "Jury System Improvements Act of 1978".

28 USC 1861 note.

EXCUSE FROM JURY SERVICE

SEC. 2. (a) Section 1863(b) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) and (9), and all references thereto, as paragraphs (7) and (8), respectively.

(b) Section 1866(c) of title 28, United States Code, is amended by striking out "paragraph (5), (6), or (7)" and inserting in lieu thereof "paragraph (5) or (6)".

JURY SERVICE UPON RESTORATION OF CIVIL RIGHTS

SEC. 3. (a) Section 1865(b)(5) of title 28, United States Code, is amended by striking out "by pardon or amnesty".

(b) Section 1869(h) of title 28, United States Code, is amended by striking out "by pardon or amnesty.".

DEFINITIONS

SEC. 4. Section 1869 of title 28, United States Code, is amended—

(1) by striking out the period at the end of subsection (i) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new subsections:

"(j) 'undue hardship or extreme inconvenience', as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or travel-time, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service;

"(k) 'publicly draw', as referred to in sections 1864 and 1866 of this chapter, shall mean a drawing which is conducted within

the district after reasonable public notice and which is open to the public at large under the supervision of the clerk or jury commission, except that when a drawing is made by means of electronic data processing, 'publicly draw' shall mean a drawing which is conducted at a data processing center located in or out of the district, after reasonable public notice given in the district for which juror names are being drawn, and which is open to the public at large under such supervision of the clerk or jury commission as the Judicial Conference of the United States shall by regulation require; and

"(l) 'jury summons' shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons.".

FEES OF JURORS

SEC. 5. Section 1871 of title 28, United States Code, is amended to read as follows:

"§ 1871. Fees

"(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

"(b)(1) A juror shall be paid an attendance fee of $30 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

"(2) A petit juror required to attend more than thirty days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of thirty days on which he is required to hear such case.

"(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding $5 more than the attendance fee, for each day in excess of forty-five days of actual service.

"(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

Certification.

"(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

Travel allowance.

"(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed

rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

"(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route. Rules and regulations.

"(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances. Toll charges.

"(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative modes, and the shortest practical route between residence and court. Travel expenses.

"(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization. Subsistence allowance.

"(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

"(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

"(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

"(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings

where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

Regulations. "(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.".

PROTECTION OF JURORS' EMPLOYMENT

SEC. 6. (a)(1) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1875. **"§ 1875. Protection of jurors' employment**

"(a) No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

"(b) Any employer who violates the provisions of this section—

"(1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;

"(2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and

Penalty. "(3) shall be subject to a civil penalty of not more than $1,000 for each violation as to each employee.

"(c) Any individual who is reinstated to a position of employment in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of jury service, shall be reinstated to his position of employment without loss of seniority, and shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such individual entered upon jury service.

"(d) An individual claiming that his employer has violated the provisions of this section may make application to the district court for the district in which such employer maintains a place of business and the court shall, upon finding probable merit in such claim, appoint counsel to represent such individual in any action in the district court necessary to the resolution of such claim. Such counsel shall be compensated and necessary expenses repaid to the extent provided by section 3006A of title 18, United States Code.

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney's fee as part of the costs. The court may award a prevailing employer a reasonable attorney's fee as part of the costs if the court determines that the action is frivolous, vexatious, or brought in bad faith.".

(2) The chapter analysis of chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1875. Protection of jurors' employment.".

(b)(1) Chapter 85 of title 28, United States Code, is amended by redesignating section 1363, and all references thereto, as section 1364, and by inserting immediately after section 1362 the following new section:

"§ 1363. Jurors' employment rights 28 USC 1363.

"The district courts shall have original jurisdiction of any civil action brought for the protection of jurors' employment under section 1875 of this title.".

(2) The chapter analysis of chapter 85 of title 28, United States Code, is amended by striking out the item relating to section 1363 and inserting in lieu thereof the following:

"1363. Jurors' employment rights.
"1364. Construction of references to laws of the United States or Acts of Congress.".

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b) of this section, the amendments made by this Act shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act. 28 USC 1363 note.

(b) The amendment made by section 5 of this Act shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1652 (Comm. on the Judiciary).
SENATE REPORT No. 95-757 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 27, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 13, Senate concurred in House amendment.

Public Law 95-573
95th Congress

An Act

Nov. 2, 1978
[H.R. 14145]

To amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York.

District courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 93 of title 28, United States Code, is amended—

(1) in paragraph (1) of subsection (a), by striking out "Kankakee,", and

(2) in subsection (b), by inserting "Kankakee," immediately after "Iroquois,".

SEC. 2. Section 99 of title 28 of the United States Code is amended to read as follows:

"§ 99. Maine

"Maine constitutes one judicial district.

"Court shall be held at Bangor and Portland.".

SEC. 3. The last sentence of section 112(b) of title 28, United States Code, is amended to read as follows:

"Court for the Southern District shall be held at New York and White Plains.".

SEC. 4. The last sentence of section 118(c) of title 28, United States Code, is amended to read as follows:

"Court for the Western District shall be held at Erie, Johnstown, and Pittsburgh.".

Comprehensive study, recommendations to Congress.
28 USC 84 note.

SEC. 5. Within one year after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall conduct a comprehensive study of the judicial business of the Central District of California and the Eastern District of New York, and shall make recommendations to the Congress with respect to the need for creation of new judicial districts from portions of the judicial districts referred to in this section or the immediately surrounding judicial districts.

Effective dates.
28 USC 93 note.

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) The provisions of section 5 of this Act shall take effect on the date of enactment of this Act.

(c) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1763 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 12, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-574
95th Congress

An Act

To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

Nov. 2, 1978
[S. 3081]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Railroad Safety Authorization Act of 1978.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1978". 45 USC 421 note.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $37,725,000 for the fiscal year ending September 30, 1979, and not to exceed $37,725,000 for the fiscal year ending September 30, 1980.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 600 safety inspectors, (B) 45 signal and train control inspectors, and (C) 125 clerical personnel, not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $3,500,000. 45 USC 435.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

"(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000. Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

LIMITATIONS ON FUNDING

SEC. 3. Not less than 50 percent of the funds appropriated to the Secretary of Transportation for any fiscal year to conduct railroad research and development programs under the Federal Railroad Safety Act of 1970 or any other Act shall be available for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved rail passenger systems. 45 USC 442. 45 USC 421 note.

HOURS OF SERVICE OF SIGNAL SYSTEM EMPLOYEES

SEC. 4. (a) Section 3A(a) of the Hours of Service Act (45 U.S.C. 63a(a)) is amended by adding at the end thereof, without paragraph indention, the following:

"Whenever the time on duty of an individual is broken or interrupted by any period of time off duty of less than eight consecutive hours, such individual may be on duty for not more than twelve hours during a twenty-four-hour period, if such individual has had at least eight consecutive hours off duty immediately before reporting for duty, or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty immediately before so reporting. After an individual has been on duty for a total of twelve hours during a period of twenty-four hours as permitted by the foregoing sentence, or at the end of such twenty-four-hour period, whichever occurs first, such individual shall not be required or permitted to continue on duty or to go on duty until he has had at least eight consecutive hours off duty. For purposes of this subsection, a twenty-four-hour period shall begin when an individual reports for duty immediately after he has had at least eight consecutive hours off duty or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty.".

(b) Section 3A(c) of the Hours of Service Act (45 U.S.C. 63a(c)) is amended to read as follows:

"(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when an individual is finally released from duty, except that—

"(1) time spent in travel on return from a trouble call, whether directly to the individual's residence or by way of the individual's headquarters, shall be considered neither time on duty nor time off duty, except that up to sixty minutes of such time on return from the final trouble call of a period of continuous or broken service shall be considered time off duty;

"(2) if, at the expiration of scheduled duty hours, an individual has not completed the trip from the final outlying worksite of the duty period to the individual's headquarters or from the final outlying worksite directly to the individual's residence, then the time spent in travel outside the scheduled duty hours which is required to complete the trip to such headquarters or directly to such residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(3) if an individual is released from duty at an outlying worksite prior to the end of such individual's scheduled duty hours in order to comply with this section, the period of time required for the trip from the outlying worksite to the individual's headquarters, or the period of time required for the trip from the outlying worksite direct to the individual's residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(4) all time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (1), (2), and (3) of this subsection, shall be considered time on duty; and

"(5)(A) regularly scheduled meal periods and other release periods of thirty minutes or more up to sixty minutes shall be considered time off duty but shall not break an individual's continuity of service for purposes of this section, and (B) release periods of more than one hour shall be considered time off duty and shall break an individual's continuity of service for purposes of this section.".

Effective date.
45 USC 63a note.

(c) The amendments made by this section shall be effective as of July 8, 1976, except that no action or conduct which occurred during the period beginning on such date and ending on the date of enactment of this Act and which was lawful under the Hours of Service Act as in effect on July 8, 1976, shall be deemed to be unlawful under such Act as amended by this Act.

HOURS OF SERVICE ACT; INTERSTATE COMMERCE REQUIREMENT

SEC. 5. Subsection (a) of the first section of the Hours of Service Act (45 U.S.C. 61(a)) is amended to read as follows: "(a) this Act shall apply to any common carrier engaged in interstate or foreign commerce by railroad.".

DESIGNATED TERMINAL

SEC. 6. Subsection (b) of the first section of the Hours of Service Act (45 U.S.C. 61(b)) is amended by adding at the end thereof the following new paragraph:

"(4) The term 'designated terminal' means the home terminal and the away from home terminal for the assignment of a particular crew. Time on duty shall not include interim rest periods of four or more hours between designated terminals where the employee is prevented from reaching his or her designated terminal by act of God, track obstruction, casualty, derailment or major disabling equipment failure, which derailment or disabling equipment failure was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time such employee left the designated terminal, and which could not have been foreseen, and only then at a place where suitable facilities for food and lodging are available.". "Designated terminal."

ASSESSMENT OF PENALTIES

SEC. 7. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(d) Section 25(h) of part I of the Interstate Commerce Act (49 U.S.C. 26(h)), is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every day such violation, refusal, or neglect continues, to be".

NOTICE OF VIOLATIONS

SEC. 8. The first sentence of section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows: "In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title, or no civil action has been commenced to obtain injunctive relief under section 210 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard.". 45 USC 438. 45 USC 439. 45 USC 435.

ROLE OF DEPARTMENT OF TRANSPORTATION IN RAILROAD ACCIDENT INVESTIGATIONS; LIABILITY OF DEPARTMENT OF TRANSPORTATION'S AGENTS

SEC. 9. Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended—

(1) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively, and

(2) by amending subsection (b), as so redesignated to read as follows:

"(b) To carry out the Secretary's responsibilities under this title, officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Federal Government for purposes of chapter 171 of title 28 of the United States Code.".

RAIL TRANSPORTATION SAFETY AND EFFICIENCY STUDY

45 USC 440 note.

SEC. 10. (a) The Secretary of Transportation shall conduct a study and evaluation concerning the safety and efficiency of rail transportation. Such study and evaluation shall include—

(1) a determination of the relationship of the size, weight, and length of railroad cars (other than those contained in unit trains) to the safety and efficiency of rail transportation; and

(2) a determination of the effect of the exclusive ownership and control of rights-of-way by individual railroads on the safety and efficiency of rail transportation, considering, among other things, whether or not such rights-of-way might be better employed under new structures of ownership or other conditions for joint usage.

(b) Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(1) of this section.

(c) Within two years after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(2) of this section and submit a report to the Congress setting forth the results of such study, together with recommendations for such legislative or other action as the Secretary deems appropriate.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1176 accompanying H.R. 12577 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-865 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 25, considered and passed Senate.

Oct. 11, 13, H.R. 12577 considered and passed House; passage vacated, and S. 3081, amended, passed in lieu.

Oct. 15, Senate concurred in House amendments.

Public Law 95-575
95th Congress

An Act

To amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.

Nov. 2, 1978
[S. 1487]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by inserting after chapter 113 the following new chapter:

Cigarettes. Sale and distribution racketeering, elimination.

"CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES

"Sec.
"2341. Definitions.
"2342. Unlawful acts.
"2343. Recordkeeping and inspection.
"2344. Penalties.
"2345. Effect on State law.
"2346. Enforcement and regulations.

"§ 2341. Definitions

18 USC 2341.

"As used in this chapter—

"(1) the term 'cigarette' means—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

"(2) the term 'contraband cigarettes' means a quantity in excess of 60,000 cigarettes, which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

"(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1954 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person; 26 USC 5701 *et seq.*

"(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

"(C) a person—

"(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

"(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

"(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

"(3) the term 'common or contract carrier' means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act, or under equivalent operating authority from a regulatory agency of the United States or of any State;

49 USC prec. 1 note.

"(4) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; and

"(5) the term 'Secretary' means the Secretary of the Treasury.

18 USC 2342.

"§ 2342. Unlawful acts

"(a) It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes.

"(b) It shall be unlawful for any person knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction.

18 USC 2343.

"§ 2343. Recordkeeping and inspection

"(a) Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Secretary may prescribe by rule or regulation. The Secretary may require such person to keep only—

"(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the person receiving such cigarettes, and the name of the purchaser;

"(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

"(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

Such information shall be contained on business records kept in the normal course of business. Nothing contained herein shall authorize the Secretary to require reporting under this section.

"(b) Upon the consent of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction, or pursuant to a duly issued search warrant, the Secretary may enter the premises (including places of storage) of such person for the purpose of inspecting any records or information required to be maintained by such person under this chapter, and any cigarettes kept or stored by such person at such premises.

18 USC 2344.

"§ 2344. Penalties

"(a) Whoever knowingly violates section 2342(a) of this title shall be fined not more than $100,000 or imprisoned not more than five years, or both.

"(b) Whoever knowingly violates any rule or regulation promulgated under section 2343(a) or 2346 of this title or violates section

2342(b) of this title shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of such Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter. 26 USC 1 *et seq.* 26 USC 5845.

"§ 2345. Effect on State law 18 USC 2345.

"(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violation of such laws, and to provide for penalties for the violation of such laws.

"(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to establish cooperative programs for the administration of such laws.

"§ 2346. Enforcement and regulations 18 USC 2346.

"The Secretary, subject to the provisions of section 2343(a) of this title, shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter.".

SEC. 2. The table of chapters of part I of title 18, United States Code, is amended by inserting immediately below the item relating to chapter 113 the following:

"114. Trafficking in Contraband Cigarettes..... 2341."

SEC. 3. (a) Section 1(b) of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 781(b))), is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Any cigarette, with respect to which there has been committed any violation of chapter 114 of title 18, United States Code, or any regulation issued pursuant thereto.". *Ante,* p. 2463.

(b) Section 7 of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 787)), is amended— Definitions.

(1) by striking out "and" at the end of subsection (e);

(2) by striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 2341 of title 18, United States Code.". "Cigarettes."

(c) Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "sections 2314 and 2315 (relating to interstate trans-

portation of stolen property)," the following: "sections 2341–2346 (relating to trafficking in contraband cigarettes),".

18 USC 2341 note.

SEC. 4. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Sections 2342(b) and 2343 of title 18, United States Code, as enacted by the first section of this Act, shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

Appropriation authorization. 18 USC 2341 note.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of chapter 114 of title 18, United States Code, added by the first section of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95–1629, accompanying H.R. 8853 (Comm. on the Judiciary) and No. 95–1778 (Comm. of Conference).

SENATE REPORT No. 95–962 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1978):

Sept. 29, considered and passed Senate.

Oct. 3, H.R. 8853 considered and passed House; passage vacated, and S. 1487, amended, passed in lieu.

Oct. 15, House and Senate agreed to conference report.

Public Law 95-576
95th Congress

An Act

To amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act.

Nov. 2, 1978
[H.R. 12140]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (1) of section 104(u) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended to read as follows: "(1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed $14,039,000 for the fiscal year ending September 30, 1980, for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions;".

Federal Water Pollution Control Act, amendment.

(b)(1) Section 311(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the semicolon at the end thereof the following: ", but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems".

Oil and hazardous substance liability.
33 USC 1321.
33 USC 1342.

(2) Section 311(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(17) 'Otherwise subject to the jurisdiction of the United States' means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.".

(3) Section 311(b)(2)(B) of such Act is amended to read as follows:

Study and report to Congress.

"(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.".

86 Stat. 862.

33 USC 1321.

(4) Section 311(b)(3) of such Act is amended by striking out "in harmful quantities" and inserting in lieu thereof "in such quantities as may be harmful".

Regulations.

(5) Section 311(b)(4) of such Act is amended to read as follows:

"(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.".

(6) Section 311(b)(5) of the Federal Water Pollution Control Act is amended by inserting "at the time of the discharge" after the words "otherwise subject to the jurisdiction of the United States".

(7) Section 311(b)(6) of such Act is amended by inserting after "(6)" the letter "(A)" and by inserting "at the time of the discharge" after the words "otherwise subject to the jurisdiction of the United States", and by inserting four new subparagraphs as follows:

Penalty.

"(B) The Administrator, taking into account the gravity of the offense, and the standard of care manifested by the owner, operator, or person in charge, may commence a civil action against any such person subject to the penalty under subparagraph (A) of this paragraph to impose a penalty based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner, operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of such penalty shall not exceed $50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such penalty shall not exceed $250,000. Each violation is a separate offense.

Jurisdiction.

Any action under this subparagraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty. No action may be commenced under this clause where a penalty has been assessed under clause (A) of this paragraph.

Damages, mitigation.

Costs.

"(C) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

"(D) Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act. Recovery. 33 USC 1319.

"(E) Civil penalties shall not be assessed under both this section and section 309 for the same discharge.".

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1097 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 5, considered and passed House.
Oct. 15, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 95-577
95th Congress

An Act

Nov. 2, 1978
[H.R. 13597]

To authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes.

Rayburn Office Building and House Annex No. 2, solar collector installation.
40 USC 175 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Architect of the Capitol, under the direction of the House Office Building Commission, shall install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and of House Office Building Annex Numbered 2.

(b) In carrying out this Act, the Architect of the Capitol, under the direction of the House Office Building Commission, is authorized to (1) procure such personal and other services as may be necessary to carry out this Act, and (2) provide for such structural and other changes in the Rayburn House Office Building and House Office Building Annex Numbered 2, such changes in or additions to their appurtenant facilities, such connections to existing facilities or utilities, and such equipment and apparatus, as may be necessary to carry out this Act.

Drawing and estimates, submittal to House committee.
40 USC 175 note.

SEC. 2. The Architect of the Capitol shall submit to the House Public Works and Transportation Committee final engineering and design drawings and final cost estimates for the project authorized under this Act, before soliciting bids to carry out the project. After the submission of such information, the Architect of the Capitol shall not solicit bids to carry out the project authorized under this Act until thirty legislative days after the date of such submission.

Appropriation authorization.
40 USC 175 note.

SEC. 3. There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1513 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-578
95th Congress

An Act

To authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

Nov. 2, 1978
[S. 2820]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

Reclamation Safety of Dams Act of 1978.
43 USC 506 note.

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

Structures, modifications.
43 USC 506.
43 USC 391 note.

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

43 USC 507.

SEC. 4. (a) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal maintenance of the structure by the operating entity shall be considered as project costs and will be allocated to the purposes for which the structure was authorized initially to be constructed and will be reimbursable as provided by existing law.

43 USC 508.

(b) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes shall be nonreimbursable and nonreturnable under the Federal Reclamation law.

SEC. 5. There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

Appropriation authorization.
43 USC 509.

Report to Congress.

Salt River Project, reimbursement.

SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act.

FEDERAL RECLAMATION DAMS SAFETY

American Falls Dam costs, payment and contracts.

SEC. 7. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

91 Stat. 227.

SEC. 8. The Congress hereby finds that the oversight provided for in section 3 of Public Law 95-46 has been accomplished with respect to the three temporary water service contracts between the United States and the Westlands Water District, as forwarded to Congress on October 4, 1978.

Investigation and study.

SEC. 9. (a) The Secretary of the Interior, after October 1, 1979, shall make a full investigation and study to determine the feasibility of carrying out a project to rehabilitate and improve the existing Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, including—

(1) repairing and stabilizing the face of the dam;

(2) enlarging spillway capacity to insure the safety of the dam; and

(3) raising the dam to increase the storage capacity of Santa Cruz Reservoir.

(b) In carrying out the investigation and study authorized by subsection (a) the Secretary shall give full consideration to the potential for developing the Santa Cruz Dam and Reservoir as a unit or part of the San Juan-Chama project.

Submittal to President and Congress.

(c) The Secretary shall submit to the President and the Congress as soon as practicable the results of such investigation together with his recommendations.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this bill.

43 USC 1511.

SEC. 10. The fourth sentence of section 201 of the Act of September 30, 1968 (Public Law 90-537) is amended by striking out "from the date of this Act" and by inserting in lieu thereof the following: "from the date of the enactment of the Reclamation Safety of Dams Act of 1978".

SEC. 11. The Secretary of the Interior is hereby directed, notwithstanding the terms of the Contract Numbers 14-06-100-7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at Federal expense pursuant to the authority of Public Law 89-596 which authorized the construction, operation and maintenance of the Tualatin Reclamation Project in Oregon.

Scoggins Valley Road, Ore., repairs.

43 USC 616nnn.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1125, accompanying H.R. 11153 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-810 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 28, considered and passed Senate.
Oct. 14, H.R. 11153 considered and passed House; passage vacated, and S. 2820, amended, passed in lieu.
Oct. 15, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Nov. 2, Presidential statement.

Public Law 95-579
95th Congress

An Act

Nov. 2, 1978
[S. 2247]

Amending section 312 of the Immigration and Nationality Act.

Immigration and Nationality Act, amendment.
Eugenia Cortes, relief.
8 USC 1423.
8 USC 1401.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eugenia Cortes shall be held and considered to be within the purview of the first proviso to section 312(1) of that Act and may be naturalized upon compliance with all of the other requirements of title III of that Act.

SEC. 2. That no financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined $1,000.

SEC. 3. The first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence".

8 USC 1445.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1683 (Comm. on the Judiciary).
SENATE REPORT No. 95-897 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 23, considered and passed Senate.
Oct. 14, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.

Public Law 95-580
95th Congress

An Act

To establish a Rural Transportation Advisory Task Force, and for other purposes.

Nov. 2, 1978
[S. 1835]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that—

Rural Transportation Advisory Task Force. Establishment. 49 USC 1653 note.

(1) an adequate transportation system, made up of various modes of transportation, is essential to the overall success of the Nation's agriculture programs, to a sound program of rural development, and to the economic stability of the United States;

(2) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs has been impeded by a shortage of railroad freight cars and motor trucks and by the deteriorated condition of many rail roadbeds throughout the United States;

(3) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs is further threatened by the proposed abandonment by the railroad companies of thousands of miles of important railroad lines in the United States;

(4) the maintaining of an efficient and economical transportation system for agriculture and rural development in the United States has not received the priority attention which such system should have received; and

(5) the Secretary of Agriculture and the Secretary of Transportation have a responsibility to assume a more active role in representing the interests of agriculture and rural development in the United States in order to insure the availability of an adequate, efficient, and economical transportation system sufficient to meet the needs of agriculture and rural development in the United States.

SEC. 2. (a) There is hereby created in accordance with the provisions of this section a Rural Transportation Advisory Task Force (hereinafter referred to as the "Task Force").

49 USC 1653 note.

(b) The Secretary of Agriculture and the Secretary of Transportation (hereinafter referred to as the Secretaries) shall serve as Cochairmen of the Task Force, which shall consist of fourteen members in addition to the Cochairmen, appointed by the Secretaries on the following basis:

Cochairmen and membership.

(1) one to be selected from a list of qualified individuals recommended by the Secretary of Agriculture;

(2) one to be selected from a list of qualified individuals recommended by the Secretary of Transportation;

(3) one to be selected from a list of qualified individuals recommended by the Chairman of the Interstate Commerce Commission;

(4) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate;

(5) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, United States House of Representatives;

(6) three to be selected from lists of qualified individuals recommended by carriers and associations of carriers, not to include more than one representative from each of the three transportation modes, rail, motor, and water;

(7) four to be selected from lists of qualified individuals recommended by the agricultural community, including agricultural shippers and associations of shippers; and

(8) two to be selected from lists of qualified individuals recommended by the academic community.

Recommendations from congressional committees.

(c) Within fifteen days after the enactment of this section, the Secretaries shall solicit recommendations from the Chairman of the Interstate Commerce Commission; the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate; and the chairman of the Committee on Agriculture, United States House of Representatives. The Secretaries shall cause notice to be published in the Federal Register soliciting recommendations from which to make the selections required under subparts (6), (7), and (8) of subsection (b) of this section.

Notice, publication in Federal Register.

(d) Vacancies on the Task Force shall be filled in the manner prescribed for original selections.

(e) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay on account of this service on the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Travel allowances.

(f) The Task Force shall be dissolved forty-five days after the publication of the final report required under section 4 of this Act.

(g) The Secretaries shall furnish such supplies and clerical, administrative, and other support as they deem necessary to enable the Task Force to carry out its responsibilities.

Report, publication and dissemination. 49 USC 1653 note.

SEC. 3. (a) The Task Force may compile and publish an initial report which, if published, shall include recommendations for determining the essential transportation needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, and for methods of identifying impediments to a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. Such report, if published, shall also include, but shall not be limited to, maps which identify the locations in the several States which the Task Force, on the basis of the importance of such locations within agricultural producing, marketing, or consuming areas, determines should receive railroad service: *Provided*, That this directive is not to be construed as requiring comprehensive line-by-line analyses of all branch lines.

Submittal to congressional committees.

(b) The report authorized in section 3(a) shall, if published, be published not later than one hundred and eighty days after the date of enactment of this Act. The Task Force shall submit copies of such report, if published, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and shall provide for the widespread public dissemination of such report throughout the United States as soon as practicable after its publication.

(c) Within ninety days after the publication of the initial report described in section 3(a), or if such report is not published, within two hundred and seventy days after enactment of this Act, the Task Force shall announce dates for and hold public hearings at various locations throughout the United States, take such testimony and receive such evidence as it considers advisable for the purpose of obtaining the views of interested persons on such initial report or, if such report is not published, on recommendations for the final report required under this Act. Public hearings.

(d) Within one hundred and twenty days after the publication of the initial report described in section 3(a) or, if such report is not published, within three hundred days after enactment of this Act, the Task Force shall prepare and publish a summary of the testimony presented at such hearings, and shall provide for the widespread public dissemination of such summary as soon as possible following the publication thereof. Testimony summary, publication.

SEC. 4. (a) The Task Force shall prepare and publish, within four hundred and twenty days after the date of enactment of this Act, a final report including recommendations for determining the essential needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, for methods of identifying impediments to a railroad transportation adequate to meet the essential needs of the agriculture industry, and containing specific recommendations for a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. In preparing such final report, the Task Force shall take into consideration the testimony received at the public hearing required under this Act. Final report, publication. 49 USC 1653 note.

(b) Copies of such final report shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Chairman of the Interstate Commerce Commission. The Task Force shall provide for the widespread public dissemination of such final report. Submittal to congressional committees and ICC.

SEC. 5. The provisions of this Act shall become effective October 1, 1978. Effective date. 49 USC 1653 note.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1600, accompanying H.R. 12917 (Comm. on Agriculture).
SENATE REPORT No. 95-923 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 8, considered and passed Senate.
Oct. 3, 4, H.R. 12917 considered and passed House; passage vacated, and S. 1835, amended, passed in lieu.
Oct. 15, Senate concurred in House amendment.

Public Law 95-581
95th Congress

An Act

Nov. 2, 1978
[H.R. 10343]

To provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967.

Marine Corps, sergeant major. Retired pay, recalculation. 10 USC 1401a note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the retired pay of any individual who served as sergeant major of the Marine Corps and who completed such service before December 16, 1967, shall be computed based upon a rate of basic pay of the sum of (1) the highest rate of basic pay to which such individual was entitled while so serving, and (2) $150.

(b) For the purpose of computing any adjustment under section 1401a of title 10, United States Code, in the retired pay of any individual whose retired pay is affected by subsection (a), the rate of basic pay provided under such subsection for the purpose of computing the retired pay of such individual shall be considered to have been the rate of basic pay applicable to such individual at the time of his retirement, and any adjustment under such section 1401a in the retired pay of such individual before September 30, 1978, shall be readjusted to reflect such rate of basic pay.

Effective date. 10 USC 1401a note.

SEC. 2. (a) Any change in the retired pay of any individual by reason of the enactment of this Act shall be effective for months beginning after September 30, 1978.

(b) The enactment of this Act shall not reduce the retired pay of any individual.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-857 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 3, June 5, considered and passed House.
Oct. 14, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 44:
Nov. 2, Presidential statement.

Public Law 95-582
95th Congress

An Act

To provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes.

Nov. 2, 1978
[H.R. 12393]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3491 of the Revised Statutes, as amended (31 U.S.C. 232), is amended by adding a new subsection (F), as follows:

Subpoenas, nationwide service in certain suits.

"(F) A subpoena requiring the attendance of a witness at a trial or hearing conducted under sections 3490 through 3494 and 5438 of the Revised Statutes, as amended, may be served at any place in the United States.".

31 USC 231-235.

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by redesignating subsection (b) as subsection (c) and adding a new subsection (b) as follows:

Seizure and forfeiture, exceptions.

"(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) shall be subject to seizure and forfeiture, except when—

"(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

"(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

Regulations.

"(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture. In the case of a vehicle seized and forfeited pursuant to paragraph (1) subject to a valid lien or other third-party interest, the regulations shall provide for satisfaction of the third party interest without expense to the interestholder.

"(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

"(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this chapter: *Provided*, That—

"(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

"(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.".

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1447 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed House.
Oct. 13, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendment.

Public Law 95-583
95th Congress

An Act

To amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes.

Nov. 2, 1978
[H.R. 4319]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8706 of title 5, United States Code, is amended—

Federal employees, life and health insurance benefits.

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsection:

"(b)(1) If on the date the insurance would otherwise stop the employee retires on an immediate annuity and has been insured under this chapter throughout—

"(A) the 5 years of service immediately preceding such date, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

life insurance only may be continued, without cost to the employee, under conditions determined by the Commission.

"(2) If on the date the insurance would otherwise stop the employee is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and has been insured under this chapter throughout—

Compensation. 5 USC 8101 *et seq.*

"(A) the 5 years of service immediately preceding such date, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

life insurance only may be continued, without cost to the employee, under conditions determined by the Commission, during the period the employee is receiving compensation for work injuries and is held by the Secretary of Labor or his delegate to be unable to return to duty.

"(3) The amount of life insurance continued under paragraph (1) or paragraph (2) of this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving such compensation for disease or injury. The Commission shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.";

(2) by redesignating subsections (d) through (f) as subsections (c) through (e), respectively; and

(3) by striking out "(a)-(c)" in subsection (d), as redesignated by paragraph (2), and inserting in lieu thereof "(a) and (b)".

(b) Section 8705(a) of title 5, United States Code, is amended by striking out "or (c)".

(c) Section 8714a of title 5, United States Code, is amended—

(1) by striking out "8706(d)" in subsection (c)(1) and inserting in lieu thereof "8706(c)";

(2) by amending subsection (c)(2) to read as follows:

Optional life insurance.

"(2)(A) In the case of any employee who retires on an immediate annuity and has been insured under this section throughout—

"(i) the 5 years of service immediately preceding the date of such retirement, or

"(ii) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

the amount of optional life insurance only which has been in force throughout such period may be continued, under conditions determined by the Commission.

Compensation. 5 USC 8101.

"(B) In the case of any employee who becomes entitled to receive compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and has been insured under this section throughout—

"(i) the 5 years of service immediately preceding the date such employee becomes entitled to such compensation, or

"(ii) the full period or periods of service during which the employee was entitled to be insured, if less than 5 years,

the amount of optional life insurance only which has been in force throughout such period may be continued, under conditions determined by the Commission, during the period the employee is receiving such compensation for disease or injury and is held by the Secretary of Labor or his delegate to be unable to return to duty.

"(C) The amount of optional life insurance continued under subparagraph (A) or subparagraph (B) of this paragraph shall be subject to the same monthly reductions as required for regular life insurance under section 8706(b)(3) of this title."; and

(3) by striking out "or 8706(c)" in subsection (d).

SEC. 2. Section 8901(3)(A) of title 5, United States Code, is amended by striking out "12" and inserting in lieu thereof "5".

Effective date. 5 USC 8706 note.

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-284 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-1080 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Vol. 124 (1978): Aug. 18, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment with an amendment.
Oct. 13, Senate concurred in House amendment.

Public Law 95-584
95th Congress

An Act

To repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States.

Nov. 2, 1978
[S. 3371]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1890 of the Revised Statutes of the United States (48 U.S.C. 1480), section 26 of the Act entitled "An Act to amend an Act entitled 'An Act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes' approved March twenty-second, eighteen hundred and eighty-two" (48 U.S.C. 1480a), and the Act of September 22, 1950 (48 U.S.C. 1480b), are hereby repealed.

Religious corporations, limitation on land holdings. Repeal.

SEC. 2. This repeal may not be considered or construed as endorsement, support, or permission for any development on or other use of any land in any territory or possession of the United States; nor shall it be evidence of congressional or other intent to confirm title to any lands in said territories or possessions claimed by any association, corporation, or other entity for religious or charitable purposes.

48 USC 1480 note.

SEC. 3. Subsection 3(b) of the Act entitled "An Act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes" is hereby amended to read as follows: "(b) owe allegiance to the United States;".

48 USC 1733.

Approved November 2, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-1275 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 11, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 13, Senate concurred in House amendment.

Public Law 95-585
95th Congress

An Act

Nov. 2, 1978
[H.R. 3185]

To amend the Act commonly known as the Miller Act to raise the dollar amount of contracts to which such Act applies from $2,000 to $25,000.

Miller Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of the first section of the Act entitled "An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work", approved August 24, 1935 (49 Stat. 793; 40 U.S.C. 270a(a)), is amended by striking out "$2,000" and inserting in lieu thereof "$25,000".

Approved November 2, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1666 (Comm. on the Judiciary).
SENATE REPORT No. 95-1269, accompanying S. 3359 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 13, considered and passed Senate.

Public Law 95-586
95th Congress

An Act

To validate certain land conveyances, and for other purposes.

Nov. 3, 1978
[H.R. 7971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Land conveyances, validation.

TITLE I—TO VALIDATE THE CONVEYANCE OF CERTAIN LAND IN THE STATE OF CALIFORNIA BY THE SOUTHERN PACIFIC TRANSPORTATION COMPANY

SEC. 101. Subject to section 103, the conveyances executed by the Southern Pacific Transportation Company and described in section 102, involving certain land in San Joaquin County, California, forming a part of the right-of-way granted by the United States to the Central Pacific Railway Company under the Act entitled "An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes", approved July 1, 1862 (12 Stat. 489), as amended, are hereby legalized, validated, and confirmed, as far as any interest of the United States in such land is concerned, and shall have the same force and effect as if the land involved in each conveyance had been held, on the date of conveyance, under absolute free simple title by the Southern Pacific Transportation Company, subject to a reservation to the United States of the minerals therein.

SEC. 102. The conveyances referred to in the first section of this Act are as follows: Description.

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Stokely-Van Camp, an Indiana corporation, as grantee, on March 2, 1973, and recorded as instrument numbered 55797 on December 3, 1973, book 3822, page 586, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situate in the county of San Joaquin, State of California, being a portion of the west half of section 12, township 3 north, range 6 east, Mount Diablo base and meridian, described as follows:

> The easterly 125 feet of the westerly 150 feet of lots 66, 67, 68, 69, the westerly 150 feet of lot 70 and the easterly 100 feet of the westerly 150 feet of lot 71, as said lots are shown on the map of the Lodi-Barnhart Tract, recorded November 5, 1906, in volume 3 of Maps and Plats, page 48, records of said county.

Excepting therefrom that portion of said lot 68 lying easterly of the easterly boundary of the land described in the deed dated August 27, 1962, to Stokely-Van Camp, Incorporated, recorded September 5, 1962, in book 2592, page 385, of Official Records, records of said county, and southerly of the easterly prolongation of the northerly boundary thereof.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bernardino Barengo, a married man, as grantee, on June 27, 1973, and recorded as instrument

numbered 37943 on August 9, 1973, book 3792, page 21, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situated in the county of San Joaquin, State of California, being a portion of the southwest quarter of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, described as follows:

Commencing at the intersection of the original located center line of Southern Pacific Transportation Company's main track (Stockton to Sacramento) with a line that is parallel with and distant 20.00 feet northerly, measured at right angles, from the south line of said southwest quarter of section 24, said parallel line being the north line of Acampo Road (formerly Main Street);

thence north 88 degrees 36 minutes 00 seconds west, along said parallel line, 140.71 feet to a line that is parallel with and distant 135.00 feet westerly, measured at right angles, from said original located center line and the true point of beginning of the parcel of land to be described;

thence north 14 degrees 58 minutes 30 seconds west, along last said parallel line, 883.19 feet;

thence south 75 degrees 01 minutes 30 seconds west, at right angles from last said parallel line 9.40 feet to the southeasterly corner of the lands of Dino Barengo as described in deed recorded September 29, 1961, in book 2462, page 290, Official Records of said county;

thence northerly along the easterly line of said lands on the following four courses: (1) north 14 degrees 58 minutes 30 seconds west, parallel with said center line, 14.60 feet, (2) north 11 degrees 33 minutes 30 seconds west 100.00 feet, (3) north 9 degrees 39 minutes 30 seconds west 50.00 feet, (4) north 8 degrees 29 minutes 30 seconds west 27.60 feet;

thence south 67 degrees 42 minutes 00 seconds west, along the northerly line of last said lands 69.88 feet to a line that is parallel with and distant 200.00 feet westerly, measured at right angles, from said original located center line, last said parallel line being the westerly line of the 400-foot right-of-way granted by Act of Congress to the Central Pacific Railroad Company;

thence south 14 degrees 58 minutes 30 seconds east, along last said parallel line, 1046.81 feet to said north line of Acampo Road;

thence south 88 degrees 36 minutes 00 seconds east, along said north line, 67.75 feet to the true point of beginning, containing an area of 1.565 acres, more or less.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Calvin Clark III, a married man, as grantee, on November 4, 1974, and recorded as instrument numbered 56311 on December 9, 1974, book 3934, page 640, of the Official Records of San Joaquin County, California, describing the following lands: That certain real property situated in the county of San Joaquin, State of California, being a portion of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, more particularly described as follows:

Commencing at the point of intersection of a line parallel with and distant 30 feet westerly, measured at right angles, from the easterly line of Sycamore Street, with the westerly prolongation of the northerly line of an alley in block 4 as said street, alley and block are shown on the map of the town of Acampo;

thence south 88 degrees 36 minutes 00 seconds east along said

prolongation, northerly line and its easterly prolongation thereof, 474.05 feet to a point in the southwesterly line of land (400 feet wide) of Southern Pacific Transportation Company;

thence north 14 degrees 58 minutes 30 seconds west along said southwesterly line being parallel with and distant 200.0 feet southwesterly, measured at right angles, from the original located center line of said company's main track (Tracy-Polk), 166.38 feet to a point in the northerly line of land of Dino Barengo as described in deed recorded September 29, 1961, in book 2462 of the Official Records, page 290, Records of San Joaquin County and the actual point of beginning of the parcel of land to be described;

thence continuing north 14 degrees 58 minutes 30 seconds west along said southwesterly line, 693.8 feet to a point in the southerly line of land now or formerly of George L. Keeney and E. M. Keeney; thence south 88 degrees 57 minutes east along the seconds west along said southwesterly line, 693.8 feet to a point distant 74.08 feet westerly, measured at right angles, from said center line of main track;

thence south 6 degrees 42 minutes east 96.05 feet;

thence south 8 degrees 29 minutes 30 seconds east 559.88 feet to a point in said northerly line of Dino Barengo, being distant 151.12 feet westerly, measured at right angles, from said center line;

thence south 67 degrees 42 minutes 00 seconds west along last said northerly line, 49.29 feet to the actual point of beginning, containing an area of 1.343 acres, more or less;

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, on November 6, 1974, and recorded as instrument numbered 57584 on December 17, 1974, book 3937, page 183, of the Official Records of San Joaquin County, California, describing the following lands: That certain strip of land 125.00 feet in width, situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, county of San Joaquin, State of California and described as follows:

A strip of land 125.00 feet wide lying contiguous to and easterly of a line parallel with and distant 75.00 feet easterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less" in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967, in book 3158, page 339, Official Records of San Joaquin County, northerly, to the northerly line of the 3.6-acre parcel of land described in deed dated May 22, 1915, from H. Bechthold et ux, to city of Lodi recorded June 25, 1915, in book "A", volume 266 of deeds, page 3, San Joaquin County Records, said northerly line being described in said deed as following the meanders of the southern bank of the Mokelumne River.

(5) The easement entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, for roadway purposes, on November 21, 1974, and recorded as instrument numbered 5528 on February 7, 1975, book 3952, page 203, of the Official Records of San Joaquin County, California, describing an easement upon the following property: That certain strip of land situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, County of San Joaquin, State of California, and described as follows:

A strip of land 25.00 feet in width lying contiguous to and easterly of a line parallel and concentric with and distant 75.00 feet easterly, measured at right angles and radially, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from the northerly line of the 20,480 square foot parcel of land described in Indenture dated August 24, 1960 from Southern Pacific Company to city of Lodi recorded September 12, 1960 in book 2334, page 421, San Joaquin County Records, northerly, to that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less," in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967 in book 3158, page 339, Official Records of San Joaquin County, said 25.00 foot wide strip hereinabove described being also contiguous to and westerly of the westerly line of the 100.00 foot wide strip of land quitclaimed to Jay Loveless by said deed.

Reserving unto grantor, its successors and assigns, the right to construct, maintain, and use railroad, pipeline, communication, and transportation facilities in, upon, over, along, and across said property.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward W. Le Baron and Mable B. Le Baron, his wife, Donald Reynolds and Constance E. Reynolds, his wife, and Robert Reynolds and Carolyn W. Reynolds, his wife, as grantees on March 22, 1977, and recorded as instrument numbered 34048 on June 2, 1977, book 4267, page 458, of the official records of San Joaquin County, California, describing the following lands: That certain parcel of land situated in the southeast quarter of section 23 and southwest quarter of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, County of San Joaquin, State of California, and more particularly described as follows:

Commencing at the point of intersection of a line parallel with and distant 30 feet westerly, measured at right angles, from the easterly line of Sycamore Street with the westerly prolongation of the northerly line of an alley in block 4, as said street, alley, and block are shown on the map of the town of Acampo;

thence south 88 degrees 36 minutes 00 seconds east, along said prolongation, said northerly line and its easterly prolongation, 474.05 feet to a point in the southwesterly line of land (400 feet wide) originally acquired by Central Pacific Railroad Company by virtue of Act of Congress dated July 1, 1862;

thence north 14 degrees 58 minutes 30 seconds west, along said southwesterly line, being parallel with and distant 200.0 feet southwesterly, measured at right angles, from the original location center line of main track (Tracy-Polk) now of the Southern Pacific Transportation Company, a distance of 860.18 feet to the northwesterly corner of the 1.343-acre parcel of land described in quitclaim deed dated November 4, 1974 from Southern Pacific Transportation Company to Calvin Clark III, recorded December 9, 1974 in book 3934, page 640, Official Records of San Joaquin County, and the true point of beginning of the parcel of land to be described;

thence continuing north 14 degrees 58 minutes 30 seconds west, along said southwesterly line, parallel with and distant 200.0 feet southwesterly, measured at right angles, from said center line of main track, a distance of 1,000 feet, more or less, to the north line of said southeast quarter of said section 23;

thence easterly along last said north line, 130.3 feet, more or less, to a point in a line parallel with and distant 74.08 feet southwesterly, measured at right angles, from said center line of said transportation company's main track;

thence south 14 degrees 58 minutes 30 seconds east, last said parallel line, 1,000 feet, more or less, to the northeasterly corner of said 1,343-acre parcel of land described in said deed dated November 4, 1974 to Calvin Clark III;

thence north 88 degrees 57 minutes west, along the northerly line of last said parcel, 131.02 feet to the true point of beginning, containing an area of 2.89 acres, more or less.

SEC. 103. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than fifty feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe. Rules and regulations.

TITLE II—TO CONFIRM A CONVEYANCE OF CERTAIN REAL PROPERTY BY THE SOUTHERN PACIFIC RAILROAD COMPANY TO M. L. WICKS

SEC. 201. The conveyance described in section 202(a) of this Act involving certain real property in Los Angeles County, California, is hereby confirmed in the successors in interest to M. L. Wicks, the grantee in such conveyance, with respect to all interests of the United States in the rights to the real property described in section 202(b) of this Act. Portions of the real property described in such section 202(b) formed part of the right-of-way granted to the Southern Pacific Railroad Company, a corporation, by the United States by the Act entitled "An Act to incorporate the Texas Pacific Railroad Company, and to and in the Construction of its Road, and for other purposes", approved March 3, 1871 (16 Stat. 573).

SEC. 202. (a) The conveyance confirmed by this Act was made by a deed dated May 4, 1887, by the Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, Trustees, to M. L. Wicks and recorded on May 9, 1887, in the office of the county recorder of Los Angeles County, in the Book of Official Records, Book 222 at page 172.

(b) The real property referred to in the first section of this Act is certain real property in the northwest quarter of the northeast quarter of section 15, township 7 north, range 12 west, San Bernardino Meridian, in Los Angeles County, California, more particularly described as follows: Description.

Beginning at the intersection of the easterly line of Sierra Highway (formerly Antelope Avenue) 90 feet wide as shown on county surveyor's map numbered 8200 on file in the office of

the surveyor of said county with the easterly prolongation of the northerly line of Jackman Street (formerly 8th Street); thence easterly along said prolongation to the westerly line of the right-of-way, 100 feet wide, as reserved in that certain deed dated May 4, 1887, from Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, trustees to M. L. Wicks, recorded May 9, 1887, in Book 222 at page 172, official records of said county; thence northerly along said westerly right-of-way line 624.34 feet more or less to the southerly line of Avenue I (formerly Sierra Madre Road); thence westerly along said southerly line of Avenue I to the easterly line of said Sierra Highway: thence southerly along said easterly line of Sierra Highway to the point of beginning.

SEC. 203. (a) Nothing in this Act shall—

Right-of-way.

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main tract or tracts established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

Rules and regulations.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

TITLE III—TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PUBLIC LANDS IN MONTANA TO THE OCCUPANTS OF THE LAND

SEC. 301. The Secretary of the Interior is hereby authorized to convey to Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, all right, title, and interest of the United States, except right, title, and interest in deposits of all minerals, in lands identified as tracts numbered 1, 2, and 3 in that part of the west half, southwest quarter of the northwest quarter, section 2, township 10 north, range 1 west, Montana principal meridian Lewis and Clark County, Montana, lying east of the "Erroneous Survey Line", lying north of the county road right-of-way as shown on Bureau of Reclamation drawing number 296-604-170, dated September 24, 1971, and as determined available for sale by the Secretary of the Interior. Such conveyance shall be made only upon applications by such aforementioned individuals therefor within six months after the date of this Act, and upon payment of the appraised fair market value of the land as of the date of sale plus the administrative costs, including costs of a land survey, of making the conveyance, as determined by the Secretary of the Interior within one year after notification by the Secretary of the Interior of the amount due. In determining the fair market value of the land, the Secretary of the Interior shall not include any values added to the land by Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, hus-

band and wife; and Edward J. Bonderenko or their successors in interest, or their heirs. Any conveyance made pursuant to this Act shall reserve to the United States all deposits of all minerals in the lands together with the right to mine and remove the same, under applicable laws and regulations established by the Secretary of the Interior.

Waiver.

SEC. 302. Acceptance of Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest of any conveyance made hereunder shall constitute a waiver and release by them of any and all claims against the United States arising out of the operation, maintenance, or construction of the Canyon Ferry Unit, Pick-Sloan Missouri Basin program, as now or hereafter authorized.

TITLE IV—TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO A TRACT OF LAND LOCATED IN THE FAIRBANKS RECORDING DISTRICT, STATE OF ALASKA, TO THE FAIRBANKS NORTH STAR BOROUGH

SEC. 401. The Secretary of the Interior is authorized to convey all right, title, and interest of the United States in and to the following described real property, located in the Fairbanks Recording District, to the Fairbanks North Star Borough without payment of consideration:

THE WEST PORTION OF BLOCK 209

A tract of land situated in the northwest quarter section 15, township 1 south, range 1 west, F.B. and M., also known as United States Survey 849 of the Homstead Claim of Stacia Rickert described as follows:

Commencing at corner number 3, United States Survey Numbered 849, thence south 89 degrees 57 minutes 14 seconds east, a distance of 2,300 feet, more or less; along a southerly line of said survey numbered 849 which lies between corners numbered 2 and 3; thence south 89 degrees 57 minutes 09 seconds east, a distance of 30 feet, more or less; thence north 0 degree 56 minutes 34 seconds west, a distance of 10 feet, more or less; to the true point of beginning; thence north 0 degree 56 minutes 34 seconds west, a distance of 337 feet, more or less; thence south 89 degrees 52 minutes 43 seconds east, a distance of 518 feet, more or less; thence south 0 degree 07 minutes 17 seconds west, a distance of 337 feet, more or less; thence north 89 degrees 57 minutes 09 seconds west, a distance of 510 feet, more or less, to the true point of beginning, and containing 173,218 square feet, more or less.

TITLE V—PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES NUMBERED U-12871, U-12872, U-12874, U-12875, U-12876, U-12877, U-12878, U-12881, AND U-13666

SEC. 501. Notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, subject to the requirements of section 502 of this Act:

(a) United States oil and gas leases numbered U-12871, U-12872, U-12874, U-12875, U-12876, U-12877, U-12878, and U-12881 shall be held not to have terminated by operation of law or otherwise on December 1, 1975, but shall be deemed to be in full force and effect for the term of said leases provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such leases.

(b) United States oil and gas lease numbered U-13666 shall be held not to have terminated by operation of law, or otherwise on April 1, 1976, and the term of said lease is hereby extended to a date twenty-four months after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such lease.

SEC. 502. Within thirty days after the effective date of this Act, the Secretary shall give notice to the last record holder of the oil and gas leases listed in the first section of this Act of the amount of unpaid rental then accrued under said leases or that would have accrued had the leases not terminated. Within thirty days after receipt of such written notice, the last record holder of such leases, their successors or assigns, shall tender payment of the amount of rental to the Secretary. If payment is not made within the required time, the provisions of this Act shall terminate and be of no force and effect with respect to those leases for which payment was not made.

Termination.

TITLE VI—FOR THE RELIEF OF MARIAN LAW SHALE HOLLOWAY, ADELINE MARY GILL CHARLES, AND ELIZA SHALE CARSTENS

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay, out of any money appropriated to the Department of the Interior, to Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or to their estates) such sums as he determines each is legally and equitably entitled to as compensation for losses (including reasonable attorney fees) resulting from his erroneous approval of purported conveyances of parts or all of lot 6, section 35, township 24 north, range 13 west, Willamette meridian, containing eighteen and seventy-five hundredths acres, more or less, according to the Government survey thereof, such property being a portion of the allotment of Hattie Smith, deceased, Quinault allottee numbered 420, and which is not subject to homestead entry. Such property is situated in Jefferson County, State of Washington on the Quinault Indian Reservation.

(b) The payment and acceptance of such compensation pursuant to this Act shall be in full satisfaction of all claims (1) of the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens, against the United States or any officer or employee thereof arising out of or in connection with the purported conveyances of such property or portions thereof approved by or on behalf of the Secretary of the Interior on February 19, 1951, September 3, 1953, and April 19, 1955, and (2) by Adeline Mary Gill Charles and Eliza Shale Carstens against Marian Law Shale Holloway arising out of or in connection with the purported conveyances of portions of such property approved by or on behalf of the Secretary of the Interior on September 3, 1953, and April 19, 1955.

(c) As a condition precedent to receiving payment of such compensation pursuant to this Act, the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or the executors of their estates) shall execute such releases and other documents as the Secretary of the Interior determines are necessary to fulfill the purpose of this Act and remove any cloud on the title of such property.

SEC. 602. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000. Penalty.

TITLE VII—GOSPEL-HUMP AREA BOUNDARY CHANGES

SEC. 701. Section 4(a)(1) of the Act of February 24, 1978 (16 U.S.C. 1132, Public Law 95-237) is amended by striking the words "January 1978" and inserting in lieu thereof "September 1978". *Ante*, p. 43.

TITLE VIII—KALMIOPSIS WILDERNESS MAP DESIGNATION

SEC. 801. Section 3 of the Endangered American Wilderness Act of 1978, Public Law 95-237 (92 Stat. 43) is amended by adding a new subsection (f) as follows: 16 USC 1132 note.

"(f) The map referenced in paragraph (a) of this section, depicting the boundaries of the Kalmiopsis Wilderness Additions is superseded by a map entitled 'Kalmiopsis Wilderness Additions—Proposed' and dated October 1978, which is on file and available for public inspection in the office of the Chief of the Forest Service.".

TITLE IX—FRYINGPAN-ARKANSAS RECLAMATION PROJECT

SEC. 901. Subsection (a) of section 1 of the Act of August 16, 1962 (76 Stat. 389; 43 U.S.C. 616 et seq.), is amended by inserting after the words "Ruedi Dam and Reservoir, Colorado," the words "and as further modified and described in the description of the proposal contained in the final environmental statement for said project, dated April 16, 1975,".

SEC. 902. Subsection (e) of section 5 of such Act is amended by inserting after the word "therein" a comma and the words "including those laws of the State of Colorado relating to the establishment of minimum streamflows for the reasonable protection of the natural environment, to the extent that such laws are not inconsistent with the operating principles identified in subsection 3(a) of this Act". 43 USC 616d.

SEC. 903. Subsection (a) of section 3 of such Act is amended by inserting after the word "Congress" a semicolon and the words "and shall be further operated pursuant to diversion rates established under the laws of the State of Colorado: *Provided*, That the rate of project diversions from the Hunter Creek watershed shall not exceed an aggregate of 270 cubic feet of water per second of time. Waters so diverted may be utilized for all authorized project purposes as set forth in section 1(a) of this Act. Such waters, exclusive of the amount diverted for Roaring Fork exchanges provided for in subparagraph 9(1)(c) and paragraph 11 of the above referenced operating prin- 43 USC 616a.

ciples shall become part of the project water supply as limited by subparagraph 9(1)(a) of the above referenced operating principles. No diversions shall be made from the Hunter Creek watershed which will reduce the remaining streamflows at the points of diversion to less than 4 cubic feet per second on No Name Creek, 5 cubic feet per second on Midway Creek, and 12 cubic feet per second on Hunter Creek".

TITLE X—TO CONVEY CERTAIN GEOTHERMAL RESOURCES TO THE CITY OF BOISE, IDAHO

SEC. 1001. (a) The Congress hereby authorizes and directs that the rights to the geothermal resources, including minerals present in the geothermal fluid, presently vested in the United States of America in real property designated as Tract 37 (contained in secs. 2 and 11) consisting of 4.13 acres, more or less; Tract 38 (contained in secs. 1, 2, 11 and 12) consisting of 449.16 acres more or less; Tract 39 (contained in sec. 2) consisting of 14.64 acres, more or less; and Tract 40 (contained in sec. 11) consisting of 4.95 acres, more or less: all in T. 3N., R. 2E., B.M.; together with a parcel described as follows: Commencing at the southwest corner of the Old Fort Boise Military Reservation, thence north seventy degrees zero minutes east one thousand four hundred forty-eight and two-tenths feet; thence north four degrees thirty-two minutes east six hundred and twenty-seven feet to the true point of beginning; thence the following courses and distances: South eighty-seven degrees eight minutes west six hundred ninety-six and five-tenths feet; thence north twenty-one degrees two minutes west five hundred and thirty-two feet; thence south sixty-nine degrees four minutes west twenty-one and nine-tenths feet; thence north twenty-two degrees forty minutes west eighty-six and three-tenths feet; thence north eighty-four degrees fifty minutes east nine hundred ninety-three and six-tenths feet; thence south four degrees thirty-two minutes west six hundred twenty-four and ninety-five one-hundredths feet to the point of beginning; consisting of 11.53 acres, more or less (contained in sec. 11, T. #N., R. 2E., B.M.); be transferred by the Secretary of the Interior in fee to the City of Boise upon payment by the City of Boise of the fair market value, as determined by the Secretary, of the rights conveyed.

(b) Development of geothermal resources pursuant to this Act shall not be grounds for the Secretary of the Interior to assert the reversionary interest of the United States in the subject lands.

SEC. 1002. Development of the geothermal resources conveyed by this Act shall not unreasonably interfere with development of other mineral interests retained by the United States. The City of Boise shall permit the United States, its lessees and agents access for exploration of mineral resources not conveyed to the City.

TITLE XI—TO ADD CERTAIN LANDS TO THE TARGHEE NATIONAL FOREST, IDAHO

Boundaries modification.

SEC. 1101. The boundaries of the Targhee National Forest in Idaho are hereby modified to include within said national forest the following described lands: S½SW¼; W½SE¼; and SE¼NE¼, all in Section 26, Township 13 North, Range 42 East, Boise Meridian, in Fremont County, Idaho.

TITLE XII—GRAND CANYON NATIONAL PARK

The Act of February 26, 1916 (40 Stat. 1177; 16 U.S.C. 222) is amended by adding the following sentence: "Under such terms and conditions as he deems advisable and consistent with the requirements of section 483a of title 31 hereof, the Secretary is authorized, without derogation of any of the water rights of the United States and notwithstanding any provision of law to the contrary, to sell by contract water located within Grand Canyon National Park for the use of customers within Tusayan, Arizona, to a nonprofit entity authorized to receive and distribute water within Tusayan, Arizona by the laws of the State of Arizona, upon his determination that such sale is not detrimental to the protection of the resources of Grand Canyon National Park or its visitors and that appropriate measures to provide for such protection, including a right of immediate termination, are included in the transaction.". 31 USC 483a.

Approved November 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1008 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1287 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 18, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendments.

Public Law 95-587
95th Congress

An Act

Nov. 3, 1978
[H.R. 7101]

To amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion, and for other purposes.

Riverside County, Calif., land claims by U.S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of October 23, 1970, entitled "An Act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject" (84 Stat. 1106; Public Law 91-505) is amended by striking out "13.17" and inserting in lieu thereof "13.19".

Approved November 3, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1018 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1286 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 11, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 95-588
95th Congress

An Act

Nov. 4, 1978
[H.R. 10173]

To amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' and Survivors' Pension Improvement Act of 1978".

Veterans' and Survivors' Pension Improvement Act of 1978.
38 USC 101 note.

TITLE I—PENSION FOR VETERANS AND SURVIVORS

DEFINITION OF "PERIOD OF WAR"

SEC. 101. Section 501 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) The term 'period of war' means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.".

INCOME EXCLUSIONS

SEC. 102. (a) Subsection (a) of section 503 of title 38, United States Code, is amended by—

(1) striking out clause (1);
(2) redesignating clause (2) as clause (1);
(3) redesignating clause (3) as clause (2) and striking out the comma and "and chapters 11 and 13 (except section 412(a)) of this title" in such clause;
(4) striking out clauses (4), (5), and (6);
(5) redesignating clause (7) as clause (3);
(6) inserting after such clause the following new clause:
"(4) amounts equal to amounts paid—
"(A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or
"(B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;";
(7) redesignating clause (8) as clause (5);
(8) striking out clause (9);
(9) redesignating clause (10) as clause (6);
(10) striking out clauses (11), (12), (13), and (14);
(11) redesignating clause (15) as clause (7);

(12) striking out clauses (16) and (17); and

(13) adding at the end of such subsection the following new clauses:

"(8) amounts equal to amounts paid by a veteran, veterans' spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 per centum of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;

"(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); and

"(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

"(A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1954, to be filed by an individual who is not married (as determined under section 143 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

26 USC 6012.

26 USC 143.

26 USC 2.

"(B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials.".

Repeal.

(b) Subsection (c) of such section is repealed.

INCOME AND NET WORTH REPORTS

SEC. 103. Subsection (a) of section 506 of title 38, United States Code, is amended to read as follows:

Condition.

"(a) As a condition of granting or continuing pension under section 521, 541, or 542 of this title, the Administrator—

Post, pp. 2500, 2503, 2504.

"(1) may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as the Administrator determines to be necessary in order to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such a child is hereinafter in this subsection referred to as a 'dependent child'), and, in the case of a child applying for or in receipt of pension under section 542 of this title (hereinafter in this subsection referred to

as a 'surviving child'), of any person with whom such child is residing who is legally responsible for such child's support;

"(2) shall require that any such applicant or recipient file each year with the Veterans' Administration (on such form as may be prescribed for such purpose by the Administrator) a report showing—

"(A) the annual income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

"(B) such applicant's or recipient's estimate for the then current year of the annual income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or recipient (and for any such spouse or dependent child); and

"(C) in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support and of any expected increase in the value of the corpus of the estate of such person;

"(3) shall require that any such applicant or recipient promptly file a revised report whenever there is a material change in the estimated annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in such applicant's or recipient's estimate of the value of the corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the estimated annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; and

"(4) shall require that any such applicant or recipient applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or recipient promptly notify the Administrator if such person ceases to meet the applicable definition of spouse or child.". Notification.

FREQUENCY OF PAYMENT OF PENSION BENEFITS

SEC. 104. (a) Chapter 15 of title 38, United States Code, is amended by inserting after section 507 the following new section: 38 USC 501.

"§ 508. Frequency of payment of pension benefits 38 USC 508.

"(a) Except as provided under subsection (b) of this section, benefits under sections 521, 541, and 542 of this title shall be paid monthly. *Post*, pp. 2500, 2503, 2504.

"(b) Under regulations which the Administrator shall prescribe, benefits under sections 521, 541, and 542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 per centum of the maximum annual rate payable to a veteran under section 521(b) of this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 507 a new item as follows:

"508. Frequency of payment of pension benefits.".

PENSION FOR SPANISH-AMERICAN WAR VETERANS

SEC. 105. Paragraph (3) of section 512(a) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "(except the rate provided under subsection (g) of such section)" after "of this title";

(B) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(C) by striking out the comma and "except as provided in subparagraph (B)" in the second sentence of such subparagraph; and

Regulations.

(2) in subparagraph (B), by striking out "if such veteran" and all that follows in the first sentence and inserting in lieu thereof a comma and "as in effect on December 31, 1978, under regulations which the Administrator shall prescribe.".

PENSION OF VETERANS OF A PERIOD OF WAR

SEC. 106. (a) Section 521 of title 38, United States Code, is amended to read as follows:

"§ 521. Veterans of a period of war

"(a) The Administrator shall pay to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (j) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title.

"(b) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, and unless the veteran is entitled to pension at the rate provided by subsection (d)(1) or (e) of this section, pension shall be paid to the veteran at the annual rate of $3,550, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or if there is a child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, pension shall be paid to the veteran at the annual rate of $4,651, unless the veteran is entitled to pension at the rate provided by subsection (d)(2), (e), or (f) of this section. If the veteran has two or more such family members, such annual rate shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $5,680, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (c) of this section shall be $6,781. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of

the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

"(e) If the veteran has a disability rated as permanent and total and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $4,340 and the annual rate of pension payable to the veteran under subsection (c) of this section shall be $5,441. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the annual income of such family members.

"(f)(1) If two veterans are married to one another and each meets the disability and service requirements prescribed in subsections (a) and (j), respectively, of this section, the annual rate of pension payable to such veterans shall be a combined annual rate of $4,651.

"(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $6,781. If both such veterans are in need of regular aid and attendance, such rate shall be $8,911.

"(3) If either such veteran would be entitled (if not married to a veteran) to pension at the rate provided by subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $5,441. If both such veterans would be entitled (if not married to one another) to such rate, such rate shall be $6,231.

"(4) If one such veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $7,571.

"(5) The annual rate provided by paragraph (1), (2), (3), or (4) of this subsection, as appropriate, shall (A) be increased by $600 for each child of such veterans (or of either such veteran) who is in the custody of either or both such veterans or to whose support either such veteran is, or both such veterans are, reasonably contributing, and (B) be reduced by the amount of the annual income of both such veterans and, subject to subsection (h)(1) of this section, the annual income of each such child.

"(g) The annual rate of pension payable under subsection (b), (c), (d), (e), or (f) of this section to any veteran who is a veteran of a period of war shall be increased by $800 if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law. 38 USC 1651, 1801.

"(h) For the purposes of this section:

"(1) In determining the annual income of a veteran, if there is a child of the veteran who is in the custody of the veteran or to whose support the veteran is reasonably contributing, that portion of the annual income of the child that is reasonably available to or for the veteran shall be considered to be income of the veteran, unless in the judgment of the Administrator to do so would work a hardship on the veteran.

"(2) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

"(i) If the veteran is entitled under this section to pension on the basis of such veteran's own service and is also entitled to pension on the basis of any other person's service, the Administrator shall pay such veteran only the greater benefit.

"(j) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

"(1) for ninety days or more during a period of war;

"(2) during a period of war and was discharged or released from such service for a service-connected disability;

"(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

"(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.".

(b) The item relating to section 521 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

38 USC 501.

"521. Veterans of a period of war.".

VETERANS' NET WORTH LIMITATION

SEC. 107. Section 522 of title 38, United States Code, is amended to read as follows:

"§ 522. Net worth limitation

Pension payments, denial or discontinuation. *Ante*, p. 2500.

"(a) The Administrator shall deny or discontinue the payment of pension to a veteran under section 521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.".

PENSION FOR SURVIVING SPOUSES OF SPANISH-AMERICAN WAR VETERANS

SEC. 108. Subsection (d) of section 536 of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "World War I" and inserting in lieu thereof "a period of war"; and

(B) by striking out the comma and "except as provided in paragraph (2)" in the second sentence of such paragraph; and

(2) in paragraph (2)—

(A) by inserting a comma and "as in effect on December 31, 1978" after "of this title" both places it appears; and

(B) by inserting a comma and "as in effect on such date" after "such section 544".

PENSION FOR SURVIVING SPOUSES OF VETERANS OF A PERIOD OF WAR

SEC. 109. (a) Section 541 of title 38, United States Code, is amended to read as follows:

"§ 541. Surviving spouses of veterans of a period of war

"(a) The Administrator shall pay to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section, as increased from time to time under section 3112 of this title. *Ante*, p. 2500.

"(b) If no child of the veteran is in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $2,379, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $3,116. If the surviving spouse has custody of two or more such children, the annual pension rate shall be increased by $600 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(d)(1) If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $3,806, reduced by the amount of the surviving spouse's annual income.

"(2) If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $4,543. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

"(e)(1) If the surviving spouse is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such surviving spouse under subsection (b) of this section shall be $2,908 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $3,645. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the income of any child of the veteran for whom the surviving spouse is receiving increased pension.

"(2) For purposes of paragraph (1) of this subsection, the requirement of 'permanently housebound' shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime. "Permanently housebound."

"(f) No pension shall be paid under this section to a surviving spouse of a veteran unless the spouse was married to the veteran—

"(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran;

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(g) In determining the annual income of a surviving spouse for the purposes of this section, if there is a child of the veteran in the custody of the surviving spouse, that portion of the annual income of the child that is reasonably available to or for the surviving spouse shall be considered to be income of the surviving spouse, unless in the judgment of the Administrator to do so would work a hardship on the surviving spouse.

"Veteran." "(h) As used in this section and section 542 of this title, the term 'veteran' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.".

38 USC 501. (b) The item relating to section 541 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"541. Surviving spouses of veterans of a period of war.".

PENSION FOR CHILDREN OF VETERANS OF A PERIOD OF WAR

SEC. 110. (a) Section 542 of title 38, United States Code, is amended to read as follows:

"§ 542. Children of veterans of a period of war

"The Administrator shall pay to each child (1) who is the child of a deceased veteran of a period of war who met the service requirements prescribed in section 521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, and (2) who is not in the custody of a surviving spouse eligible for pension under section 541 of this title, pension at the annual rate of $600, as increased from time to time under section 3112 of this title and reduced by the amount of such child's annual income; or, if such child is residing with a person who is legally responsible for such child's support, at an annual rate equal to the amount by which the appropriate annual rate provided under section 541(c) of this title exceeds the sum of the annual income of such child and such person, but in no event may such annual rate of pension exceed the amount by which $600, as increased from time to time under section 3112 of this title, exceeds the annual income of such child. The appropriate annual rate under such section 541(c) for the purposes of the preceding sentence shall be determined in accordance with regulations which the Administrator shall prescribe.".

Ante, p. 2500.

(b) The item relating to section 542 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"542. Children of veterans of a period of war.".

SURVIVORS' NET WORTH LIMITATION

SEC. 111. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a)(1) The Administrator shall deny or discontinue payment of pension to a surviving spouse under section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the income of the surviving spouse and the income of any child from whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of such estate be consumed for the surviving spouse's maintenance. Pension payments, denial or discontinuation. *Ante*, p. 2503.

"(2) The Administrator shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

"(b) The Administrator shall deny or discontinue payment of pension to a child under section 542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.". *Ante*, p. 2504.

CONFORMING AMENDMENT RELATING TO SURVIVING SPOUSES' PENSION

SEC. 112. (a)(1) Section 544 of title 38, United States Code, is repealed. Repeal.

(2) Chapter 15 of such title is amended by striking out the heading below section 543 of such chapter. 38 USC 501.

(b) The table of sections at the beginning of chapter 15 of such title is amended by striking out the item below the item relating to section 543 and by striking out the item relating to section 544.

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING PARENTS

SEC. 201. (a)(1) Paragraph (1) of subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038, as increased from time to time under section 3112 of this title".

(3) The first sentence of paragraph (4) of such subsection is amended by striking out "the formula of paragraph (1) of this sub-

section or under the formula in subsection (d), whichever is the greater" and inserting in lieu thereof "paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$3,770" and inserting in lieu thereof "$4,038, as increased from time to time under section 3112 of this title".

(c)(1) Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 3112(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Administrator shall prescribe under section 3112(b)(2) of this title.".

(2) Paragraph (3) of such subsection is amended by striking out "$5,070" and inserting in lieu thereof "$5,430, as increased from time to time under section 3112 of this title".

(d) Subsection (h) of such section is amended by striking out "$79" and inserting in lieu thereof "$85, as increased from time to time under section 3112 of this title,".

TITLE III—MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

DEFINITION OF "PENSION"

SEC. 301. Paragraph (15) of section 101 of title 38, United States Code, is amended by inserting "or other periodic" after "monthly".

INCOME LIMITATION FOR RECEIPT OF DRUGS AND MEDICINES

SEC. 302. The second sentence of section 612(h) of title 38, United States Code, is amended by striking out "$500" and inserting in lieu thereof "$1,000".

EFFECTIVE DATES FOR CHANGES IN INCOME

SEC. 303. Clause (4) of section 3012(b) of title 38, United States Code, is amended to read as follows:

"(4) by reason of—

"(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

"(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;".

CONFORMING AMENDMENT RELATING TO PROHIBITION ON CONCURRENT PENSIONS

SEC. 304. Paragraph (1) of section 3104(b) of title 38, United States Code, is amended by inserting "of this subsection and in section 521(i) of this title" after "(2) and (3)".

ANNUAL COST-OF-LIVING ADJUSTMENTS

SEC. 305. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates 38 USC 3112.

"(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 521, 541, and 542 of this title and the rate of increased pension paid under such sections 521 and 541 on account of children, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased. 42 USC 401. 42 USC 415.

"(b)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective on the date of such increase in benefit amounts, increase the maximum monthly rates of dependency and indemnity compensation for parents payable under subsections (b), (c), and (d), and the monthly rate provided in subsection (h), of section 415 of such title and the annual income limitations prescribed in subsections (b)(3), (c)(3), and (d)(3) of such section, as such rates and limitations were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

"(2)(A) Whenever there is an increase under paragraph (1) of this subsection in such rates and annual income limitations, the Administrator shall, effective on the date of such increase in such rates and limitations, adjust (as provided in subparagraph (B) of this paragraph) the rates of dependency and indemnity compensation payable under subsection (b)(1) or (c)(1) of section 415 of this title to any parent whose annual income is more than $800 but not more than the annual income limitation in effect under subsection (b)(3) or (c)(3) of such section, as appropriate, and adjust the rates of such compensation payable under subsection (d)(1) of such section to any parent whose annual income is more than $1,000 but not more than the annual income limitation in effect under subsection (d)(3) of such section.

"(B) The adjustment in rates of dependency and indemnity compensation referred to in subparagraph (A) of this paragraph shall be made by the Administrator in accordance with regulations which the Administrator shall prescribe. Regulations.

"(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 521, 541, and 542 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 415 of this title, the Administrator shall publish such rates and limitations (including those rates adjusted by the Administrator under subsection (b)(2) of this section), as increased Publication in Federal Register.

pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215 (i) of such Act.

42 USC 415.

"(2) Whenever such rates and income limitations are so increased, the Administrator may round such rates and income limitations in such manner as the Administrator considers equitable and appropriate for ease of administration.".

(b) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof a new item as follows:

38 USC 3101.

"3112. Annual adjustment of certain benefit rates.".

SAVINGS PROVISIONS FOR PERSONS ENTITLED TO PENSION AS OF DECEMBER 31, 1978

38 USC 521 note.

SEC. 306. (a)(1)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, may elect to receive pension under such section as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(2) Any person eligible to make an election under paragraph (1) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 521, 541, or 542, as appropriate, of title 38, United States Code, as in effect on December 31, 1978, except that—

(A) pension may not be paid to such person if such person's annual income (determined in accordance with section 503 of title 38, United States Code, as in effect on December 31, 1978) exceeds $4,038, in the case of a veteran or surviving spouse without dependents, $5,430, in the case of a veteran or surviving spouse with one or more dependents, or $3,299, in the case of a child; and

(B) the amount prescribed in subsection (f)(1) of section 521 of such title (as in effect on December 31, 1978) shall be $1,285;

as each such amount is increased from time to time under paragraph (3).

(3) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall, effective on the date of such increase under such section 3112, increase—

(A) the annual income limitations in effect under paragraph (2); and

(B) the amount of income of a veteran's spouse excluded from the annual income of such veteran under section 521(f)(1) of such title, as in effect on December 31, 1978;

by the same percentage as the percentage by which such maximum annual rates under such sections 521, 541, and 542 are increased.

(b)(1) Effective January 1, 1979, section 9 of the Veterans' Pension Act of 1959 (Public Law 86-211) is repealed. Repeal. 38 USC 521 note.

(2)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 9(b) of the Veterans' Pension Act of 1959 may elect to receive pension under section 521, 541, or 542 of title 38, United States Code, as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Administrator of Veterans' Affairs may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

(3) Any person eligible to make an election under paragraph (2) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9(b) of the Veterans' Pension Act of 1959, as in effect on December 31, 1978, except that pension may not be paid to such person if such person's annual income (determined in accordance with the applicable provisions of law, as in effect on December 31, 1978) exceeds $3,534, in the case of a veteran or surviving spouse without dependents or in the case of a child, or $5,098, in the case of a veteran or surviving spouse with one or more dependents, as each such amount is increased from time to time under paragraph (4).

(4) Whenever there is an increase under section 3112 of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 521, 541, and 542 of such title, as in effect after December 31, 1978, the Administrator shall, effective on the date of such increase under such section 3112, increase the annual income limitations in effect under paragraph (3) by the same percentage as the percentage by which the maximum annual rates under such sections 521, 542, and 543 are increased.

(c) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on December 31, 1978;

(2) a claim for pension is filed by a veteran after December 31, 1978, and within one year after the date on which such veteran became totally and permanently disabled, if such veteran became totally and permanently disabled before January 1, 1979; or

(3) a claim for pension is filed by a surviving spouse or by a child after December 31, 1978, and within one year after the date of death of the veteran through whose relationship such claim is made, if the death of such veteran occurred before January 1, 1979;

shall be adjudicated under title 38, United States Code, as in effect on December 31, 1978. Any benefits determined to be payable as the result of the adjudication of such a claim shall be subject to the provisions of subsection (a).

(d) In any case in which any person who as of December 31, 1978, is entitled to receive pension under section 521, 541, or 542 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, elects (in accordance with subsection (a)(1) or (b)(2), as appropriate) before October 1, 1979, to receive pension under such section as in effect after December 31, 1978, the Administrator of Veter-

ans' Affairs shall pay to such person an amount equal to the amount by which the amount of pension benefits such person would have received had such election been made on January 1, 1979, exceeds the amount of pension benefits actually paid to such person for the period beginning on January 1, 1979, and ending on the date preceding the date of such election.

Publication in Federal Register.

(e) Whenever there is an increase under subsections (a)(3) and (b)(4) in the annual income limitations with respect to persons being paid pension under subsections (a)(2) and (b)(3), the Administrator of Veterans' Affairs shall publish such annual income limitations, as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act is published by reason of a determination under section 215(i) of such Act.

42 USC 415.

AMENDMENTS CONCERNING PENSION FOR CERTAIN INSTITUTIONALIZED VETERANS

SEC. 307. Paragraph (1) of section 3203(a) of title 38, United States Code, is amended to read as follows:

"(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the second full calendar month following the month of admission for such care.

"(B) Where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Veterans' Administration, no pension in excess of $60 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

"(C) No pension in excess of $60 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Veterans' Administration if such veteran is readmitted within six months of a period of care of not less than two full calendar months.".

STUDY OF PENSION BENEFITS PAID TO PERSONS OVERSEAS

38 USC 521 note.

SEC. 308. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of State, shall carry out a comprehensive study of the income characteristics of veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia, including those who are receiving pension benefits under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, as in effect on the date of the enactment of this Act. The Administrator shall include in such study (1) an analysis of the issues involved in the payment of non-service-connected pension benefits to such persons, (2) analyses of such aspects of the economy of each foreign country and each territory, possession, and commonwealth of the United States in which a substantial number of such persons reside as are relevant to such issues, such as the rate of inflation, the standard of living, and subsistence levels in such foreign country or such territory, possession, or commonwealth, and (3) estimates of the present and future costs of the payment of pension benefits to such persons.

38 USC 3101.

38 USC 521 note.

(b) The Administrator of Veterans' Affairs shall transmit a report to the Congress and to the President, not later than February 1, 1980, on the results of such study, together with the Administrator's recommendations as to the desirability of modifying the Veterans' Administration non-service-connected pension program for veterans of a period of war (as defined in section 101(11) of title 38, United States Code) and their survivors who are residing outside the fifty States and the District of Columbia. Report, transmittal to the President and Congress.

TITLE IV—EFFECTIVE DATE

SEC. 401. The amendments made by this Act to title 38, United States Code, shall become effective on January 1, 1979. 38 USC 101 note.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1225 (Comm. on Veterans' Affairs) and No. 95-1768 (Comm. of Conference).
SENATE REPORTS: No. 95-1016 accompanying S. 2384 (Comm. on Veterans' Affairs) and No. 95-1329 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 28, considered and passed House.
July 31, considered and passed Senate, amended, in lieu of S. 2384.
Oct. 12, Senate agreed to conference report.
Oct. 14, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 6, Presidential statement.

Public Law 95-589
95th Congress

An Act

Nov. 4, 1978
[H.R. 13903]

To amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed.

Uniformed Services University of the Health Sciences, Board of Regents, term of service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2113(b) of title 10, United States Code, relating to the Board of Regents of the Uniformed Services University of the Health Sciences, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) any member whose term of office has expired shall continue to serve until his successor is appointed.".

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1685 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 15, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 4, Presidential statement.

Public Law 95-590
95th Congress

An Act

Nov. 4, 1978
[H.R. 12874]

To provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978".

Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978.
42 USC 5501 note.

FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

42 USC 5581.

(1) the United States of America is faced with a finite and diminishing resource base of native fossil fuels, and as a consequence must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) the early demonstration of the feasibility of using solar photovoltaic energy systems for the generation of electricity could help to relieve the demand on existing fuel and energy supplies;

(4) the national security and economic well-being of the United States is endangered by its dependence on imported energy supplies which are subject to resource limitations, artificial pricing mechanisms which do not accurately reflect supply and demand relationships, and supply interruptions;

(5) the early development and widespread utilization of photovoltaic energy systems could significantly expand the domestic energy resource base of the United States, thereby lessening its dependence on foreign supplies;

(6) the establishment of sizable markets for photovoltaic energy systems will justify private investment in plant and equipment necessary to realize the economies of scale, and will result in significant reductions in the unit costs of these systems;

(7) the use of solar photovoltaic energy systems for certain limited applications has already proved feasible;

(8) there appear to be no insoluble technical obstacles to the widespread commercial use of solar photovoltaic energy technologies;

(9) an aggressive research and development program should solve existing technical problems of solar photovoltaic systems; and, supported by an assured and growing market for photovoltaic systems during the next decade, should maximize the future contribution of solar photovoltaic energy to this Nation's future energy production;

(10) it is the proper and appropriate role of the Federal Government to undertake research, development, and demonstration programs in solar photovoltaic energy technologies and to supple-

ment and assist private industry and other entities and thereby the general public, so as to hasten the general commercial use of such technologies;

(11) the high cost of imported energy sources impairs the economic growth of many nations which lack sizable domestic energy supplies or are unable to develop these resources;

(12) photovoltaic energy systems are economically competitive with conventional energy resources for a wide variety of applications in many foreign nations at the present time, and will find additional applications with continued cost reductions;

(13) the early development and export of solar photovoltaic energy systems, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to the well-being of the people of other nations and to this Nation's balance of trade;

(14) the widespread use of solar photovoltaic energy systems to supplement and replace conventional methods for the generation of electricity would have a beneficial effect upon the environment;

(15) to increase the potential application of solar photovoltaic energy systems in remote locations, and to minimize the need for backup systems depending on fossil fuel, programs leading to the development of inexpensive and reliable systems for the storage of electricity should be pursued as part of any solar photovoltaic energy research, development, and demonstration program;

(16) evaluation of the performance and reliability of solar photovoltaic energy technologies can be expedited by testing of prototypes under carefully controlled conditions;

(17) commercial application of solar photovoltaic energy technologies can be expedited by early commercial demonstration under practical conditions;

(18) photovoltaic energy systems are currently adaptable on a life cycle, cost-justified basis for certain of the energy needs of the Federal Government, and will find additional applications as continued refinements improve performance and reduce unit costs;

(19) the Federal Government can stimulate innovation and economic efficiency in the production of photovoltaic energy systems through the development and implementation of policies to promote diversity and maximum competition between firms engaged in the research, manufacture, installation, and/or maintenance of these systems;

(20) innovation and creativity in the development of solar photovoltaic energy components and systems can be fostered through encouraging direct contact between the manufacturers of such systems and the architects, engineers, developers, contractors, and other persons interested in utilizing such systems; and

(21) it is contemplated that the ten-year program established by this Act will require the expenditure of $1,500,000,000 by the Federal Government.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to establish during the next decade an aggressive research, development, and demonstration program involving solar photovoltaic energy systems and in the long term, to have as an objective the production of electricity from photovoltaic systems cost competitive with utility-generated electricity from conventional sources. Further, it is declared to be the policy of the United States and

the purpose of this Act that the objectives of this research, development, and demonstration program are—

(1) to double the production of solar photovoltaic energy systems each year during the decade starting with fiscal year 1979, measured by the peak generating capacity of the systems produced, so as to reach a total annual United States production of solar photovoltaic energy systems of approximately two million peak kilowatts, and a total cumulative production of such systems of approximately four million peak kilowatts by fiscal year 1988;

(2) to reduce the average cost of installed solar photovoltaic energy systems to $1 per peak watt by fiscal year 1988; and

(3) to stimulate the purchase by private buyers of at least 90 per centum of all solar photovoltaic energy systems produced in the United States during fiscal year 1988.

DEFINITIONS

42 USC 5582.

SEC. 3. For purposes of this Act—

(1) a "solar photovoltaic energy system" is a system of components which generates electricity from incident sunlight by means of the photovoltaic effect, and which shall include all components, including energy storage devices where appropriate, necessary to provide electricity for individual, industrial, agricultural, or governmental use;

(2) the term "solar photovoltaic energy system" may be used interchangeably with the term "photovoltaic system";

(3) a "hybrid solar photovoltaic energy system" is a system of components that generates electricity from incident sunlight by means of the photovoltaic effect and, in conjunction with electronic and, if appropriate, optical, thermal and storage devices, provides electricity, as well as heat and/or light for individual, commercial, industrial, agricultural, or governmental use:

(4) "photovoltaic effect" refers to the physical phenomenon exhibited under certain circumstances by some materials in which a portion of the light energy striking the material is directly converted to electrical energy;

(5) "facility" means any building, agricultural, commercial or industrial complex or other device constructively employing photovoltaic systems; and

(6) "Secretary" means the Secretary of Energy.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF SOLAR PHOTOVOLTAIC ENERGY SYSTEMS

Programs, establishment. 42 USC 5583.

SEC. 4. The Secretary is directed to establish immediately and carry forth such research, development, and demonstration programs as may be necessary to meet the objectives of this Act as set forth in section 2(b), and as a part of any such program shall—

(a) conduct, and promote the coordination and acceleration of, research, development, and demonstrations relating to solar photovoltaic energy systems and components thereof, and

(b) conduct, and promote the coordination and acceleration of, research, development, and demonstrations for systems and components to be used in applications that are dependent for their energy on solar photovoltaic energy systems.

42 USC 5584.

SEC. 5. (a) In carrying out the provisions of section (4), the Secretary is authorized—

Federal assistance application procedures. Agreements.

(1) to establish procedures whereby any public or private entity wishing to install solar photovoltaic components and systems in any new or existing facility may apply for Federal assistance in purchasing and installing, in such facility, photovoltaic components or systems;

(2) to select, as soon as he deems it feasible, a number of the applicants under paragraph (1) and enter into agreements with them for the design, purchase, fabrication, testing, installation, and demonstration of photovoltaic components and systems. Such selection shall be based on the need to obtain scientific, technological, and economic information from a variety of such systems under a variety of circumstances and conditions; and

(3) to arrange, as part of any agreement entered into under paragraph (2), to provide up to 75 per centum of the purchase and installation costs of photovoltaic components or systems, taking into account relevant considerations involving the relative stage of consumer and industry interest and development at the time of the financial assistance action. Such arrangements shall be contingent upon terms and conditions prescribed by the Secretary, including an express agreement that the entity with whom the agreement is entered into shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of such system for a period of five years, and that such entity (including any subsequent owner of the property) shall regularly furnish the Secretary with such reports thereon as the agreement may require.

Observation and monitoring reports.

(b) The Secretary shall, as he deems appropriate, undertake any projects or activities (including demonstration projects) to further the attainment of the objectives of this section.

42 USC 5585.

SEC. 6. (a) The Secretary is authorized to select on the basis of open competitions—

(1) a number of readily available photovoltaic components and systems;

(2) a number of design concepts for various types of applications which demonstrate adapability to the utilization of photovoltaic components and systems; and

(3) a number of designs for applications selected under paragraph (2), so that each design includes specific provisions for the utilization of solar photovoltaic components and systems selected under paragraph (1).

(b) The Secretary, in accordance with the applicable provisions of sections 7, 8, and 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.) and with such program guidelines as the Secretary may establish, shall—

42 USC 5906, 5907, 5908. Contracts and grants.

(1) enter into such contracts and grants as may be necessary or appropriate for the development for commercial production and utilization of photovoltaic components and systems, including any further planning and design which may be required to conform with the specifications set forth in any applicable criteria;

(2) select, as being compatible with the design concepts chosen under subsection (a)(2) of this section, a reasonable number of photovoltaic components and systems; and

(3) enter into contracts with a number of persons or firms for the procurement of photovoltaic components and systems, including adequate numbers of spare and replacement parts for such systems. Contracts.

(c) The Secretary is authorized to award contracts for the design integration between the application concepts and the photovoltaic systems procured by the Secretary under subsection (b)(3), and for the demonstration of prototype solar photovoltaic systems, and, when appropriate, for the utilization of such systems in existing facilities. Title to and ownership of the facilities so constructed and of photovoltaic systems installed hereunder may be conveyed to purchasers of such facilities under terms and conditions prescribed by the Secretary, including an express agreement that any such purchaser shall, in such manner and form and on such terms and conditions as the Secretary may prescribe, observe and monitor (or permit the Secretary to observe and monitor) the performance and operation of such systems for a period of five years, and that such purchaser (including any subsequent owner) shall regularly furnish the Secretary with such reports thereon as the agreement may require. Title, conveyance. Observation and monitoring reports.

(d) The Secretary, in consultation with the Administrator of General Services or the Secretary of Defense or both (as may be appropriate) shall enter into arrangements with appropriate Federal agencies concurrently with the conduct of the programs under this section and section 7 of this Act, to carry out such projects and activities (including demonstration projects), with respect to Federal buildings and facilities, as may be appropriate for the demonstration of photovoltaic systems suitable and effective for use in such applications. Federal agencies cooperation, consultation.

(e) The Secretary shall, as he deems appropriate, undertake any projects or activities (including demonstration projects) to further the attainment of the objectives of this section.

TEST PROCEDURES AND PERFORMANCE CRITERIA

SEC. 7. (a) The Secretary shall conduct a testing program for photovoltaic systems to assist in the development and demonstration of prototype photovoltaic systems, including collectors, controls, power conditioning, and energy storage systems. Program. 42 USC 5586.

(b) Data obtained from the testing program under subsection (a) shall be evaluated and used in establishing performance criteria. These performance criteria shall be used in the demonstration program described in sections 4, 5, and 6 of this Act.

(c) The Secretary shall determine, prescribe, and publish in the Federal Register, at a time which he determines to be feasible and justified— Publication in Federal Register.

(1) performance criteria for photovoltaic components and systems to be used in appropriate applications, and procedures whereby manufacturers of photovoltaic components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under this paragraph; and

(2) revised performance criteria for photovoltaic components and systems to be used in appropriate applications, and procedures whereby manufacturers of photovoltaic components and systems shall have their products tested in order to provide certification that such products conform to the performance criteria established under this paragraph. Such criteria may be annually revised by the Secretary, as he deems appropriate.

(d) Any photovoltaic component or system procured or installed by the Federal Government or procured or installed with Federal assistance under section (5) or section (6) shall meet appropriate performance criteria prescribed under this section, if such performance criteria have been prescribed.

COORDINATION MONITORING, AND LIAISON

42 USC 5587.

SEC. 8. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of photovoltaic systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of photovoltaic systems installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the policy of this Act.

(b) In the development of the performance criteria and test procedures required under section 7 of this Act, the Secretary shall work closely with the appropriate scientific, technical, and professional societies and industry representatives in order to assure the best possible use of available expertise in this area.

(c) The Secretary shall also maintain continuing liaison with related industries and interests, and with the scientific and technical community, during and after the period of the programs carried out under this Act, in order to assure that the projected benefits of such programs are and will continue to be realized.

SOLAR PHOTOVOLTAIC ENERGY ADVISORY COMMITTEE

Establishment and duties.
42 USC 5588.

SEC. 9. (a) There is hereby established a Solar Photovoltaic Energy Advisory Committee, which shall study and advise the Secretary on—

(1) the scope and pace of research and development with respect to solar photovoltaic energy systems;

(2) the need for and timing of solar photovoltaic energy systems demonstration projects;

(3) the need for change in any research, development, or demonstration program established under this Act; and

(4) the economic, technological, and environmental consequences of the use of solar photovoltaic energy systems.

Membership.

(b) The Committee shall be composed of thirteen members, including eleven members appointed by the Secretary from industrial organizations, academic institutions, professional societies or institutions, and other sources as he sees fit, and two members of the public appointed by the President. The Chairman of the Committee shall be elected from among the members thereof.

(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section, and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) Section 624 of the Department of Energy Organization Act shall be applicable to the Committee, except as inconsistent with this section. 42 USC 7234.

DISSEMINATION OF INFORMATION AND OTHER ACTIVITIES TO PROMOTE PRACTICAL USE OF SOLAR PHOTOVOLTAIC TECHNOLOGIES

SEC. 10 (a) The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific and technical community, and the public at large, both during and after the close of the programs under this Act, with the objective of promoting and facilitating to the maximum extent feasible the early and widespread practical use of photovoltaic energy throughout the United States. Any trade secret or other proprietary information shall be exempted from such mandatory disclosure, as otherwise specified in law applicable to research, development and demonstration programs of the Department of Energy, including, but not limited to, section 17 of the Federal Non-Nuclear Energy Research and Development Act of 1974, Public Law 93-577, as amended. 42 USC 5589. 42 USC 5916.

(b) The Secretary shall— Studies and investigation.

(1) study the effect of the widespread utilization of photovoltaic systems on the existing electric utility system at varying levels of photovoltaic contribution to the system;

(2) study and investigate the effect of utility rate structures, building codes, zoning ordinances, and other laws, codes, ordinances, and practices upon the practical use of photovoltaic systems;

(3) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use and the methods by which any such changes may best be accomplished; and

(4) determine the necessity of a program of incentives to accelerate the commercial application of photovoltaic technologies.

(c) The Secretary is authorized and directed, within one year of the date of enactment of this Act, to make recommendations to the President and to the Congress for Federal policies relating to barriers to the early and widespread utilization of photovoltaic systems in order to realize the goals set forth in section 2. These recommendations shall include but not be limited to— Policy recommendations to the President and Congress.

(1) the potential for integration of electricity derived from photovoltaic energy systems into the existing national grid system, including the potential of photovoltaic-generated electricity to meet the peak-load energy needs of electric utilities, load management and reliability implications of the utilization of photovoltaic electricity by utilities, the implications of utility ownership of photovoltaic components leased to others primarily for decentralized applications, the impacts of utility use of electricity derived from photovoltaic energy systems on utility rate structures, and the potential for reducing or obviating the need for energy storage components for photovoltaic energy systems through utility interface;

(2) the extent of competition between firms currently engaged in the fabrication and installation of photovoltaics components and systems as it affects the character and growth potential of the American photovoltaics industry, and the likelihood that small photovoltaic firms will have reasonable opportunities to compete and participate in the various programs authorized by this Act;

(3) the need to identify legal alternatives to ensure access to direct sunlight for photovoltaic energy systems, the appropriate methods of encouraging the adoption of such alternatives, and the implications of widespread utilization of photovoltaic energy systems for land use and urban development;

(4) the availability of private capital at reasonable interest rates for individuals, businesses and others desiring to establish commercial enterprises to manufacture, market, install, and/or, maintain photovoltaic components and systems, or purchase and install such systems for private, industrial, agricultural, commercial or other uses;

(5) the need for industry-wide warranty and reliability standards for photovoltaic energy components and systems for private sector applications, and, if appropriate, the mechanisms for establishing such standards; and

(6) the attainability of the goals specified in subsection 2(b), and any modification of such goals which the Secretary proposes for consideration by Congress, with supporting analyses.

Consultation and coordination.

(d) In carrying out his functions under this section, the Secretary shall consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this area. The Secretary also shall ensure that any study or report prepared pursuant to this section is fully coordinated with and reflective of any analyses or reports prepared pursuant to the requirements in section 208 of the Department of Energy Act of 1978—Civilian Applications, Public Law 95-238, and in the President's Solar Energy Domestic Policy Review. The Secretary, as appropriate, may merge any continuing or on-going studies under section 208 or the Domestic Policy Review with those required by this section or avoid any unnecessary duplication of effort or funding. The separate report requirements of section 208 and this section, however, shall remain in force.

42 USC 5556a.

INTERNATIONAL PARTICIPATION AND COOPERATION

Plan, consultation and submittal to congressional committees.
42 USC 5590.

SEC. 11. (a) Within one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of State, the Administrator of the Agency for International Development, the Director of ACTION, the Director of the Export/Import Bank and other appropriate Federal officials, shall submit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources a plan for demonstrating applications of solar photovoltaic energy systems and facilitating their widespread use in other nations, especially those with agreements for scientific cooperation with the United States.

(b) The Secretary is authorized to encourage, to the maximum extent practicable, international participation and cooperation in the

development and maintenance of programs established under this plan. The Secretary, in consultation and cooperation with the Federal officials specified in subsection (a), shall insure to the maximum extent possible that the plan submitted under subsection (a) and any other international activities under this section are consistent with and reflective of any similar activities or requirements under any other Federal statute, specifically including any of the several programs under other agencies and Departments involving United States international cooperation and assistance in nonnuclear energy technology, and will not duplicate activities under such programs. The plan required in subsection (a) shall specifically identify all such programs and statutes and describe how the activities under this section will be consistent with such programs, will be coordinated with them, and will avoid duplication of activities under such programs.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

Funds set aside.
42 USC 5591.

SEC. 12. In carrying out his functions under this Act, the Secretary shall take steps to assure that small-business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable, and the Secretary is directed to set aside at least 10 per centum of the funds authorized and appropriated for the participation of small business concerns.

PRIORITIES

42 USC 5592.

SEC. 13. The Secretary shall set priorities, as far as possible consistent with the intent and operation of this Act, in accordance with the following criteria:

(1) The applications utilizing photovoltaic systems which will be part of the research, development, and demonstration program and testing and demonstration programs referred to in sections 4, 5, 6, and 7 shall be located in a sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the use of photovoltaic systems and of the applications themselves, in both rural and urban locations and under climatic conditions which vary as much as possible.

(2) The projected costs of commercial production and maintenance of the photovoltaic systems utilized in the testing and demonstration programs established under this Act should be taken into account.

(3) Encouragement should be given in the conduct of programs under this Act to those projects in which funds are appropriated by any State or political subdivision thereof for the purpose of sharing costs with the Federal Government for the purchase and installation of photovoltaic components and systems.

42 USC 5593.

SEC. 14. Nothing in this Act shall be construed to negate, duplicate, or otherwise affect the provisions of title V (Federal Initiatives), part 4 (Federal Photovoltaic Utilization), National Energy Conservation Policy Act, H.R. 5037, 95th Congress, if and when that Act becomes enacted by the Ninety-fifth Congress, and such part 4 shall be exempted fully from the provisions of this Act and any regulations, guidelines, or criteria pursuant thereto.

Post, p. 3280.

AUTHORIZATION OF APPROPRIATIONS

42 USC 5594.

SEC. 15. There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1979, $125,000,000, inclusive of any funds otherwise authorized for photovoltaic programs, (1) to carry out the functions vested in the Secretary by this Act, (2) to carry out the functions in fiscal year 1979, vested in the Secretary by part 4 of title V of H.R. 5037, 95th Congress, if enacted by the 95th Congress, and (3) for transfer to such other agencies of the Federal Government as may be required to enable them to carry out their respective functions under this Act. Funds appropriated pursuant to this section shall remain available until expended: *Provided*, That any contract or agreement entered into pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Authorizations of appropriations for fiscal years after fiscal year 1979 shall be contained in the annual authorization for the Department of Energy, except for those funds authorized for fiscal years 1980 and 1981 contained in part 4 of title V of H.R. 5037, Ninety-fifth Congress, if enacted by the Ninety-fifth Congress.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1285 (Comm. on Science and Technology).
SENATE REPORT No. 95-1262, accompanying S. 3392 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 28, considered and passed House.
Oct. 10, considered and passed Senate, amended, in lieu of S. 3392.
Oct. 13, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 4, Presidential statement.

Public Law 95-591
95th Congress

An Act

To amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes.

Nov. 4, 1978
[H.R. 13500]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Records Act of 1978".

Presidential Records Act of 1978.

RECORDS MANAGEMENT, PRESERVATION, AND PUBLIC AVAILABILITY

44 USC 101, 2201 notes.

SEC. 2. (a) Title 44 of the United States Code is amended by adding immediately after chapter 21 the following new chapter:

"Chapter 22.—PRESIDENTIAL RECORDS

"Sec.
"2201. Definitions.
"2202. Ownership of Presidential records.
"2203. Management and custody of Presidential records.
"2204. Restrictions on access to Presidential records.
"2205. Exceptions to restriction on access.
"2206. Regulations.
"2207. Vice-Presidential records.

"§ 2201. Definitions

44 USC 2201.

"As used in this chapter—

"(1) The term 'documentary material' means all books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio, audiovisual, or other electronic or mechanical recordations.

"(2) The term 'Presidential records' means documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term—

"(A) includes any documentary materials relating to the political activities of the President or members of his staff, but only if such activities relate to or have a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; but

"(B) does not include any documentary materials that are (i) official records of an agency (as defined in section 552(e) of title 5, United States Code); (ii) personal records; (iii) stocks of publications and stationery; or (iv) extra copies of documents produced only for convenience of reference, when such copies are clearly so identified.

"(3) The term 'personal records' means all documentary materials, or any reasonably segregable portion therof, of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory,

or other official or ceremonial duties of the President. Such term includes—

"(A) diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting Government business;

"(B) materials relating to private political associations, and having no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; and

"(C) materials relating exclusively to the President's own election to the office of the Presidency; and materials directly relating to the election of a particular individual or individuals to Federal, State, or local office, which have no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

"(4) The term 'Archivist' means the Archivist of the United States.

"(5) The term 'former President', when used with respect to Presidential records, means the former President during whose term or terms of office such Presidential records were created.

44 USC 2202.

"§ 2202. Ownership of Presidential records

"The United States shall reserve and retain complete ownership, possession, and control of Presidential records; and such records shall be administered in accordance with the provisions of this chapter.

44 USC 2203.

"§ 2203. Management and custody of Presidential records

"(a) Through the implementation of records management controls and other necessary actions, the President shall take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are maintained as Presidential records pursuant to the requirements of this section and other provisions of law.

"(b) Documentary materials produced or received by the President, his staff, or units or individuals in the Executive Office of the President the function of which is to advise and assist the President, shall, to the extent practicable, be categorized as Presidential records or personal records upon their creation or receipt and be filed separately.

Disposal, notification to Archivist.

"(c) During his term of office, the President may dispose of those of his Presidential records that no longer have administrative, historical, informational, or evidentiary value if—

"(1) the President obtains the views, in writing, of the Archivist concerning the proposed disposal of such Presidential records; and

"(2) the Archivist states that he does not intend to take any action under subsection (e) of this section.

Disposal schedule, submittal to congressional committees.

"(d) In the event the Archivist notifies the President under subsection (c) that he does intend to take action under subsection (e), the President may dispose of such Presidential records if copies of the disposal schedule are submitted to the appropriate Congressional Committees at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date. For the purpose of this section, continuity of session is broken only by an adjournment of Congress

sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

"(e) The Archivist shall request the advice of the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Administration and the Committee on Government Operations of the House of Representatives with respect to any proposed disposal of Presidential records whenever he considers that— Consultation with congressional committees.

"(1) these particular records may be of special interest to the Congress; or

"(2) consultation with the Congress regarding the disposal of these particular records is in the public interest.

"(f)(1) Upon the conclusion of a President's term of office, or if a President serves consecutive terms upon the conclusion of the last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential records of that President. The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act.

"(2) The Archivist shall deposit all such Presidential records in a Presidential archival depository or another archival facility operated by the United States. The Archivist is authorized to designate, after consultation with the former President, a director at each depository or facility, who shall be responsible for the care and preservation of such records.

"(3) The Archivist is authorized to dispose of such Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be published in the Federal Register at least 60 days in advance of the proposed disposal date. Publication of such notice shall constitute a final agency action for purposes of review under chapter 7 of title 5, United States Code. Publication in Federal Register. 5 USC 701 *et seq.*

"§ 2204. Restrictions on access to Presidential records 44 USC 2204.

"(a) Prior to the conclusion of his term of office or last consecutive term of office, as the case may be, the President shall specify durations, not to exceed 12 years, for which access shall be restricted with respect to information, in a Presidential record, within one or more of the following categories:

"(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relating to appointments to Federal office;

"(3) specifically exempted from disclosure by statute (other than sections 552 and 552b of title 5, United States Code), provided that such statute (A) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of material to be withheld;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers; or

"(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

"(b)(1) Any Presidential record or reasonably segregable portion thereof containing information within a category restricted by the President under subsection (a) shall be so designated by the Archivist and access thereto shall be restricted until the earlier of—

"(A)(i) the date on which the former President waives the restriction on disclosure of such record, or

"(ii) the expiration of the duration specified under subsection (a) for the category of information on the basis of which access to such record has been restricted; or

"(B) upon a determination by the Archivist that such record or reasonably segregable portion thereof, or of any significant element or aspect of the information contained in such record or reasonably segregable portion thereof, has been placed in the public domain through publication by the former President, or his agents.

"(2) Any such record which does not contain information within a category restricted by the President under subsection (a), or contains information within such a category for which the duration of restricted access has expired, shall be exempt from the provisions of subsection (c) until the earlier of—

"(A) the date which is 5 years after the date on which the Archivist obtains custody of such record pursuant to section 2203(d)(1); or

"(B) the date on which the Archivist completes the processing and organization of such records or integral file segment thereof.

Determination by Archivist, consultation.

"(3) During the period of restricted access specified pursuant to subsection (b)(1), the determination whether access to a Presidential record or reasonably segregable portion thereof shall be restricted shall be made by the Archivist, in his discretion, after consultation with the former President, and, during such period, such determinations shall not be subject to judicial review, except as provided in subsection (e) of this section. The Archivist shall establish procedures whereby any person denied access to a Presidential record because such record is restricted pursuant to a determination made under this paragraph, may file an administrative appeal of such determination. Such procedures shall provide for a written determination by the Archivist or his designee, within 30 working days after receipt of such an appeal, setting forth the basis for such determination.

Administrative appeal procedures.

Administration.

"(c)(1) Subject to the limitations on access imposed pursuant to subsections (a) and (b), Presidential records shall be administered in accordance with section 552 of title 5, United States Code, except that paragraph (b)(5) of that section shall not be available for purposes of withholding any Presidential record, and for the purposes of such section such records shall be deemed to be records of the National Archives and Records Service of the General Services Administration. Access to such records shall be granted on nondiscriminatory terms.

"(2) Nothing in this Act shall be construed to confirm, limit, or expand any constitutionally-based privilege which may be available to an incumbent or former President.

"(d) Upon the death or disability of a President or former President, any discretion or authority the President or former President may have had under this chapter shall be exercised by the Archivist unless otherwise previously provided by the President or former President in a written notice to the Archivist.

"(e) The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the former President asserting that a determination made by the Archivist violates the former President's rights or privileges. Jurisdiction.

"§ 2205. Exceptions to restricted access 44 USC 2205.

"Notwithstanding any restrictions on access imposed pursuant to section 2204—

"(1) the Archivist and persons employed by the National Archives and Records Service of the General Services Administration who are engaged in the performance of normal archival work shall be permitted access to Presidential records in the custody of the Archivist;

"(2) subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available—

"(A) pursuant to subpena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

"(B) to an incumbent President if such records contain information that is needed for the conduct of current business of his office and that is not otherwise available; and

"(C) to either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available; and

"(3) the Presidential records of a former President shall be available to such former President or his designated representative.

"§ 2206. Regulations 44 USC 2206.

"The Archivist shall promulgate in accordance with section 553 of title 5, United States Code, regulations necessary to carry out the provisions of this chapter. Such regulations shall include—

"(1) provisions for advance public notice and description of any Presidential records scheduled for disposal pursuant to section 2203(f)(3);

"(2) provisions for providing notice to the former President when materials to which access would otherwise be restricted pursuant to section 2204(a) are to be made available in accordance with section 2205(2);

"(3) provisions for notice by the Archivist to the former President when the disclosure of particular documents may adversely affect any rights and privileges which the former President may have; and

"(4) provisions for establishing procedures for consultation between the Archivist and appropriate Federal agencies regarding materials which may be subject to section 552(b)(7) of title 5, United States Code.

"§ 2207. Vice-Presidential records 44 USC 2207.

"Vice-Presidential records shall be subject to the provisions of this chapter in the same manner as Presidential records. The duties and responsibilities of the Vice President, with respect to Vice-Presidential records, shall be the same as the duties and responsibilities of the President under this chapter with respect to Presidential records. The authority of the Archivist with respect to Vice-Presidential rec- Depository agreement.

ords shall be the same as the authority of the Archivist under this chapter with respect to Presidential records, except that the Archivist may, when the Archivist determines that it is in the public interest, enter into an agreement for the deposit of Vice-Presidential records in a non-Federal archival depository. Nothing in this chapter shall be construed to authorize the establishment of separate archival depositories for such Vice-Presidential records.".

(b)(1) The table of chapters for title 44, United States Code, is amended by inserting immediately after the item relating to chapter 21 the following new item:

"22. Presidential Records ..... 2201".

(2) Section 2107 of title 44, United States Code, is amended by adding at the end thereof the following new sentence: "This section shall not apply in the case of any Presidential records which are subject to the provisions of chapter 22 of this title.".

(3) Section 2108(c) of title 44 is amended by adding at the end thereof the following: "Only the first two sentences of this subsection shall apply to Presidential records as defined in section 2201(2) of this title.".

EFFECTIVE DATE

44 USC 2201 note.

SEC. 3. The amendments made by this Act shall be effective with respect to any Presidential records (as defined in section 2201(2) of title 44, as amended by section 2 of this Act) created during a term of office of the President beginning on or after January 20, 1981.

SEPARABILITY

44 USC 2201 note.

SEC. 4. If any provision of this Act is held invalid for any reason by any court, the validity and legal effect of the remaining provisions shall not be affected thereby.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1487, pt. I (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 13, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 6, Presidential statement.

Public Law 95-592
95th Congress

An Act

To amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States.

Nov. 4, 1978
[S. 1816]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Latex Commercialization and Economic Development Act of 1978".

Native Latex Commercialization and Economic Development Act of 1978.
7 USC 178 note.

SEC. 2. (a) Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, the defense, and the general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

7 USC 178.

(b) Congress further recognizes that certain plant species of the genus Parthenium (Guayule), native to Texas and the Republic of Mexico, as well as other plants, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out by the Secretary of Agriculture in the Emergency Rubber Project, the United States demonstrated that Parthenium latex is a promising and realistic substitute for Hevea latex.

(c) Congress further recognizes that additional research and development are needed, especially into methods for increasing latex yields, before commercialization of native Parthenium latex or other hydrocarbon-containing plants by private industry is feasible.

(d) Congress further recognizes that the development of a domestic natural rubber industry, based on Parthenium and other hydrocarbon-containing plants, would not only relieve the Nation's dependence upon foreign latex sources but also convey substantial economic benefits to peoples living in arid and semiarid regions of the United States. Such an industry would comprise the agricultural production of the hydrocarbon-containing plants and the development of commercial processing and manufacturing facilities to extract the latex and other products.

(e) Congress further recognizes that ongoing research into the commercialization of native latex has been conducted by the Department of Agriculture and by the Department of Commerce through the regional commissions and that these research efforts should be continued and expanded.

(f) It is the policy of the Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants for the extraction of natural rubber and other products to benefit the Nation and promote economic development.

Definitions.
7 USC 178a.

SEC. 3. As used in this Act—

(a) The term "State" means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) The term "Secretaries" means the Secretary of Agriculture and/or the Secretary of Commerce acting each separately or jointly.

(c) The term "commercialization" means the stage in the development or advancement of a technology at which point private enterprise is willing to invest in a full-scale production facility.

(d) The term "native" means hydrocarbon-containing plants which may be cultured in North America, especially members of the genus Parthenium known as Guayule.

(e) "Regional Commissions" means the Regional Action Planning Commissions established pursuant to title V of the Public Works and Economic Development Act of 1965.

42 USC 3181.

Joint Commission on Guayule Research and Commercialization.
7 USC 178b.

SEC. 4. (a) There is hereby established a Joint Commission on Guayule Research and Commercialization, hereinafter referred to as the Joint Commission. The function of the Joint Commission shall be to assist the Secretaries in carrying out the purposes of this Act.

(b) The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of his Department; three individuals designated by the Secretary of Commerce at least two of whom shall be Federal Cochairmen of Regional Commissions engaged in the support of native latex research, development, demonstration, or commercialization activities and one of whom shall be selected from among the members of his Department; a representative of the Bureau of Indian Affairs of the Department of the Interior; and a representative of the National Science Foundation.

(c) The Joint Commission shall be headed by a Chairman. The Secretary of Agriculture shall designate one of the two members from his Department to serve as Joint Commission Chairman during the first two-year period following the enactment of this Act, and the Secretary of Commerce shall designate one of the two members from his Department as Joint Commission Chairman during the second two-year period following the enactment of this Act. And the same process of designating Joint Commission Chairmen shall be followed in ensuing years.

(d) The Secretaries may delegate to the Joint Commission one or more of their responsibilities under this Act and transfer to the Joint Commission funds appropriated to carry out the purposes of this Act as they deem appropriate to achieve the purposes of this Act, and the Joint Commission is authorized to carry out such functions and expend such funds to achieve the purposes of the Act.

Functions.

(e) The Joint Commission shall—

(1) develop a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of this Act;

(2) establish broad policy for implementing the plan carrying out the purposes of this Act;

(3) establish criteria for evaluating and awarding contracts for research, development, and demonstration projects; and

(4) review and advise the Secretaries with respect to grants, contracts, and other project expenditures.

(f) The Secretaries are authorized to provide without reimbursement such administrative support services, including the detail of staff personnel not to exceed a total of five persons from each Department, as the Joint Commission may need to carry out its functions.

Report to Congress.

(g) One year after the enactment of this Act, and each year thereafter, the Joint Commission shall provide to the Congress a report on the implementation of the Act. Such report shall (1) recommend specific directions for further research, development, and other work, and (2) recommend funding levels for various elements of the overall project.

(h) To the maximum extent possible, the Secretaries and the Joint Commission shall seek the advice of the scientific, engineering and business communities with respect to the activities carried out under this Act. The Secretaries and the Commission shall specifically seek the advice of persons with expertise in appropriate fields of agricultural research in land grant colleges and other universities, in State agricultural experiment stations, and in other appropriate organizations; and, persons with expertise in rubber manufacturing and commerce in private enterprise and other appropriate organizations.

SEC. 5. The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants. Such research shall include, but not be limited to— 7 USC 178c.

(a) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(b) developing a stockpile of Parthenium seeds, such stockpile to be appropriately classified and stored at a suitable facility;

(c) carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant;

(d) establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium;

(e) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(f) developing equipment needed to carry out nursery operations, planting, cultivating, harvesting, transporting the crop, and other necessary agricultural activities;

(g) further refining present extraction technologies and future extraction technologies, including technologies which utilize solar energy; and

(h) establishing and maintaining a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture. Data bank, establishment.

SEC. 6. The Secretary of Commerce is authorized and directed to initiate and carry out research, technology development, technology transfer, and demonstration projects to test and demonstrate the economic feasibility of the manufacture and commercialization of natural rubber from Parthenium or other hydrocarbon-containing plants. Such research may be carried out through the Regional Commissions or otherwise and shall include but not be limited to— 7 USC 178d.

(a) conducting research and development on extraction and processing techniques;

(b) economic analysis of the production of native latex, including usable byproducts;

(c) studying the environmental, social, and economic impacts of the commercial development of native latex;

(d) evaluating the commercial marketability of Parthenium and rubber derived from other hydrocarbon-containing plants;

(e) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy; and

(f) developing pertinent material and records on manufacturing of natural rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber development, or manufacture.

Cooperative projects with Mexico.
7 USC 178e.

SEC. 7. The Secretaries, in consultation with the Secretary of State, are authorized and encouraged to enter into cooperative projects with the Government of Mexico in order to accomplish appropriate aspects of the research and development provided for in this Act. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of latex extraction and processing.

7 USC 178f.

SEC. 8. The Secretaries are authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this Act and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research or methods of economic development relating to native latex.

7 USC 178g.

SEC. 9. In carrying out the provisions of this Act, the Secretary of Agriculture is authorized to—

Grants.

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this Act;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interest in land (including water rights), facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

SEC. 10. In carrying out the provisions of this section, the Secretary of Commerce, acting through the Regional Commissions or otherwise, is authorized to— 7 USC 178h.

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms; Grants.

(b) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State institutions and other scientific laboratories;

(d) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this section;

(e) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation; and

(f) foster and participate in regional, national, and international conferences relating to natural rubber manufacture.

SEC. 11. In carrying out the provisions of this Act, the Secretaries and the Joint Commission shall insure that their activities are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Bureau of Indian Affairs, Department of Energy, Department of Defense, Treasury Department, Federal Preparedness Agency, and others in order to prevent duplication of effort, insure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex. 7 USC 178i.

SEC. 12. Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this Act, and notwithstanding any other provisions of law, the provisions of sections 9 and 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908-9) shall govern. Coordination of activities with Federal agencies. 7 USC 178j.

SEC. 13. The Secretary of Agriculture and the Secretary of Commerce may dispose of any latex, resin, wax, pulp, and any other byproducts resulting from operations under this Act. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts. 7 USC 178k.

SEC. 14. The Secretary of Agriculture and the Secretary of Commerce may issue rules and regulations necessary to effectuate the purposes of this Act. Rules and regulations. 7 USC 178*l*.

SEC. 15. The Secretary of Agriculture and the Secretary of Commerce shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1982, a report on the status of the research, development, and other work underway under this Act. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project. Report to President and Congress. 7 USC 178m.

Appropriation authorization. 7 USC 178n.

SEC. 16. (a) There is authorized to be appropriated to the Secretary of Agriculture $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this Act. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(b) There is authorized to be appropriated to the Secretary of Commerce $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this Act. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(c) No more than 3 per centum of funds authorized under subsections (a) and (b) shall be available for administration and management of the program.

(d) Notwithstanding any other provision of this Act the authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 17. Section 320 of the Agricultural Adjustment Act of 1938 as added by the Act of September 3, 1974 (88 Stat. 1089; 7 U.S.C. 1314f) is amended by adding a new sentence at the end thereof as follows: "Notwithstanding any other provision of law, no marketing quota penalties shall be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which was determined through the application of the Federal Standards of Inspection and Identification of quota types to be Burley tobacco (Type 31) under the provisions of this section.".

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1512, Pts. I and II, accompanying H.R. 12559 (Comm. on Science and Technology and Comm. on Agriculture).
SENATE REPORT No. 95-829 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 26, considered and passed Senate.
Sept. 19, H.R. 12559 considered and passed House; passage vacated and S. 1816, amended, passed in lieu.
Oct. 7, Senate concurred in House amendment with an amendment.
Oct. 14, House concurred in Senate amendment with an amendment.
Oct. 15, Senate concurred in House amendment.

Public Law 95-593
95th Congress

An Act

To improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes.

Nov. 4, 1978
[S. 703]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd) is amended—

Overseas Citizens Voting Rights Act of 1975, amendment.

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) 'official postcard' means a postcard application for registration to vote and for an absentee ballot in the form provided in section 204(d) of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-14(d)).".

SEC. 2. Section 3 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-1) is amended by inserting before the period the following: "or, in lieu thereof, an alternative form of identification consistent with this Act and applicable State or district requirements, if a citizen does not possess a valid passport or card of identity and registration".

SEC. 3. Section 4 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-2) is amended by adding at the end thereof the following new subsection:

"(c) In carrying out the provisions of this section, it is recommended that each State—

"(1) accept any official postcard which is duly executed by any person who meets the requirements in section 3 of this Act as a simultaneous application for registration under such State's election laws and for an absentee ballot under such State's absentee balloting laws;

"(2) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

"(3) authorize and instruct the State or local election officials, upon receipt of any official postcard application or any other application for registration to vote or an absentee ballot, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope; and

"(4) provide that there be printed across the face of each envelope the words 'Official Election Balloting Material—Via Air Mail', or similar language.".

SEC. 4. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) is amended—

(1) by redesignating sections 5, 6, 7, and 8 as sections 7, 8, 9, and 10, respectively; and

(2) by inserting after section 4 the following new sections:

42 USC 1973dd-3–1973dd-5, 1973dd note.

"CURRENT ABSENTEE VOTING INFORMATION

42 USC 1973dd-2a.

"SEC. 5. (a) The Presidential designee under section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-11) (hereinafter in this Act referred to as the 'Presidential designee') shall request, when appropriate, each State to furnish him with information on the current absentee registration and voting procedures of each State pertaining to citizens entitled to vote in Federal elections under this Act. Such information shall include election dates, officers to be elected, any provisions under such State's law requiring the removal of the name of any person from such State's voter registration roll (for whatever reason), and information related to the number of absentee voters in such State who are entitled to vote in Federal elections under this Act. Where consistent with their respective duties, appropriate departments or agencies of the Federal Government shall assist and cooperate with the Presidential designee, both in the collection of such information and in its dissemination to persons who meet the requirements in section 3 of this Act.

"(b) The Secretary of State shall publicize, in the manner best designed to reach the persons meeting the requirements in section 3 of this Act—

"(1) the right of such persons to vote in Federal elections and the procedures available to such persons to enforce that right, as provided in this Act; and

"(2) with the assistance of the Postmaster General, the availability of expedited mail delivery of balloting material under this Act.

The Presidential designee shall notify all appropriate State and local election officials of such availability under this Act and under the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.).

"PRINTING AND TRANSMITTING OF POSTCARDS; FREE POSTAGE; PUBLICITY

42 USC 1973dd-2b.

"SEC. 6. (a) The Administrator of General Services shall cause to be printed and distributed to the Department of Justice, the Department of State, and any other appropriate department or agency of the Federal Government official postcards for use in accordance with the provisions of this Act as directed by the Presidential designee. Such departments or agencies shall deliver or make available such postcards to persons meeting the requirements in section 3 of this Act not later than August 15 immediately before any general Federal election for use in such election. To the extent practicable, such postcards shall also be made available at appropriate times to such persons for use in special or primary Federal elections.

"(b)(1) The Postmaster General, the Attorney General, the Secretary of State, and the head of any other appropriate department or agency of the Federal Government shall facilitate the transmission of balloting material, including official postcards, absentee ballots, voting instructions, and envelopes for the return of such ballots, to and from persons meeting the requirements in section 3 of this Act.

"(2) Any balloting material sent from the United States to any person meeting the requirements in section 3 of this Act shall be sent

by priority airmail or by the most expedited postal service available.

"(3) Any balloting material sent to the United States by any person meeting the requirements in section 3 of this Act shall be returned by priority airmail or by the most expedited service available, wherever practicable. Such material may be mailed from any Armed Forces post office in an overseas area established as provided in section 406 of title 39, United States Code, unless otherwise prohibited by any treaty or other agreement between the United States and a foreign country. In the case of ballots executed outside the United States by any person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

"(c) Official postcards, ballots, voting instructions, and envelopes, whether transmitted individually or in bulk, shall be free of postage, including airmail postage, when sent from the United States in the United States mails.".

SEC. 5. Section 9 of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–5), as so redesignated in section 4(1), is amended—

(1) by inserting "(a)" before "Nothing"; and

(2) by adding at the end thereof the following new subsection:

"(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.".

SEC. 6. The Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.), as amended in section 4, is further amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.". 42 USC 1973dd–6.

SEC. 7. Section 101 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc) is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end thereof the following new subsection:

"(b) Each State shall enable every citizen in the following categories who is absent from the place of his voting residence to register absentee and to vote by absentee ballot in any Federal election, as defined in section 2(1) of the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd(1)), held in his election district or precinct if he is otherwise eligible to vote in that election:

"(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

"(2) Members of the Merchant Marine of the United States, and their spouses and dependents.

The rights granted in this section shall be supplemental to the voting rights presently enjoyed by these citizens under other Federal and State laws.".

SEC. 8. Section 202 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–12) is amended by inserting after "voting procedures," the following: "any provision under such State's law requir-

ing the removal of the name of any person from such State's registration roll (for whatever reason), information related to the number of absentee voters in a State who are entitled to vote in Federal elections under this Act,".

SEC. 9. Section 203 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–13) is amended—

(1) in paragraph (1), by striking out "Council of State Governments" and inserting in lieu thereof "government of the several States"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) the Postmaster General and the heads of the departments and agencies concerned to facilitate the transmission of balloting materials to and from persons to whom this Act is applicable. Any balloting material sent from the United States to such persons shall be sent by priority airmail or by the most expedited postal service available. Any balloting material sent to the United States by such persons shall be returned by priority airmail or by the most expedited service available, wherever practicable. In the case of ballots executed outside the United States by any such person, such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed for this purpose.".

SEC. 10. Section 204 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–14) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of subsections (a), (b), and (c), the Presidential designee shall design, for purposes of carrying out the provisions of this Act and the Overseas Citizens Voting Rights Act of 1975, a single form of postcard application for registration to vote and for an absentee ballot. The Presidential designee is empowered to promulgate such form by regulation and upon adoption of such form, subsections (a), (b), and (c) of this section shall have no effect.".

SEC. 11. (a) Section 2401(c) of title 39, United States Code, is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1975,"; and

(2) by striking out "Act" before the period and inserting in lieu thereof "Acts".

(b) Section 3627 of title 39, United States Code, is amended by striking out "or under the Federal Voting Assistance Act of 1955" and inserting in lieu thereof "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975".

(c) Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

"(2) For purposes of this subsection— Definitions.

"(A) the term 'qualified political committee' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

"(B) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

"(C) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.".

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1568 (Comm. on House Administration).
SENATE REPORT No. 95-121 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 123 (1977): May 9, considered and passed Senate.
Vol. 124 (1978): Sept. 19, considered and passed House, amended.
Oct. 13, Senate concurred in House amendment.

Public Law 95-594
95th Congress

Joint Resolution

Nov. 4, 1978
[H.J. Res. 1173]

Relative to the convening of the first session of the Ninety-sixth Congress, and for other purposes.

96th Congress. First session.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the Ninety-sixth Congress shall begin at 12 o'clock meridian on January 15, 1979.

Budget and Economic Report, transmittal to Congress.

SEC. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 22, 1979, the budget for the fiscal year 1980, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 22, 1979, the Economic Report.

Budget estimates, submittal to Congress.

SEC. 3. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the President transmits to the Congress the budget for the Fiscal Year 1980, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the report for the Fiscal Year 1980 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

15 USC 1024.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 15, considered and passed House and Senate.

Public Law 95-595
95th Congress

An Act

To amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.

Nov. 4, 1978
[H.R. 9701]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Budget and Accounting Procedures Act of 1950, amendment.
31 USC 1 note.
31 USC 65 *et seq.*

SECTION 1. Part II of title I of the Budget and Accounting Procedures Act of 1950 (64 Stat. 832) is amended by adding at the end thereof the following new matter:

"Subpart C

"FEDERAL GOVERNMENT PENSION PLANS

"SEC. 120. It is the purpose of this subpart to protect the interests of the Nation and of the participants and their beneficiaries in Federal Government pension plans and certain other pension plans by requiring full disclosure of the financial condition of such plans. 31 USC 68.

"SEC. 121. (a) Notwithstanding any other provision of law or any administrative determination to the contrary, each Federal Government pension plan and each plan described in section 123(b), except as specified in subsection (b) of this section, shall be deemed to be subject to the provisions of section 103 of the Employee Retirement Income Security Act of 1974 in the same manner as an employee pension benefit plan to which such section applies, except that, with respect to such a Federal Government pension plan or a plan described in section 123(b)— 31 USC 68a. 29 USC 1023.

"(1) the annual report required by such section shall be in such form, and shall include such information and data, as the President, in consultation with the Comptroller General (or in the case of a plan described in section 123(a)(9) or 123(b), the Comptroller General) may prescribe;

"(2) the annual report required by such section shall be furnished to the Congress and to the Comptroller General, not later than the end of the two hundred and ten-day period beginning on the day after the last day of the plan year involved;

"(3) unless specifically authorized by the Comptroller General, no provision of such section which provides for waiver of, relief from, or exception to any requirement otherwise applicable to an employee pension benefit plan shall be deemed to apply to such Federal Government pension plan or such plan described in section 123(b);

"(4) the provisions of section 104(b) of such Act shall not apply; 29 USC 1024.

"(5) the report required by this subpart shall be in addition to and shall not supersede other reports or projections required by law; and

"(6) other than in the case of a plan described in section 123(b), the Comptroller General shall perform such audits as the Comptroller General deems appropriate in lieu of the requirements for the independent qualified public accountant under section 103 of the Employee Retirement Income Security Act of 1974.

29 USC 1023.

"(b) Nothing in this subpart shall be construed as imposing any requirement with respect to a Federal Government pension plan for officers or employees of the Central Intelligence Agency, unless the imposition of such requirement is specifically approved in writing by the President.

"(c) Nothing in this Act shall preclude the use by a plan of the services of an enrolled actuary employed by the agency or agencies administering the plan.

31 USC 68b.

"SEC. 122. If requested by either House of Congress (or any committee thereof) or if deemed necessary by the Comptroller General, the General Accounting Office shall—

"(1) review financial and actuarial statements furnished pursuant to section 121 for the purpose of determining whether the reporting requirements of such section are adequate to carry out the purpose of this subpart; and

Recommendations, submittal to Congress.

"(2) submit to the Congress such recommendations for legislative action as it may deem necessary to carry out the purposes of this subpart.

"Federal Government pension plan."
31 USC 68c.
29 USC 1001 note.
26 USC 3101.
26 USC 3201.

"SEC. 123. (a) For purposes of this subpart, the term 'Federal Government pension plan' means a pension, annuity, retirement, or similar plan (other than a plan covered under the Employee Retirement Income Security Act of 1974, or any plan or program which is financed by contributions required under chapter 21 of the Internal Revenue Code of 1954 (the Federal Insurance Contributions Act) or chapter 22 of the Internal Revenue Code of 1954 (the Railroad Retirement Tax Act)), whether or not such plan is an employee pension benefit plan within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974, established or maintained by the Government of the United States, or any agency or instrumentality thereof, for any of its officers or employees, without regard to the number of participants covered by such plan, and such term includes but is not limited to the following plan:

29 USC 1002.

"(1) Civil Service Retirement System;

"(2) Foreign Service Retirement and Disability System;

"(3) Military Retirement System;

"(4) Coast Guard Retirement System;

"(5) Commissioned Corps of the Public Health Service Retirement System;

"(6) National Oceanic and Atmospheric Administration Retirement System;

"(7) Tennessee Valley Authority Retirement System;

"(8) nonappropriated fund plans; and

"(9) judicial plans.

"(b) For purposes of this subpart, the plans described in section 123(b) are the following (other than any of the following which are covered under the Employee Retirement Income Security Act of 1974): 29 USC 1001 note.

"(1) Federal Reserve Employees Retirement Plans;

"(2) Federal Home Loan Bank Board Retirement Systems;

"(3) Federal Home Loan Mortgage Corporation Plan; and

"(4) Farm Credit District Retirement Plans.

"SEC. 124. The requirement imposed by section 121(a) shall apply with respect to plan years beginning after September 30, 1978. For purposes of this section, the term 'plan year' means with respect to a plan, the calendar, policy, or fiscal year chosen by the plan on which the records of the plan are kept.". 31 USC 68d. "Plan year."

SEC. 2. Part II of title I of the Budget and Accounting Procedures Act of 1950 (64 Stat. 832) is further amended— 31 USC 65.

(1) by inserting after "PART II—ACCOUNTING AND AUDITING" the following new center heading:

"Subpart A";

and

(2) by inserting after section 111 the following new center heading:

"Subpart B".

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1678 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 10, considered and passed House.
Oct. 15, considered and passed Senate.

Public Law 95-596
95th Congress

Joint Resolution

Nov. 4, 1978
[S.J. Res. 160]

To initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that the Federal Building in the District of Columbia, operated and managed by the General Services Administration and known as the Pension Building, is unique, historic, constitutes an architectural treasure belonging to the people of the United States, and must be restored and properly utilized.

Pension Building, D.C.
Restoration and renovation, preliminary studies.

(b) The Congress further declares that the Pension Building would most appropriately be dedicated to the public use as the Nation's Museum of the Building Arts, benefiting this and future generations.

Existing conditions study.

SEC. 102. The Administrator of General Services is authorized and directed to prepare an existing conditions study of the Pension Building, located in the block bounded by Fourth Street, Fifth Street, "F" Street, and "G" Street, Northwest, in the District of Columbia. After consultation with the Secretary of the Smithsonian Institution and the Chairman of the National Endowment for the Arts, he shall prepare drawings, together with preliminary cost estimates, for the restoration and renovation of the Pension Building, in its entirety, to house the Museum of the Building Arts. Such drawings shall be consistent with and provide space for the functions and facilities proposed in the report of the Committee for a National Museum of the Building Arts, Incorporated, dated January 1978, and on file at the National Endowment for the Arts, including alternative treatment of the facilities listed in subsection 104(d) which may require structural modifications of the Pension Building. Such drawings and estimates, together with the existing conditions study, shall be submitted to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978.

Drawings and estimates, submittal to congressional committees.

Report to congressional committees.

SEC. 103. The Chairman of the National Endowment for the Arts is requested to report to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978, his initial observations and opinions with respect to—

(a) the prospects for private funding of museum operations, including an appraisal listing the potential sources of financial support, together with a preliminary estimate of the amount of such support which might reasonably be anticipated; and

(b) such other factors as, in his opinion, may contribute to the feasibility of the proposed museum.

Report to congressional committees.

SEC. 104. The Secretary of the Smithsonian Institution is requested to report to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives, not later than November 1, 1978, his initial comments and opinions concerning—

(a) the potential for visitation at the proposed museum, compared to visitation at Smithsonian museums in recent years;

(b) the potential for interaction between the proposed museum and existing collections and programs of the Smithsonian;

(c) the proportion of total space (based on the Secretary's experience with such Smithsonian Museums as Air and Space, Arts and Industries, and History and Technology) required for (i) inactive storage, (ii) the study of collections housed in the museum; (iii) staff offices; and (iv) public/exhibition use;

(d) the value and approximate costs of providing facilities to accommodate (i) food service; (ii) a museum shop; (iii) a computer service or center; and (iv) an auditorium, together with recommendations for optimum size and desirable features of such facilities.

Definitions.

SEC. 105. As used in this joint resolution, the term—

(a) "building arts" encompasses all practical and scholarly aspects of architecture; and landscape architecture; engineering; building and construction; urban planning, design, physical development, and renewal; and historic preservation;

(b) "museum" means the Museum of the Building Arts, as generally proposed by the Committee for a National Museum of the Building Arts, the primary purpose of which shall be (i) to create in the Nation's Capital a center to exhibit, demonstrate, and encourage contributions to the building arts and sciences, with an emphasis on American initiatives; (ii) to establish and operate a building arts documents archive, and a building arts reference library for citizens and public and private institutions; and (iii) to foster educational programs, to provide a forum for information exchange among professionals in the building arts, and to enhance understanding and appreciation of all facets of the building arts and sciences;

(c) "Administrator" means the Administrator of General Services;

(d) "Chairman" means the Chairman of the National Endowment for the Arts; and

(e) "Secretary" means the Secretary of the Smithsonian Institution.

SEC. 106. The Administrator shall insure that any occupants of the Pension Building shall be temporary pending establishment and occupancy of the building by the National Museum of the Building Arts; and that such occupants shall in no way conflict with, interfere with, or cause to delay efforts toward the restoration and renovation of the building to house the museum.

39-194 O—80—pt. 2——80 : QL3

Appropriation authorizations.

SEC. 107. (a) For the purposes of section 102 of this joint resolution, the Administrator is authorized and directed to expend not to exceed $60,000 from funds available to him for the alteration and repair of buildings.

(b) For the purposes of section 103 of this joint resolution, the Chairman shall expend not more than $10,000 from funds available to him.

(c) For the purposes of section 104 of this joint resolution, the Secretary shall expend not more than $10,000 from funds available to him.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1776 (Comm. on Public Works and Transportation).
SENATE REPORT No. 95-1181 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 15, considered and passed Senate.
Oct. 14, considered and passed House.

Public Law 95-597
95th Congress

An Act

Nov. 4, 1978
[H.R. 5646]

To amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended—

Regional Rail Reorganization Act of 1973, amendment.

(1) by redesignating such paragraph (6) as paragraph (6)(A), and by redesignating clauses (A) and (B) in the first sentence thereof as clauses (i) and (ii), respectively; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Corporation shall make such premium payments as may be necessary to maintain in effect any medical or life insurance policy which was maintained by a railroad in reorganization immediately prior to April 1, 1976, and which provides insurance benefits to individuals who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such individual whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

"(i) through the purchase of insurance or otherwise, provide medical or life insurance benefits of the same type and at the same or approximately the same level as were provided by the employer railroad in reorganization and in effect with respect to such individual immediately prior to April 1, 1976; and

"(ii) assume and pay any claim for such individual (or his personal representative) for any such insurance benefits, if—

"(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph; and

"(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period.

The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the payment of insurance premiums and benefits described in this subparagraph. For purposes of section 211(h)(4)(A)(iii), amounts required for the payment of such premiums and benefits shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976, or, in the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of such date, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4) and (5) of such section 211(h). As used in this subparagraph, the term 'railroad in reorganization' includes any railroad which is controlled by a rail-

45 USC 721.

"Railroad in reorganization."

road in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance.".

45 USC 743 note.

SEC. 2. The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h), and shall not be construed—

45 USC 721.

(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h); or

(2) as establishing or reordering any priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such insurance premiums and benefits may or may not have under the provisions of the Bankruptcy Act or any other law.

45 USC 743 note.

SEC. 3. Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term "railroad in reorganization" has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973.

11 USC 205.

45 USC 702.

Approved November 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-376 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-1041 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Jan. 30, considered and passed House.
Aug. 2, considered and passed Senate, amended.
Oct. 11, House concurred in Senate amendment with an amendment.
Oct. 13, Senate concurred in House amendments.

Public Law 95-598
95th Congress

An Act

To establish a uniform Law on the Subject of Bankruptcies.

Nov. 6, 1978
[H.R. 8200]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title 11, USC. Bankruptcy.

TITLE I—ENACTMENT OF TITLE 11 OF THE UNITED STATES CODE

SEC. 101. The law relating to bankruptcy is codified and enacted as title 11 of the United States Code, entitled "Bankruptcy", and may be cited as 11 U.S.C. § , as follows:

11 USC prec. 101 note.

TITLE 11—BANKRUPTCY

CHAPTER	Sec.
1. GENERAL PROVISIONS	101
3. CASE ADMINISTRATION	301
5. CREDITORS, THE DEBTOR, AND THE ESTATE	501
7. LIQUIDATION	701
9. ADJUSTMENT OF DEBTS OF A MUNICIPALITY	901
11. REORGANIZATION	1101
13. ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME	1301
15. UNITED STATES TRUSTEES	1501

CHAPTER 1—GENERAL PROVISIONS

Sec.
101. Definitions.
102. Rules of construction.
103. Applicability of chapters.
104. Adjustment of dollar amounts.
105. Power of court.
106. Waiver of sovereign immunity.
107. Public access to papers.
108. Extension of time.
109. Who may be a debtor.

§ 101. Definitions

11 USC 101.

In this title—

(1) "accountant" means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized;

(2) "affiliate" means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity

that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or all or substantially all of the property of the debtor under a lease or operating agreement;

(3) "attorney" means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law;

(4) "claim" means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

(5) "commodity broker" means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761(9) of this title;

Post, p. 2615.

(6) "community claim" means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable, whether or not there is any such property at the time of the commencement of the case;

Post, p. 2594.

(7) "consumer debt" means debt incurred by an individual primarily for a personal, family, or household purpose;

(8) "corporation"—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership;

(9) "creditor" means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 502(f), 502(g), 502(h) or 502(i) of this title; or

Post, p. 2579.

(C) entity that has a community claim;

(10) "custodian" means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor's creditors; or

(C) trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors;

(11) "debt" means liability on a claim;

(12) "debtor" means person or municipality concerning which a case under this title has been commenced;

(13) "disinterested person" means person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not an investment banker for any outstanding security of the debtor;

(C) has not been, within three years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

(D) is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C) of this paragraph; and

(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C) of this paragraph, or for any other reason;

(14) "entity" includes person, estate, trust, governmental unit;

(15) "equity security" means—

(A) share in a corporation, whether or not transferable or denominated "stock", or similar security;

(B) interest of a limited partner in a limited partnership; or

(C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B) of this paragraph;

(16) "equity security holder" means holder of an equity security of the debtor;

(17) "farmer" means person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person;

(18) "farming operation" includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state;

(19) "foreign proceeding" means proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization;

(20) "foreign representative" means duly selected trustee, administrator, or other representative of an estate in a foreign proceeding;

(21) "governmental unit" means United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government;

(22) "indenture" means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor;

(23) "indenture trustee" means trustee under an indenture;

(24) "individual with regular income" means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stock broker or a commodity broker;

Post, p. 2645.

(25) "insider" includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) corporation of which the debtor is a director, officer, or person in control;

(B) if the debtor is a corporation—

(i) director of the debtor;

(ii) officer of the debtor;

(iii) person in control of the debtor;

(iv) partnership in which the debtor is a general partner;

(v) general partner of the debtor; or

(vi) relative of a general partner, director, officer, or person in control of the debtor;

(C) if the debtor is a partnership—

(i) general partner in the debtor;

(ii) relative of a general partner in, general partner of, or person in control of the debtor;

(iii) partnership in which the debtor is a general partner;

(iv) general partner of the debtor; or

(v) person in control of the debtor;

(D) if the debtor is a municipality, elected official of the debtor or relative of an elected official of the debtor;

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) managing agent of the debtor;

(26) "insolvent" means—

(A) with reference to an entity other than a partnership, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—

(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

(ii) property that may be exempted from property of the estate under section 522 of this title; and *Post*, p. 2586.

(B) with reference to a partnership, financial condition such that the sum of such partnership's debts is greater than the aggregate of, at a fair valuation—

(i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A)(i) of this paragraph; and

(ii) the sum of the excess of the value of each general partner's separate property, exclusive of property of the kind specified in subparagraph (A)(ii) of this paragraph, over such partner's separate debts;

(27) "judicial lien" means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding;

(28) "lien" means charge against or interest in property to secure payment of a debt or performance of an obligation;

(29) "municipality" means political subdivision or public agency or instrumentality of a State;

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit;

(31) "petition" means petition filed under section 301, 302, 303, or 304 of this title, as the case may be, commencing a case under this title;

(32) "purchaser" means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee;

(33) "railroad" means common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier;

(34) "relative" means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree;

(35) "security"—

(A) includes—

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) debenture;

(vi) collateral trust certificate;

(vii) pre-organization certificate or subscription;

(viii) transferable share;

(ix) voting-trust certificate;

(x) certificate of deposit;

(xi) certificate of deposit for security;

(xii) investment contract or certificate of interest or

participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of such Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;

(xiii) interest of a limited partner in a limited partnership;

(xiv) other claim or interest commonly known as "security"; and

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a secuity; but

(B) does not include—

(i) currency, check, draft, bill of exchange, or bank letter of credit;

Post, p. 2615. (ii) leverage transaction, as defined in section 761(13) of this title;

(iii) commodity futures contract or forward commodity contract;

(iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

(v) option to purchase or sell a commodity;

(vi) contract or certificate specified in clause (xii) of subparagraph (A) of this paragraph that is not the subject of such a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered;

(36) "security agreement" means agreement that creates or provides for a security interest;

(37) "security interest" means lien created by an agreement;

(38) "statutory lien" means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute;

(39) "stockbroker" means person with respect to which there *Post*, p. 2611. is a customer, as defined in section 741(2) of this title, engaged in the business of effecting transactions in securities—

(A) for the accounts of others; or

(B) with members of the general public, from or for such person's own account; and

(40) "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest.

11 USC 102.

§ 102. Rules of construction

After notice and a hearing.

In this title—

(1) "after notice and a hearing", or a similar phrase—

(A) means after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances; but

(B) authorizes an act without an actual hearing if such notice is given properly and if—

(i) such a hearing is not requested timely by a party in interest; or

(ii) there is insufficient time for a hearing to be commenced before such act must be done, and the court authorizes such act;

(2) "claim against the debtor" includes claim against property of the debtor;

(3) "includes" and "including" are not limiting;

(4) "may not" is prohibitive, and not permissive;

(5) "or" is not exclusive;

(6) "order for relief" means entry of an order for relief;

(7) the singular includes the plural; and

(8) a definition, continued in a section of this title that refers to another section of this title, does not, for the purpose of such reference, affect the meaning of a term used in such other section.

§ 103. Applicability of chapters 11 USC 103.

(a) Except as provided in section 1161 of this title, chapters 1, 3, and 5 of this title apply in a case under chapter 7, 11, or 13 of this title. *Post*, p. 2641. *Post*, pp. 2578, 2604, 2626, 2645.

(b) Subchapters I and II of chapter 7 of this title apply only in a case under such chapter.

(c) Subchapter III of chapter 7 of this title applies only in a case under such chapter concerning a stockholder.

(d) Subchapter IV of chapter 7 of this title applies only in a case under such chapter concerning a commodity broker except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant. *Post*, p. 2613.

(e) Except as provided in section 901 of this title, only chapters 1 and 9 of this title apply in a case under such chapter 9. *Post*, p. 2621.

(f) Except as provided in section 901 of this title, subchapters I, II, and III of chapter 11 of this title apply only in a case under such chapter.

(g) Subchapter IV of chapter 11 of this title applies only in a case under such chapter concerning a railroad.

(h) Chapter 13 of this title applies only in a case under such chapter.

§ 104. Adjustment of dollar amounts 11 USC 104.

The Judicial Conference of the United States shall transmit to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year after May 1, 1985, a recommendation for the uniform percentage adjustment of each dollar amount in this title and in section 1930 of title 28. Recommendation to Congress and the President.

§ 105. Power of court 11 USC 105.

(a) The bankruptcy court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

(b) Notwithstanding subsection (a) of this section, a bankruptcy court may not appoint a receiver in a case under this title.

§ 106. Waiver of sovereign immunity 11 USC 106.

(a) A governmental unit is deemed to have waived sovereign immunity with respect to any claim against such governmental unit that

is property of the estate and that arose out of the same transaction or occurrence out of which such governmental unit's claim arose.

(b) There shall be offset against an allowed claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.

(c) Except as provided in subsections (a) and (b) of this section and notwithstanding any assertion of sovereign immunity—

(1) a provision of this title that contains "creditor", "entity", or "governmental unit" applies to governmental units; and

(2) a determination by the court of an issue arising under such a provision binds governmental units.

11 USC 107.

§ 107. Public access to papers

(a) Except as provided in subsection (b) of this section, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 USC 108.

§ 108. Extension of time

(a) If applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) two years after the order for relief.

(b) Except as provided in subsection (a) of this section, if applicable law, an order entered in a proceeding, or an agreement fixes a period within which the debtor or an individual protected under section 1301 of this title may file any pleading, demand, notice, or proof of claim or loss, cure a default, or perform any other similar act, and such period has not expired before the date of the filing of the petition, the trustee may only file, cure, or perform, as the case may be, before the later of—

Post, p. 2645.

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) 60 days after the order for relief.

Post, p. 2592.

(c) Except as provided in section 524 of this title, if applicable law, an order entered in a proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such individual is protected under section 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; and

(2) 30 days after notice of the termination or expiration of the stay under section 362, 922, or 1301 of this title, as the case may be, with respect to such claim. *Post*, pp. 2623, 2645.

§ 109. Who may be a debtor 11 USC 109.

(a) Notwithstanding any other provision of this section, only a person that resides in the United States, or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not— *Post*, p. 2604.

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union; or

(3) a foreign insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, or credit union, engaged in such business in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity— *Post*, p. 2621.

(1) is a municipality;

(2) is generally authorized to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is insolvent or unable to meet such entity's debts as such debts mature;

(4) desires to effect a plan to adjust such debts; and

(5) (A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

(D) reasonably believes that a creditor may attempt to obtain a preference.

(d) Only a person that may be a debtor under chapter 7 of this title, except a stockholder or a commodity broker, and a railroad may be a debtor under chapter 11 of this title. *Post*, p. 2626.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000 may be a debtor under chapter 13 of this title. *Post*, p. 2645.

CHAPTER 3—CASE ADMINISTRATION

SUBCHAPTER I—COMMENCEMENT OF A CASE

Sec.
301. Voluntary cases.
302. Joint cases.
303. Involuntary cases.
304. Cases ancillary to foreign proceedings.
305. Abstention.
306. Limited appearance.

SUBCHAPTER II—OFFICERS

321. Eligibility to serve as trustee.
322. Qualification of trustee.
323. Role and capacity of trustee.
324. Removal of trustee or examiner.
325. Effect of vacancy.
326. Limitation on compensation of trustee.
327. Employment of professional persons.
328. Limitation on compensation of professional persons.
329. Debtor's transactions with attorneys.
330. Compensation of officers.
331. Interim compensation.

SUBCHAPTER III—ADMINISTRATION

341. Meetings of creditors and equity security holders.
342. Notice.
343. Examination of the debtor.
344. Self-incrimination; immunity.
345. Money of estates.
346. Special tax provisions.
347. Unclaimed property.
348. Effect of conversion.
349. Effect of dismissal.
350. Closing and reopening cases.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

361. Adequate protection.
362. Automatic stay.
363. Use, sale, or lease of property.
364. Obtaining credit.
365. Executory contracts and unexpired leases.
366. Utility service.

SUBCHAPTER I—COMMENCEMENT OF A CASE

11 USC 301.

§ 301. Voluntary cases

A voluntary case under a chapter of this title is commenced by the filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

11 USC 302.

§ 302. Joint cases

(a) A joint case under a chapter of this title is commenced by the filing with the bankruptcy court of a single petition under such chapter by an individual that may be a debtor under such chapter and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under such chapter.

(b) After the commencement of a joint case, the court shall determine the extent, if any, to which the debtors' estates shall be consolidated.

§ 303. Involuntary cases 11 USC 303.

(a) An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced. *Post*, pp. 2604, 2626.

(b) An involuntary case is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title—

(1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or an indenture trustee representing such a holder, if such claims aggregate at least $5,000 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;

(2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least $5,000 of such claims; *Post*, pp. 2596–2601, 2607.

(3) if such person is a partnership—

(A) by fewer than all of the general partners in such partnership; or

(B) if relief has been ordered under this title with respect to all of the general partners in such partnership, by a general partner in such partnership, the trustee of such a general partner, or a holder of a claim against such partnership; or

(4) by a foreign representative of the estate in a foreign proceeding concerning such person.

(c) After the filing of a petition under this section but before the case is dismissed or relief is ordered, a creditor holding an unsecured claim that is not contingent, other than a creditor filing under subsection (b) of this section, may join in the petition with the same effect as if such joining creditor were a petitioning creditor under subsection (b) of this section.

(d) The debtor, or a general partner in a partnership debtor that did not join in the petition, may file an answer to a petition under this section.

(e) After notice and a hearing, and for cause, the court may require the petitioners under this section to file a bond to indemnify the debtor for such amounts as the court may later allow under subsection (i) of this section.

(f) Notwithstanding section 363 of this title, except to the extent that the court orders otherwise, and until an order for relief in the case, any business of the debtor may continue to operate, and the debtor may continue to use, acquire, or dispose of property as if an involuntary case concerning the debtor had not been commenced.

(g) At any time after the commencement of an involuntary case under chapter 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and a hearing, and if necessary to preserve the property of the estate or to prevent loss to the estate, may appoint an interim trustee under section 701 of this title to take possession of the property of the estate and to operate any business of the debtor. Before an order for relief, the debtor may regain possession of property in the possession of a trustee ordered appointed under this subsection if the debtor files such bond as the court requires, conditioned on the debtor's accounting for

and delivering to the trustee, if there is an order for relief in the case, such property, or the value, as of the date the debtor regains possession, of such property.

(h) If the petition is not timely controverted, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed. Otherwise, after trial, the court shall order relief against the debtor in an involuntary case under the chapter under which the petition was filed, only if—

(1) the debtor is generally not paying such debtor's debts as such debts become due; or

(2) within 120 days before the date of the filing of the petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

(i) If the court dismisses a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment—

(1) against the petitioners and in favor of the debtor for—

(A) costs;

(B) a reasonable attorney's fee; or

(C) any damages proximately caused by the taking of possession of the debtor's property by a trustee appointed under subsection (g) of this section or section 1104 of this title; or

Post, p. 2627.

(2) against any petitioner that filed the petition in bad faith, for—

(A) any damages proximately caused by such filing; or

(B) punitive damages.

(j) Only after notice to all creditors and a hearing may the court dismiss a petition filed under this section—

(1) on the motion of a petitioner;

(2) on consent of all petitioners and the debtors; or

(3) for want of prosecution.

(k) Notwithstanding subsection (a) of this section, an involuntary case may be commenced against a foreign bank that is not engaged in such business in the United States only under chapter 7 of this title and only if a foreign proceeding concerning such bank is pending.

Post, p. 2604.

11 USC 304.

§ 304. Cases ancillary to foreign proceedings

(a) A case ancillary to a foreign proceeding is commenced by the filing with the bankruptcy court of a petition under this section by a foreign representative.

(b) Subject to the provisions of subsection (c) of this section, if a party in interest does not timely controvert the petition, or after trial, the court may—

(1) enjoin the commencement or continuation of—

(A) any action against—

(i) a debtor with respect to property involved in such foreign proceeding; or

(ii) such property; or

(B) the enforcement of any judgment against the debtor with respect to such property, or any act or the commencement or continuation of any judicial proceeding to create or enforce a lien against the property of such estate;

(2) order turnover of the property of such estate, or the proceeds of such property, to such foreign representative; or

(3) order other appropriate relief.

(c) In determining whether to grant relief under subsection (b) of this section, the court shall be guided by what will best assure an economical and expeditious administration of such estate, consistent with—

(1) just treatment of all holders of claims against or interests in such estate;

(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

(3) prevention of preferential or fraudulent dispositions of property of such estate;

(4) distribution of proceeds of such estate substantially in accordance with the order prescribed by this title;

(5) comity; and

(6) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

§ 305. Abstention 11 USC 305.

(a) The court, after notice and a hearing, may dismiss a case under this title, or may suspend all proceedings in a case under this title, at any time if— Notice and hearing.

(1) the interests of creditors and the debtor would be better served by such dismissal or suspension; or

(2)(A) there is pending a foreign proceeding: and

(B) the factors specified in section 304(c) of this title warrant such dismissal or suspension.

(b) A foreign representative may seek dismissal or suspension under subsection (a)(2) of this section.

(c) An order under subsection (a) of this section dismissing a case or suspending all proceedings in a case, or a decision not so to dismiss or suspend, is not reviewable by appeal or otherwise.

§ 306. Limited appearance 11 USC 306.

An appearance in a bankruptcy court by a foreign representative in connection with a petition or request under section 303, 304, or 305 of this title does not submit such foreign representative to the jurisdiction of any court in the United States for any other purpose, but the bankruptcy court may condition any order under section 303, 304, or 305 of this title on compliance by such foreign representative with the orders of such bankruptcy court.

SUBCHAPTER II—OFFICERS

§ 321. Eligibility to serve as trustee 11 USC 321.

(a) A person may serve as trustee in a case under this title only if such person is—

(1) an individual that is competent to perform the duties of trustee and, in a case under chapter 7 or 13 of this title, resides or has an office in the judicial district within which the case is pending, or in any judicial district adjacent to such district; or *Post*, pp. 2604, 2645.

(2) a corporation authorized by such corporation's charter or bylaws to act as trustee, and, in a case under chapter 7 or 13 of this title, having an office in at least one of such districts.

(b) A person that has served as an examiner in a case may not serve as trustee in the case.

11 USC 322.

§ 322. Qualification of trustee

Post, pp. 2604, 2605, 2627, 2641, 2645.

(a) A person selected under section 701, 702, 703, 1104, 1163, or 1302 of this title to serve as trustee in a case under this title qualifies if before five days after such selection, and before beginning official duties, such person has filed with the court a bond in favor of the United States conditioned on the faithful performance of such official duties.

(b) The court shall determine—

(1) the amount of a bond filed under subsection (a) of this section; and

(2) the sufficiency of the surety on such bond.

(c) A trustee is not liable personally or on such trustee's bond in favor of the United States for any penalty or forfeiture incurred by the debtor.

(d) A proceeding on a trustee's bond may not be commenced after two years after the date on which such trustee was discharged.

11 USC 323.

§ 323. Role and capacity of trustee

(a) The trustee in a case under this title is the representative of the estate.

(b) The trustee in a case under this title has capacity to sue and be sued.

11 USC 324.

§ 324. Removal of trustee or examiner

The court, after notice and a hearing, may remove a trustee or an examiner, for cause.

11 USC 325.

§ 325. Effect of vacancy

A vacancy in the office of trustee during a case does not abate any pending action or proceeding, and the successor trustee shall be substituted as a party in such action or proceeding.

11 USC 326.

§ 326. Limitation on compensation of trustee

Post, pp. 2604, 2626.

(a) In a case under chapter 7 or 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed fifteen percent on the first $1,000 or less, six percent on any amount in excess of $1,000 but not in excess of $3,000, three percent on any amount in excess of $3,000 but not in excess of $20,000, two percent on any amount in excess of $20,000 but not in excess of $50,000, and one percent on any amount in excess of $50,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

Post, p. 2645.

(b) In a case under chapter 13 of this title, the court may not allow compensation for services or reimbursement of expenses of a standing trustee appointed under section 1302(d) of this title, but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan.

(c) If more than one person serves as trustee in the case, the aggregate compensation of such persons for such service may not exceed the maximum compensation prescribed for a single trustee by subsection (a) or (b) of this section, as the case may be.

(d) The court may deny allowance of compensation for services and reimbursement of expenses of the trustee if the trustee—

(1) failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title; or

(2) with knowledge of such facts, employed a professional person under section 327 of this title.

§ 327. Employment of professional persons 11 USC 327.

(a) Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

(b) If the trustee is authorized to operate the business of the debtor under section 721 or 1108 of this title, and if the debtor has regularly employed attorneys, accountants, or other professional persons on salary, the trustee may retain or replace such professional persons if necessary in the operation of such business. *Post*, pp. 2606, 2629.

(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, but may not, while employed by the trustee, represent, in connection with the case, a creditor. *Post*, pp. 2604, 2626.

(d) The court may authorize the trustee to act as attorney or accountant for the estate if such authorization is in the best interest of the estate.

(e) The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

(f) The trustee may not employ a person that has served as an examiner in the case.

§ 328. Limitation on compensation of professional persons 11 USC 328.

(a) The trustee, or a committee appointed under section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments unanticipatable at the time of the fixing of such terms and conditions. *Post*, p. 2627.

(b) If the court has authorized a trustee to serve as an attorney or accountant for the estate under section 327(d) of this title, the court may allow compensation for the trustee's services as such attorney or accountant only to the extent that the trustee performed services as attorney or accountant for the estate and not for performance of any of the trustee's duties that are generally performed by a trustee without the assistance of an attorney or accountant for the estate.

(c) Except as provided in section 327(c), 327(e), or 1107(b) of this title, the court may deny allowance of compensation for services and reimbursement of expenses of a professional person employed under section 327 or 1103 of this title if, at any time during such professional *Post*, p. 2628.

person's employment under section 327 or 1103 of this title, such professional person is not a disinterested person, or represents or holds an interest adverse to the interest of the estate with respect to the matter on which such professional person is employed.

Post, p. 2627.

11 USC 329.

§ 329. Debtor's transactions with attorneys

(a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of and in connection with the case by such attorney, and the source of such compensation.

(b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to—

(1) the trustee, if the property transferred—

(A) would have been property of the estate; or

(B) was to be paid by or on behalf of the debtor under a plan under chapter 11 or 13 of this title; or

Post, pp. 2626, 2645.

(2) the entity that made such payment.

11 USC 330.

§ 330. Compensation of officers

(a) After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, and 329 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney—

(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

(2) reimbursement for actual, necessary expenses.

(b) There shall be paid from the filing fee in a case under chapter 7 of this title $20 to the trustee serving in such case, after such trustee's services are rendered.

Post, p. 2604.

11 USC 331.

§ 331. Interim compensation

A trustee, an examiner, a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under section 330 of this title. After notice and a hearing, the court may allow and disburse to such applicant such compensation or reimbursement.

SUBCHAPTER III—ADMINISTRATION

11 USC 341.

§ 341. Meetings of creditors and equity security holders

(a) Within a reasonable time after the order for relief in a case under this title, there shall be a meeting of creditors.

(b) The court may order a meeting of any equity security holders.
(c) The court may not preside at, and may not attend, any meeting under this section.

§ 342. Notice 11 USC 342.

There shall be given such notice as is appropriate of an order for relief in a case under this title.

§ 343. Examination of the debtor 11 USC 343.

The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, or any trustee or examiner in the case may examine the debtor.

§ 344. Self-incrimination; immunity 11 USC 344.

Immunity for persons required to submit to examination, to testify, or to provide information in a case under this title may be granted under part V of title 18. 18 USC 6001.

§ 345. Money of estates 11 USC 345.

(a) A trustee in a case under this title may make such deposit or investment of the money of the estate for which such trustee serves as will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.

(b) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—
(A) in favor of the United States;
(B) secured by the undertaking of a corporate surety approved by the court for the district in which the case is pending; and
(C) conditioned on—
(i) a proper accounting for all money so deposited or invested and for any return on such money;
(ii) prompt repayment of such money and return; and
(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 15 of title 6.

§ 346. Special tax provisions 11 USC 346.

(a) Except to the extent otherwise provided in this section, subsections (b), (c), (d), (e), (g), (h), (i), and (j) of this section apply notwithstanding any State or local law imposing a tax, but subject to the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) In a case under chapter 7 or 11 of this title concerning an individual, any income of the estate may be taxed under a State or local law imposing a tax on or measured by income only to the estate, and may not be taxed to such individual. Except as provided in section 728 of this title, if such individual is a partner in a partnership, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of income, gain, loss, deduction, or credit of such individual that is distributed, or considered distributed, from such partnership, after the commencement of the case is gain, loss, income, deduction, or credit, as the case may be, of the estate. *Post*, pp. 2604, 2626. *Post*, p. 2611.

(2) Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such a case, and any State or local tax on or measured by such income, shall be computed in the same manner as the income and the tax of an estate.

(3) The estate in such a case shall use the same accounting method as the debtor used immediately before the commencement of the case.

(c)(1) The commencement of a case under this title concerning a corporation or a partnership does not effect a change in the status of such corporation or partnership for the purposes of any State or local law imposing a tax on or measured by income. Except as otherwise provided in this section and in section 728 of this title, any income of the estate in such case may be taxed only as though such case had not been commenced.

(2) In such a case, except as provided in section 728 of this title, the trustee shall make any tax return otherwise required by State or local law to be filed by or on behalf of such operation or partnership in the same manner and form as such corporation or partnership, as the case may be, is required to make such return.

Post, p. 2645. (d) In a case under chapter 13 of this title, any income of the estate or the debtor may be taxed under a State or local law imposing a tax on or measured by income only to the debtor, and may not be taxed to the estate.

(e) A claim allowed under section 502(f) or 503 of this title, other than a claim for a tax that is not otherwise deductible or a capital expenditure that is not otherwise deductible, is deductible by the entity to which income of the estate is taxed unless such claim was deducted by another entity, and a deduction for such a claim is deemed to be a deduction attributable to a business.

(f) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld was paid.

(g)(1) Neither gain nor loss shall be recognized on a transfer—

(A) by operation of law, of property to the estate;

(B) other than a sale, of property from the estate to the debtor; or

Post, p. 2626. (C) in a case under chapter 11 of this title concerning a corporation, of property from the estate to a corporation that is an affiliate participating in a joint plan with the debtor, or that is a successor to the debtor under the plan, except that gain or loss may be recognized to the same extent that such transfer results in the recognition of gain or loss under section 371 of the Internal Revenue Code of 1954 (26 U.S.C. 371).

(2) The transferee of a transfer of a kind specified in this subsection shall take the property transferred with the same character, and with the transferor's basis, as adjusted under subsection (j)(5) of this section, and holding period.

Post, p. 2641. (h) Notwithstanding sections 728(a) and 1146(a) of this title, for the purpose of determining the number of taxable periods during which the debtor or the estate may use a loss carryover or a loss carryback, the taxable period of the debtor during which the case is commenced is deemed not to have been terminated by such commencement.

(i)(1) In a case under chapter 7 or 11 of this title concerning an individual, the estate shall succeed to the debtor's tax attributes, including— *Post*, pp. 2604, 2626.

(A) any investment credit carryover;
(B) any recovery exclusion;
(C) any loss carryover;
(D) any foreign tax credit carryover;
(E) any capital loss carryover; and
(F) any claim of right.

(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) of this subsection but that was not utilized by the estate. The debtor may utilize such tax attributes as though any applicable time limitations on such utilization by the debtor were suspended during the time during which the case was pending.

(3) In such a case, the estate may carry back any loss of the estate to a taxable period of the debtor that ended before the order for relief under such chapter the same as the debtor could have carried back such loss had the debtor incurred such loss and the case under this title had not been commenced, but the debtor may not carry back any loss of the debtor from a taxable period that ends after such order to any taxable period of the debtor that ended before such order until after the case is closed.

(j)(1) Except as otherwise provided in this subsection, income is not realized by the estate, the debtor, or a successor to the debtor by reason of forgiveness or discharge of indebtedness in a case under this title.

(2) For the purposes of any State or local law imposing a tax on or measured by income, a deduction with respect to a liability may not be allowed for any taxable period during or after which such liability is forgiven or discharged under this title. In this paragraph, "a deduction with respect to a liability" includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset.

(3) Except as provided in paragraph (4) of this subsection, for the purpose of any State or local law imposing a tax on or measured by income, any net operating loss of an individual or corporate debtor, including a net operating loss carryover to such debtor, shall be reduced by the amount of indebtedness forgiven or discharged in a case under this title, except to the extent that such forgiveness or discharge resulted in a disallowance under paragraph (2) of this subsection.

(4) A reduction of a net operating loss or a net operating loss carryover under paragraph (3) of this subsection or of basis under paragraph (5) of this subsection is not required to the extent that the indebtedness of an individual or corporate debtor forgiven or discharged—

(A) consisted of items of a deductible nature that were not deducted by such debtor; or

(B) resulted in an expired net operating loss carryover or other deduction that—

(i) did not offset income for any taxable period; and

(ii) did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after which such indebtedness was discharged.

(5) For the purposes of a State or local law imposing a tax on or measured by income, the basis of the debtor's property or of property transferred to an entity required to use the debtor's basis in whole or in part shall be reduced by the lesser of—

(A) (i) the amount by which the indebtedness of the debtor has been forgiven or discharged in a case under this title; minus

(ii) the total amount of adjustments made under paragraphs (2) and (3) of this subsection; and

(B) the amount by which the total basis of the debtor's assets that were property of the estate before such forgiveness or discharge exceeds the debtor's total liabilities that were liabilities both before and after such forgiveness or discharge.

(6) Notwithstanding paragraph (5) of this subsection, basis is not required to be reduced to the extent that the debtor elects to treat as taxable income, of the taxable period in which indebtedness is forgiven or discharged, the amount of indebtedness forgiven or discharged that otherwise would be applied in reduction of basis under paragraph (5) of this subsection.

(7) For the purposes of this subsection, indebtedness with respect to which an equity security, other than an interest of a limited partner in a limited partnership, is issued to the creditor to whom such indebtedness was owned, or that is forgiven as a contribution to capital by an equity security holder other than a limited partner in the debtor, is not forgiven or discharged in a case under this title—

(A) to any extent that such indebtedness did not consist of items of a deductible nature; or

(B) if the issuance of such equity security has the same consequences under a law imposing a tax on or measured by income to such creditor as a payment in cash to such creditor in an amount equal to the fair market value of such equity security, then to the lesser of—

(i) the extent that such issuance has the same such consequences; and

(ii) the extent of such fair market value.

11 USC 347.

§ 347. Unclaimed property

(a) Ninety days after the final distribution under section 726 or 1326 of this title in a case under chapter 7 or 13 of this title, as the case may be, the trustee shall stop payment on any check remaining unpaid, and any remaining property of the estate shall be paid into the court and disposed of under chapter 129 of title 28.

Post, pp. 2608, 2650.

28 USC 2041.

(b) Any security, money, or other property remaining unclaimed at the expiration of the time allowed in a case under chapter 9 or 11 of this title for the presentation of a security or the performance of any other act as a condition to participation in the distribution under any plan confirmed under section 943(b), 1129, or 1173 of this title, as the case may be, becomes the property of the debtor or of the entity acquiring the assets of the debtor under the plan, as the case may be.

Post, pp. 2624, 2635, 2644.

11 USC 348.

§ 348. Effect of conversion

(a) Conversion of a case from a case under one chapter of this title to a case under another chapter of this title constitutes an order for relief under the chapter to which the case is converted, but, except as provided in subsections (b) and (c) of this section, does not effect a change in the date of the filing of the petition, the commencement of the case, or the order for relief.

(b) Unless the court for cause orders otherwise, in sections 701(a),

Post, p. 2604.

727(a)(10), 727(b), 728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), and 1328(a) of this title, "the order for relief under this chapter" in a chapter to which a case has been converted under section 706, 1112, or 1307 of this title means the conversion of such case to such chapter. *Post*, pp. 2609, 2611, 2626, 2629, 2631, 2638, 2641, 2645, 2647, 2650.

(c) Sections 342 and 365(d) of this title apply in a case that has been converted under section 706, 1112, or 1307 of this title, as if the conversion order were the order for relief. *Post*, pp. 2606, 2630, 2647.

(d) A claim against the estate or the debtor that arises after the order for relief but before conversion in a case that is converted under section 1112 or 1307 of this title, other than a claim specified in section 503(b) of this title, shall be treated for all purposes as if such claim had arisen immediately before the date of the filing of the petition.

(e) Conversion of a case under section 706, 1112, or 1307 of this title terminates the service of any trustee or examiner that is serving in the case before such conversion.

§ 349. Effect of dismissal 11 USC 349.

(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed.

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title— *Post*, p. 2613.

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title; *Post*, p. 2595.

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and *Post*, pp. 2596–2601, 2607.

(C) any lien voided under section 506(d) of this title; *Post*, p. 2602.

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and *Post*, pp. 2601, 2602.

(3) revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.

§ 350. Closing and reopening cases 11 USC 350.

(a) After an estate is fully administered and the court has discharged the trustee, the court shall close the case.

(b) a case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

SUBCHAPTER IV—ADMINISTRATIVE POWERS

§ 361. Adequate protection 11 USC 361.

When adequate protection is required under section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by—

(1) requiring the trustee to make periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;

(2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a

decrease in the value of such entity's interest in such property; or

(3) granting such other relief, other than entitling such entity to compensation allowable under section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

11 USC 362.

§ 362. Automatic stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning the debtor.

(b) The filing of a petition under section 301, 302, or 303 of this title does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a) of this section, of the collection of alimony, maintenance, or support from property that is not property of the estate;

(3) under subsection (a) of this section, of any act to perfect an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title;

Post, p. 2597.

(4) under subsection (a)(1) of this section, of the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

(5) under subsection (a)(2) of this section, of the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

(6) under subsection (a)(7) of this section, of the setoff of any mutual debt and claim that are commodity futures contracts,

forward commodity contracts, leverage transactions, options, warrants, rights to purchase or sell commodity futures contracts or securities, or options to purchase or sell commodities or securities;

(7) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by said Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or 12 USC 1701.

(8) under subsection (a) of this section, of the issuance to the debtor by a governmental unit of a notice of tax deficiency.

(c) Except as provided in subsections (d), (e), and (f) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate; and

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; and

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, or 13 of this title, the time a discharge is granted or denied. *Post*, p. 2604. *Post*, pp. 2621, 2626, 2645.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

(2) with respect to a stay of an act against property, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

(e) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. If the hearing under this subsection is a preliminary hearing—

(1) the court shall order such stay so continued if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the final hearing under subsection (d) of this section; and

(2) such final hearing shall be commenced within thirty days after such preliminary hearing.

(f) The court, without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity

for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

11 USC 363.

§ 363. Use, sale, or lease of property

Cash collateral.

(a) In this section, "cash collateral" means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents in which the estate and an entity other than the estate have an interest.

Notice and hearing.

(b) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

Post, pp. 2606, 2629, 2646.

(c)(1) If the business of the debtor is authorized to be operated under section 721, 1108, or 1304 of this title and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—

(A) each entity that has an interest in such cash collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

(3) Any hearing under paragraph (2)(B) of this subsection may be a preliminary hearing or may be consolidated with a hearing under subsection (e) of this section, but shall be scheduled in accordance with the needs of the debtor. If the hearing under paragraph (2)(B) of this subsection is a preliminary hearing, the court may authorize such use, sale, or lease only if there is a reasonable likelihood that the trustee will prevail at the final hearing under subsection (e) of this section. The court shall act promptly on any request for authorization under paragraph (2)(B) of this subsection.

(4) Except as provided in paragraph (2) of this subsection, the trustee shall segregate and account for any cash collateral in the trustee's possession, custody, or control.

(d) The trustee may use, sell, or lease property under subsection (b) or (c) of this section only to the extent not inconsistent with any relief granted under section 362(c), 362(d), 362(e), or 362(f) of this title.

(e) Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest. In any hearing under this section, the trustee has the burden of proof on the issue of adequate protection.

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of such interest;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

(g) Notwithstanding subsection (f) of this section, the trustee may sell property under subsection (b) or (c) of this section free and clear of any vested or contingent right in the nature of dower or curtesy.

(h) Notwithstanding subsection (f) of this section, the trustee may sell both the estate's interest, under subsection (b) or (c) of this section, and the interest of any co-owner in property in which the debtor had, immediately before the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if—

(1) partition in kind of such property among the estate and such co-owners is impracticable;

(2) sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners;

(3) the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and

(4) such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

(i) Before the consummation of a sale of property to which subsection (g) or (h) of this section applies, or of property of the estate that was community property of the debtor and the debtor's spouse immediately before the commencement of the case, the debtor's spouse, or a co-owner of such property, as the case may be, may purchase such property at the price at which such sale is to be consummated.

(j) After a sale of property to which subsection (g) or (h) of this section applies, the trustee shall distribute to the debtor's spouse or the co-owners of such property, as the case may be, and to the estate, the proceeds of such sale, less the costs and expenses, not including any compenation of the trustee, of such sale, according to the interests of such spouse or co-owners, and of the estate.

(k) At a sale under subsection (b) of this section of property that is subject to a lien that secures an allowed claim, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.

(l) The trustee may use, sell, or lease property under subsection (b) or (c) of this section, or a plan under chapter 11 or 13 of this title may provide for the use, sale, or lease of property, notwithstanding any provision in a contract, a lease, or applicable law that is conditioned on the insolvency or financial conditions of the debtor, on the commencement of a case under this title concerning the debtor, or on the appointment of a taking possession by a trustee in a case under this title or a custodian, and that effects, or gives an option to effect, a forfeiture, modification, or termination of the debtor's interests in such property. *Post*, pp. 2626, 2645.

(m) The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

(n) The trustee may void a sale under this section if the sale price

was controlled by an agreement among potential bidders at such sale, or may recover from a party to such agreement any amount by which the value of the property sold exceeds the price at which such sale was consummated, and may recover any costs, attorneys' fees, or expenses incurred in voiding such sale or recovering such amount. The court may grant judgment in favor of the estate and against any such party that entered into such agreement in willful disregard of this subsection for punitive damages in addition to any recovery under the preceding sentence.

11 USC 364.

§ 364. Obtaining credit

Post, pp. 2606, 2629, 2646.

(a) If the trustee is authorized to operate the business of the debtor under section 721, 1108, or 1304 of this title, unless the court orders otherwise, the trustee may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable under section 503 (b) (1) of this title as an administrative expense.

Notice and hearing.

(b) The court, after notice and a hearing, may authorize the trustee to obtain unsecured credit or to incur unsecured debt other than under subsection (a) of this section, allowable under section 503(b) (1) of this title as an administrative expense.

(c) If the trustee is unable to obtain unsecured credit allowable under section 503(b) (1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—

(1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

(d) (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if—

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

(2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

(e) The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

Post, p. 2639.

(f) Except with respect to an entity that is an underwriter as defined in section 1145(b) of this title, section 5 of the Securities Act of 1933 (15 U.S.C. 77e), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), and any State or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security does not apply to the offer or sale under this section of a security that is not an equity security.

11 USC 365.

§ 365. Executory contracts and unexpired leases

Post, p. 2619.

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the

court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b) (1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(3) For the purposes of paragraph (1) of this section, adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease will not breach substantially any provision, such as a radius, location, use, or exclusivity provision, in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt substantially any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1) (A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(d) (1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of the debtor within 60 days after the order for relief, or within such addi- *Post*, p. 2604.

tional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

Post, pp. 2621, 2626, 2645.

(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of the debtor at any time before the confirmation of a plan, but the court, on request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(e)(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(A)(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)(1) Except as provided in subsection (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsections (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title, immediately before the date of the filing of the petition; or

Post, pp. 2621, 2626, 2645.

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112 or 1307 of this title, at the time of such rejection; or

Post, pp. 2630, 2647.

(B) if before such rejection the case has been converted under section 1112 or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, the lessee under such lease may treat the lease as terminated by such rejection, or, in the alternative, may remain in possession for the balance of the term of such lease and any renewal or extension of such term that is enforceable by such lessee under applicable nonbankruptcy law.

(2) If such lessee remains in possession, such lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease, and any such renewal or extension, any damages occurring after such date caused by the nonperformance of any obligation of the debtor after such date, but such lessee does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.

(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract. but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

11 USC 366.

§ 366. Utility service

(a) Except as provided in subsection (b) of this section, a utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.

(b) Such utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.

CHAPTER 5—CREDITORS, THE DEBTOR, AND THE ESTATE

SUBCHAPTER I—CREDITORS AND CLAIMS

Sec.
501. Filing of proofs of claims or interests.
502. Allowance of claims or interests.
503. Allowance of administrative expenses.
504. Sharing of compensation.
505. Determination of tax liability.
506. Determination of secured status.
507. Priorities.
508. Effect of distribution other than under this title.
509. Claims of codebtors.
510. Subordination.

SUBCHAPTER II—DEBTOR'S DUTIES AND BENEFITS

521. Debtor's duties.
522. Exemptions.
523. Exceptions to discharge.
524. Effect of discharge.
525. Protection against discriminatory treatment.

SUBCHAPTER III—THE ESTATE

541. Property of the estate.
542. Turnover of property to the estate.
543. Turnover of property by a custodian.
544. Trustee as lien creditor and as successor to certain creditors and purchasers.
545. Statutory liens.
546. Limitations on avoiding powers.
547. Preferences.
548. Fraudulent transfers and obligations.
549. Postpetition transactions.
550. Liability of transferee of avoided transfer.
551. Automatic preservation of avoided transfer.
552. Postpetition effect of security interest.
553. Setoff.
554. Abandonment of property of the estate.

SUBCHAPTER I—CREDITORS AND CLAIMS

11 USC 501.

§ 501. Filing of proofs of claims or interests

(a) A creditor or an indenture trustee may file a proof of claim. An equity security holder may file a proof of interest.

(b) If a creditor does not timely file a proof of such creditor's claim, an entity that is liable to such creditor with the debtor, or that has secured such creditor, may file a proof of such claim.

(c) If a creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim.

(d) A claim of a kind specified in section 502(f), 502(g), 502(h) or 502(i) of this title may be filed under subsection (a), (b), or (c) of this section the same as if such claim were a claim against the debtor and had arisen before the date of the filing of the petition.

§ 502. Allowance of claims or interests 11 USC 502.

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a partner in a partnership that is a debtor in a case under chapter 7 of this title, objects. *Post*, p. 2604.

(b) Except as provided in subsections (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor, and unenforceable against property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

(2) such claim is for unmatured interest;

(3) such claim may be offset under section 553 of this title against a debt owing to the debtor; *Post*, p. 2602.

(4) if such claim is for a tax assessed against property of the estate, such claim exceeds value of the interest of the estate in such property;

(5) if such claim is for services of an insider or attorney of the debtor, such claim exceeds the reasonable value of such services;

(6) the claim is for a debt that is unmatured on the date of the filing of the petition, and that is excepted from discharge under section 523(a)(5) of this title;

(7) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

(A) the rent reserved by such lease, without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining term of such lease, following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus

(B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates;

(8) if such claim is for damages resulting from the termination of an employment contract, such claim exceeds—

(A) the compensation provided by such contract, without acceleration, for one year following the earlier of—

(i) the date of the filing of the petition; and

(ii) the date on which the employer directed the employee to terminate, or such employee terminated, performance under such contract; plus

(B) the unpaid compensation due under such contract without acceleration, on the earlier of such dates; or

(9) such claim results from a reduction, due to late payment, in the amount of an otherwise applicable credit available to the

debtor in connection with an employment tax on wages, salaries, or commissions earned from the debtor.

(c) There shall be estimated for purpose of allowance under this section—

(1) any contingent or unliquidated claim, fixing or liquidation of which, as the case may be, would unduly delay the closing of the case; or

(2) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment.

(d) Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of this title.

Post, pp. 2601, 2602.

Post, pp. 2601, 2607.

(e)(1) Notwithstanding subsections (a) and (b) of this section and paragraph (2) of this subsection, the court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on, or has secured, the claim of a creditor, to the extent that—

(A) such creditor's claim against the estate is disallowed;

(B) such claim for reimbursement or contribution is contingent as of the time of allowance of such claim for reimbursement or contribution; or

(C) such entity requests subrogation under section 509 of this title to the rights of such creditor.

(2) A claim for reimbursement or contribution of such an entity that becomes fixed after the commencement of the case shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) of this section, the same as if such claim had become fixed before the date of the filing of the petition.

(f) In an involuntary case, a claim arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee and the order for relief shall be determined as of the date such claim arises, and shall be allowed under subsection (a), (b), or (c) of this section or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(g) A claim arising from the rejection, under section 365 of this title or under a plan under chapter 9, 11, or 13 of this title, of an executory contract or unexpired lease of the debtor that has not been assumed shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

Post, pp. 2621, 2626, 2645.

(h) A claim arising from the recovery of property under section 522(i), 550, or 553 of this title shall be determined, and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, the same as if such claim had arisen before the date of the filing of the petition.

(i) A claim that does not arise until after the commencement of the case for a tax entitled to priority under section 507(a)(6) of this title shall be determined, and shall be allowed under subsection (a),

28 USC 1821 *et seq.*

(6) the fees and mileage payable under chapter 119 of title 28.

11 USC 504.

§ 504. Sharing of compensation

(a) Except as provided in subsection (b) of this section, a person receiving compensation or reimbursement under section 503(b)(2) or 503(b)(4) of this title may not share or agree to share—

(1) any such compensation or reimbursement with another person; or

(2) any compensation or reimbursement received by another person under such sections.

(b)(1) A member, partner, or regular associate in a professional association, corporation, or partnership may share compensation or reimbursement received under section 503(b)(2) or 503(b)(4) of this title with another member, partner, or regular associate in such association, corporation, or partnership, and may share in any compensation or reimbursement received under such sections by another member, partner, or regular associate in such association, corporation, or partnership.

(2) An attorney for a creditor that files a petition under section 303 of this title may share compensation and reimbursement received under section 503(b)(4) of this title with any other attorney contributing to the services rendered or expenses incurred by such creditor's attorney.

11 USC 505.

§ 505. Determination of tax liability

(a)(1) Except as provided in paragraph (2) of this subsection, the court may determine the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assessed, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction.

(2) The court may not so determine—

(A) the amount or legality of a tax, fine, penalty, or addition to tax if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this title; or

(B) any right of the estate to a tax refund, before the earlier of—

(i) 120 days after the trustee properly requests such refund from the governmental unit from which such refund is claimed; and

(ii) a determination by such governmental unit of such request.

(b) A trustee may request a determination of any unpaid liability of the estate for any tax incurred during the administration of the case by submitting a tax return for such tax and a request for such a determination to the governmental unit charged with responsibility for collection or determination of such tax. Unless such return is fraudulent, or contains a material misrepresentation, the trustee, the debtor, and any successor to the debtor are discharged from any liability for such tax—

(1) upon payment of the tax shown on such return, if—

(A) such governmental unit does not notify the trustee, within 60 days after such request, that such return has been selected for examination; or

(B) such governmental unit does not complete such an examination and notify the trustee of any tax due, within 180

days after such request or within such additional time as the court, for cause, permits;

(2) upon payment of the tax determined by the court, after notice and a hearing, after completion by such governmental unit of such examination; or

(3) upon payment of the tax determined by such governmental unit to be due.

(c) Notwithstanding section 362 of this title, after determination by the court of a tax under this section, the governmental unit charged with responsibility for collection of such tax may assess such tax against the estate, the debtor, or a successor to the debtor, as the case may be, subject to any otherwise applicable law.

§ 506. Determination of secured status 11 USC 506.

(a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

(b) To the extent that an allowed secured claim is secured by property the value of which, after any recovery under subsection (c) of this section, is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonable fees, costs, or charges provided under the agreement under which such claim arose.

(c) The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim.

(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless—

(1) a party in interest has not requested that the court determine and allow or disallow such claim under section 502 of this title; or

(2) such claim was disallowed only under section 502(e) of this title.

§ 507. Priorities 11 USC 507.

(a) The following expenses and claims have priority in the following order:

(1) First, administrative expenses allowed under section 503(b) of this title, and any fees and charges assessed against the estate under chapter 123 of title 28. 28 USC 1911 *et seq.*

(2) Second, unsecured claims allowed under section 502(f) of this title.

(3) Third, allowed unsecured claims for wages, salaries, or commissions, including vacation, severance and sick leave pay—

(A) earned by an individual within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) to the extent of $2,000 for each such individual.

(4) Fourth, allowed unsecured claims for contributions to employee benefit plans—

(A) arising from services rendered within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

(B) for each such plan, to the extent of—

(i) the number of employees covered by such plan multiplied by $2,000; less

(ii) the aggregate amount paid to such employees under paragraph (3) of this subsection, plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

(5) Fifth, allowed unsecured claims of individuals, to the extent of $900 for each such individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family, or household use of such individuals, that were not delivered or provided.

(6) Sixth, allowed unsecured claims of governmental units, to the extent that such claims are for—

(A) a tax on or measured by income or gross receipts—

(i) for a taxable year ending on or before the date of the filing of the petition for which a return, if required, is last due, including extensions, after three years before the date of the filing of the petition;

(ii) assessed within 240 days, plus any time plus 30 days during which an offer in compromise with respect to such tax that was made within 240 days after such assessment was pending, before the date of the filing of the petition; or

(iii) other than a tax of a kind specified in section 523(a)(1)(B) or 523(a)(1)(C) of this title, not assessed before, but assessable, under applicable law or by agreement, after, the commencement of the case;

(B) a property tax assessed before the commencement of the case and last payable without penalty after one year before the date of the filing of the petition;

(C) a tax required to be collected or withheld and for which the debtor is liable in whatever capacity;

(D) an employment tax on a wage, salary, or commission of a kind specified in paragraph (3) of this subsection earned from the debtor before the date of the filing of the petition, whether or not actually paid before such date, for which a return is last due, under applicable law or under any extension, after three years before the date of the filing of the petition;

(E) an excise tax on—

(i) a transaction occurring before the date of the filing of the petition for which a return, if required, is last due, under applicable law or under any extension, after three years before the date of the filing of the petition; or

(ii) if a return is not required, a transaction occurring during the three years immediately preceding the date of the filing of the petition;

(F) a customs duty arising out of the importation of merchandise—

(i) entered for consumption within one year before the date of the filing of the petition;

(ii) covered by an entry liquidated or reliquidated within one year before the date of the filing of the petition; or

(iii) entered for consumption within four years before the date of the filing of the petition but unliquidated on such date, if the Secretary of the Treasury certifies that failure to liquidate such entry was due to an investigation pending on such date into assessment of antidumping or countervailing duties or fraud, or if information needed for the proper appraisement or classification of such merchandise was not available to the appropriate customs officer before such date; or

(G) a penalty related to a claim of a kind specified in this paragraph and in compensation for actual pecuniary loss.

(b) If the trustee, under section 362, 363, or 364 of this title, provides adequate protection of the interest of a holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection, such creditor has a claim allowable under subsection (a)(1) of this section arising from the stay of action against such property under section 362 of this title, from the use, sale, or lease of such property under section 363 of this title, or from the granting of a lien under section 364(d) of this title, then such creditor's claim under such subsection shall have priority over every other claim allowable under such subsection.

(c) For the purpose of subsection (a) of this section, a claim of a governmental unit arising from an erroneous refund or credit of a tax shall be treated the same as a claim for the tax to which such refund or credit relates.

(d) An entity that is subrogated to the rights of a holder of a claim of a kind specified in subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section is not subrogated to the right of the holder of such claim to priority under such subsection.

§ 508. Effect of distribution other than under this title 11 USC 508.

(a) If a creditor receives, in a foreign proceeding, payment of, or a transfer of property on account of, a claim that is allowed under this title, such creditor may not receive any payment under this title on account of such claim until each of the other holders of claims on account of which such holders are entitled to share equally with such creditor under this title has received payment under this title equal in value to the consideration received by such creditor in such foreign proceeding.

(b) If a creditor of a partnership debtor receives, from a general partner that is not a debtor in a case under chapter 7 of this title, payment of, or a transfer of property on account of, a claim that is allowed under this title and that is not secured by a lien on property of such partner, such creditor may not receive any payment under this title on account of such claim until each of the other holders of claims on account of which such holders are entitled to share equally with such creditor under this title has received payment under this title equal in value to the consideration received by such creditor from such general partner.

§ 509. Claims of codebtors 11 USC 509.

(a) Except as provided in subsections (b) and (c) of this section, an entity that is liable with the debtor on, or that has secured, a claim

of a creditor, and that pays such claim, is subrogated to the rights of such creditor to the extent of such payment.

(b) Such entity is not subrogated to the rights of such creditor to the extent that—

(1) a claim of such entity for reimbursement or contribution on account of a payment of such creditor's claim is—

(A) allowed under section 502 of this title;

(B) disallowed other than under section 502(e) of this title; or

(C) subordinated under section 510 of this title; or

(2) as between the debtor and such entity, such entity received the consideration for the claim held by such creditor.

(c) The court shall subordinate to the claim of a creditor and for the benefit of such creditor an allowed claim, by way of subrogation under section 509 of this title, or for reimbursement or contribution, of an entity that is liable with the debtor on, or that has secured, such creditor's claim, until such creditor's claim is paid in full, either through payments under this title or otherwise.

11 USC 510.

§ 510. Subordination

(a) A subordination agreement is enforceable in a case under this title to the same extent that such agreement is enforceable under applicable nonbankruptcy law.

(b) Any claim for recission of a purchase or sale of a security of the debtor or of an affiliate or for damages arising from the purchase or sale of such a security shall be subordinated for purposes of distribution to all claims and interests that are senior or equal to the claim or interest represented by such security.

(c) Notwithstanding subsections (a) and (b) of this section, after notice and a hearing, the court may—

(1) under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or all or part of an allowed interest to all or part of another allowed interest; or

(2) order that any lien securing such a subordinated claim be transferred to the estate.

SUBCHAPTER II—DEBTOR'S DUTIES AND BENEFITS

11 USC 521.

§ 521. Debtor's duties

The debtor shall—

(1) file a list of creditors, and unless the court orders otherwise, a schedule of assets and liabilities, and a statement of the debtor's financial affairs;

(2) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(3) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate; and

(4) appear at the hearing required under section 524(d) of this title.

11 USC 522.

§ 522. Exemptions

(a) In this section—

(1) "dependent" includes spouse, whether or not actually dependent; and

(2) "value" means fair market value as of the date of the filing of the petition.

(b) Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate either—

(1) property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (2)(A) of this subsection specifically does not so authorize; or, in the alternative,

(2)(A) any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law.

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such claim had arisen before the commencement of the case, except—

(1) a debt of a kind specified in section 523(a)(1) or section 523(a)(5) of this title; or

(2) a lien that is—

(A) not avoided under section 544, 545, 547, 548, 549, or 724(a) of this title; *Post*, p. 2607.

(B) not voided under section 506(d) of this title; or

(C)(i) a tax lien, notice of which is properly filed; and

(ii) avoided under section 545(2) of this title.

(d) The following property may be exempted under subsection (b)(1) of this section:

(1) The debtor's aggregate interest, not to exceed $7,500 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's interest, not to exceed $1,200 in value, in one motor vehicle.

(3) The debtor's interest, not to exceed $200 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, in any property.

(6) The debtor's aggregate interest, not to exceed $750 in value,

in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive—

(A) a social security benefit, unemployment compensation, or a local public assistance benefit;

(B) a veterans' benefit;

(C) a disability, illness, or unemployment benefit;

(D) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(E) a payment under a stock bonus, pension, profitsharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

(ii) such payment is on account of age or length of service; and

(iii) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

(11) The debtor's right to receive, or property that is traceable to—

(A) an award under a crime victim's reparation law;

(B) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(C) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(D) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

Waiver.

(e) A waiver of exemptions executed in favor of a creditor that holds an unsecured claim against the debtor is unenforceable in a case

under this title with respect to such claim against property that the debtor may exempt under subsection (b) of this section. A waiver by the debtor of a power under subsection (f) or (h) of this section to avoid a transfer, under subsection (g) or (i) of this section to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer, is unenforceable in a case under this title.

(f) Notwithstanding any waiver of exemptions, the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—

(1) a judicial lien; or

(2) a nonpossessory, nonpurchase-money security interest in any—

(A) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

(B) implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or

(C) professionally prescribed health aids for the debtor or a dependent of the debtor.

(g) Notwithstanding sections 550 and 551 of this title, the debtor may exempt under subsection (b) of this section property that the trustee recovers under section 510(c)(2), 542, 543, 550, 551, or 553 of this title, to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred, if—

(1)(A) such transfer was not a voluntary transfer of such property by the debtor; and

(B) the debtor did not conceal such property; or

(2) the debtor could have avoided such transfer under subsection (f)(2) of this section.

(h) The debtor may avoid a transfer of property of the debtor or recover a setoff to the extent that the debtor could have exempted such property under subsection (g)(1) of this section if the trustee had avoided such transfer, if—

(1) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title or recoverable by the trustee under section 553 of this tittle; and

(2) the trustee does not attempt to avoid such transfer.

(i)(1) If the debtor avoids a transfer or recovers a setoff under subsection (f) or (h) of this section, the debtor may recover in the manner prescribed by, and subject to the limitations of, section 550 of this title, the same as if the trustee had avoided such transfer, and may exempt any property so recovered under subsection (b) of this section.

(2) Notwithstanding section 551 of this title, a transfer avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, under subsection (f) or (h) of this section, or property recovered under section 553 of this title, may be preserved for the benefit of the debtor to the extent that the debtor may exempt such property under subsection (g) of his section or paragraph (1) of this subsection.

(j) Notwithstanding subsections (g) and (i) of this section, the debtor may exempt a particular kind of property under subsections (g) and (i) of this section only to the extent that the debtor has

exempted less property in value of such kind than that to which the debtor is entitled under subsection (b) of this section.

(k) Property that the debtor exempts under this section is not liable for payment of any administrative expense except—

(1) the aliquot share of the costs and expenses of avoiding a transfer of property that the debtor exempts under subsection (g) of this section, or of recovery of such property, that is attributable to the value of the portion of such property exempted in relation to the value of the property recovered; and

(2) any costs and expenses of avoiding a transfer under subsection (f) or (h) of this section, or of recovery of property under subsection (i)(1) of this section, that the debtor has not paid.

(l) The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. If the debtor does not file such a list, a dependent of the debtor may file such a list, or may claim property as exempt from property of the estate on behalf of the debtor. Unless a party in interest objects, the property claimed as exempt on such list is exempt.

(m) This section shall apply separately with respect to each debtor in a joint case.

11 USC 523.

§ 523. Exceptions to discharge

Post, pp. 2638, 2650.

(a) A discharge under section 727, 1141, or 1328(b) of this title does not discharge an individual debtor from any debt—

(1) for a tax or a customs duty—

(A) of the kind and for the periods specified in section 507(a)(2) or 507(a)(6) of this title, whether or not a claim for such tax was filed or allowed;

(B) with respect to which a return, if required—

(i) was not filed; or

(ii) was filed after the date on which such return was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax;

(2) for obtaining money, property, services, or an extension, renewal, or refinance of credit, by—

(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition; or

(B) use of a statement in writing—

(i) that is materially false;

(ii) respecting the debtor's or an insider's financial condition;

(iii) on which the creditor to whom the debtor is liable for obtaining such money, property, services, or credit reasonably relied; and

(iv) that the debtor caused to be made or published with intent to deceive;

(3) neither listed nor scheduled under section 521(1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit—

(A) if such debt is not of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim, unless such creditor had notice or actual knowledge of the case in time for such timely filing; or

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such timely filing and request;

(4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;

(5) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or property settlement agreement, but not to the extent that—

(A) such debt is assigned to another entity, voluntarily, by operation of law, or otherwise; or

(B) such debt includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support;

(6) for willful and malicious injury by the debtor to another entity or to the property of another entity;

(7) to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss, other than a tax penalty—

(A) relating to a tax of a kind not specified in paragraph (1) of this subsection; or

(B) imposed with respect to a transaction or event that occurred before three years before the date of the filing of the petition;

(8) to a governmental unit, or a nonprofit institution of higher education, for an educational loan, unless—

(A) such loan first became due before five years before the date of the filing of the petition; or

(B) excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents; or

(9) that was or could have been listed or scheduled by the debtor in a prior case concerning the debtor under this title or under the Bankruptcy Act in which the debtor waived discharge, or was denied a discharge under section 727(a) (2), (3), (4), (5), (6), or (7) of this title, or under section 14c (1), (2), (3), (4), (6), or (7) of such Act. 11 USC prec. 1. 11 USC 32.

(b) Notwithstanding subsection (a) of this section, a debt that was excepted from discharge under subsection (a)(1), (a)(3), or (a)(8) of this section, under section 17a(1), 17a(3), or 17a(5) of the Bankruptcy Act, under section 439A of the Higher Education Act of 1965 (20 U.S.C. 1087-3), or under section 733(g) of the Public Health Services Act (42 U.S.C. 294f) in a prior case concerning the debtor under this title, or under the Bankruptcy Act, is dischargeable in a case under this title unless, by the terms of subsection (a) of this section, such debt is not dischargeable in the case under this title. 11 USC 35.

(c) Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment against such creditor and in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding to determine dischargeability, unless such granting of judgment would be clearly inequitable.

11 USC 524.

§ 524. Effect of discharge

(a) A discharge in a case under this title—

(1) voids any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any debt discharged under section 727, 944, 1141, or 1328 of this title, whether or not discharge of such debt is waived;

Post, pp. 2624, 2638, 2650.

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect, recover or offset any such debt as a personal liability of the debtor, or from property of the debtor, whether or not discharge of such debt is waived; and

(3) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect or recover from, or offset against, property of the debtor of the kind specified in section 541(a)(2) of this title that is acquired after the commencement of the case, on account of any allowable community claim, except a community claim that is excepted from discharge under section 523 or 1328(c)(1) of this title, or that would be so excepted, determined in accordance with the provisions of sections 523(c) and 523(d) of this title, in a case concerning the debtor's spouse commenced on the date of the filing of the petition in the case concerning the debtor, whether or not discharge of the debt based on such community claim is waived.

Post, p. 2650.

(b) Subsection (a)(3) of this section does not apply if—

(1)(A) the debtor's spouse is a debtor in a case under this title, or a bankrupt or a debtor in a case under the Bankruptcy Act, commenced within six years of the date of the filing of the petition in the case concerning the debtor; and

11 USC prec. 1.

(B) the court does not grant the debtor's spouse a discharge in such case concerning the debtor's spouse; or

(2)(A) the court would not grant the debtor's spouse a discharge in a case under chapter 7 of this title concerning such spouse commenced on the date of the filing of the petition in the case concerning the debtor; and

(B) a determination that the court would not so grant such discharge is made by the bankruptcy court within the time and in the manner provided for a determination under section 727 of this title of whether a debtor is granted a discharge.

(c) An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable nonbankruptcy law, whether or not discharge of such debt is waived, only if—

(1) such agreement was made before the granting of the discharge under section 727, 1141, or 1328 of this title;

(2) the debtor has not rescinded such agreement within 30 days after such agreement becomes enforceable;

(3) the provisions of subsection (d) of this section have been complied with; and

(4) in a case concerning an individual, to the extent that such debt is a consumer debt that is not secured by real property of the debtor, the court approves such agreement as—

(A) (i) not imposing an undue hardship on the debtor or a dependent of the debtor; and

(ii) in the best interest of the debtor; or

(B) (i) entered into in good faith; and

(ii) in settlement of litigation under section 523 of this title, or providing for redemption under section 722 of this title.

Hearing.

(d) In a case concerning an individual, when the court has determined whether to grant or not to grant a discharge under section 727, 1141, or 1328 of this title, the court shall hold a hearing at which the debtor shall appear in person. At such hearing, the court shall inform the debtor that a discharge has been granted or the reason why a discharge has not been granted. If a discharge has been granted and if the debtor desires to make an agreement of the kind specified in subsection (c) of this section, then at such hearing the court shall—

Post, pp. 2638, 2650.

(1) inform the debtor—

(A) that such an agreement is not required under this title, under nonbankruptcy law, or under any agreement not made in accordance with the provisions of subsection (c) of this section; and

(B) of the legal effect and consequences of—

(i) an agreement of the kind specified in subsection (c) of this section; and

(ii) a default under such an agreement;

(2) determine whether the agreement that the debtor desires to make complies with the requirements of subsection (c) (4) of this subsection, if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor.

(e) Except as provided in subsection (a) (3) of this section, discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt.

§ 525. Protection against discriminatory treatment

11 USC 525.

Except as provided in Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a–499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181–229), and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

11 USC prec. 1.

SUBCHAPTER III—THE ESTATE

11 USC 541.

§ 541. Property of the estate

Ante, pp. 2558, 2559.

(a) The commencement of a case under under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) An interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, and profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include any power that the debtor may only exercise solely for the benefit of an entity other than the debtor.

(c)(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or the taking possession by a trustee in a case under this title or a custodian, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) The estate shall have the benefit of any defense available to the debtor as against an entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.

§ 542. Turnover of property to the estate 11 USC 542.

(a) Except as provided in subsection (c) or (d) of this section, an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate. *Ante*, p. 2572.

(b) Except as provided in subsection (c) or (d) of this section, an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor.

(c) Except as provided in section 362(a)(7) of this title, an entity that has neither actual notice nor actual knowledge of the commencement of the case concerning the debtor may transfer property of the estate, or pay a debt owing to the debtor, in good faith and other than in the manner specified in subsection (d) of this section, to an entity other than the trustee, with the same effect as to the entity making such transfer or payment as if the case under this title concerning the debtor had not been commenced. *Ante*, p. 2570.

(d) A life insurance company may transfer property of the estate or property of the debtor to such company in good faith, with the same effect with respect to such company as if the case under this title concerning the debtor had not been commenced, if such transfer is to pay a premium or to carry out a nonforfeiture insurance option, and is required to be made automatically, under a life insurance contract with such company that was entered into before the date of the filing of the petition and that is property of the estate.

(e) Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to disclose such recorded information to the trustee.

§ 543. Turnover of property by a custodian 11 USC 543.

(a) A custodian with knowledge of the commencement of a case under this title concerning the debtor may not make any disbursement from, or take any action in the administration of, property of the debtor, proceeds of such property, or property of the estate, in the possession, custody, or control of such custodian, except such action as is necessary to preserve such property.

(b) A custodian shall—

(1) deliver to the trustee any property of the debtor transferred to such custodian, or proceeds of such property, that is in such custodian's possession, custody, or control on the date that such custodian acquires knowledge of the commencement of the case; and

(2) file an accounting of any property of the debtor, or proceeds of such property, that, at any time, came into the possession, custody, or control of such custodian.

Notice and hearing.

(c) The court, after notice and a hearing, shall—

(1) protect all entities to which a custodian has become obligated with respect to such property;

(2) provide for the payment of reasonable compensation for services rendered and costs and expenses incurred by such custodian; and

(3) surcharge such custodian, other than an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, for any improper or excessive disbursement, other than a disbursement that has been made in accordance with applicable law or approved, after notice and a hearing, by a court of competent jurisdiction before the commencement of the case under this title.

(d) The bankruptcy court may, after notice and a hearing, excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent, of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property.

11 USC 544.

§ 544. Trustee as lien creditor and as successor to certain creditors and purchasers

(a) The trustee shall have, as of the commencement of the case, and without regard to any knowledge of the trustee or of any creditor, the rights and powers of, or may avoid any transfer of property of the debtor or any obligation incurred by the debtor that is voidable by—

(1) a creditor that extends credit to the debtor at the time of the commencement of the case, and that obtains, at such time and with respect to such credit, a judicial lien on all property on which a creditor on a simple contract could have obtained a judicial lien, whether or not such a creditor exists;

(2) a creditor that extends credit to the debtor at the time of the commencement of the case, and obtains, at such time and with respect to such credit, an execution against the debtor that is returned unsatisfied at such time, whether or not such a creditor exists; and

(3) a bona fide purchaser of real property from the debtor, against whom applicable law permits such transfer to be perfected, that obtains the status of a bona fide purchaser at the time of the commencement of the case, whether or not such a purchaser exists.

(b) The trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title.

§ 545. Statutory liens 11 USC 545.

The trustee may avoid the fixing of a statutory lien on property of the debtor to the extent that such lien—

(1) first becomes effective against the debtor—

(A) when a case under this title concerning the debtor is is commenced;

(B) when an insolvency proceeding other than under this title concerning the debtor is commenced;

(C) when a custodian is apponted or takes possession;

(D) when the debtor becomes insolvent;

(E) when the debtor's financial condition fails to meet a specified standard; or

(F) at the time of an execution against property of the debtor levied at the instance of an entity other than the holder of such statutory lien;

(2) is not perfected or enforceable on the date of the filing of the petition against a bona fide purchaser that purchases such property on the date of the filing of the petition, whether or not such a purchaser exists;

(3) is for rent; or

(4) is a lien of distress for rent.

§ 546. Limitations on avoiding powers 11 USC 546.

(a) An action or proceeding under section 544, 545, 547, 548, or 553 of this title may not be commenced after the earlier of—

(1) two years after the appointment of a trustee under section 702, 1104, 1163, or 1302 of this title; and

(2) the time the case is closed or dismissed.

Post, pp. 2627, 2641, 2645.

(b) The rights and powers of the trustee under section 544, 545, or 549 of this title are subject to any generally applicable law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of such perfection. If such law requires seizure of such property or commencement of an action to accomplish such perfection, and such property has not been seized or such action has not been commenced before the date of the filing of the petition, such interest in such property shall be perfected by notice within the time fixed by such law for such seizure or commencement.

(c) The rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory right or common-law right of a seller, in the ordinary course of such seller's business, of goods to the debtor to reclaim such goods if the debtor has received such goods while insolvent, but—

(1) such a seller may not reclaim any such goods unless such seller demands in writing reclamation of such goods before ten days after receipt of such goods by the debtor; and

(2) the court may deny reclamation to a seller with such a right of reclamation that has made such a demand only if court—

(A) grants the claim of such a seller priority as an administrative expense; or

(B) secures such claim by a lien.

§ 547. Preferences 11 USC 547.

(a) In this section— Definitions.

(1) "inventory" means personal property leased or furnished, held for sale or lease, or to be furnished under a contract for

service, raw materials, work in process, or materials used or consumed in a business, including farm products such as crops or livestock, held for sale or lease;

(2) "new value" means money or money's worth in goods, services, or new credit, or release by a transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the debtor or the trustee under any applicable law, but does not include an obligation substituted for an existing obligation;

(3) "receivable" means right to payment, whether or not such right has been earned by performance; and

(4) a debt for a tax is incurred on the day when such tax is last payable, including any extension, without penalty.

(b) Except as provided in subsection (c) of this section, the trustee may avoid any transfer of property of the debtor—

(1) to or for the benefit of a creditor;

(2) for or on account of an antecedent debt owed by the debtor before such transfer was made;

(3) made while the debtor was insolvent;

(4) made—

(A) on or within 90 days before the date of the filing of the petition; or

(B) between 90 days and one year before the date of the filing of the petition, if such creditor, at the time of such transfer—

(i) was an insider; and

(ii) had reasonable cause to believe the debtor was insolvent at the time of such transfer; and

(5) that enables such creditor to receive more than such creditor would receive if—

(A) the case were a case under chapter 7 of this title;

(B) the transfer had not been made; and

(C) such creditor received payment of such debt to the extent provided by the provisions of this title.

(c) The trustee may not avoid under this section a transfer—

(1) to the extent that such transfer was—

(A) intended by the debtor and the creditor to or for whose benefit such transfer was made to be a contemporaneous exchange for new value given to the debtor; and

(B) in fact a substantially contemporaneous exchange;

(2) to the extent that such transfer was—

(A) in payment of a debt incurred in the ordinary course of business or financial affairs of the debtor and the transferee;

(B) made not later than 45 days after such debt was incurred;

(C) made in the ordinary course of business or financial affairs of the debtor and the transferee; and

(D) made according to ordinary business terms;

(3) of a security interest in property acquired by the debtor—

(A) to the extent such security interest secures new value that was—

(i) given at or after the signing of a security agreement that contains a description of such property as collateral;

(ii) given by or on behalf of the secured party under such agreement;

(iii) given to enable the debtor to acquire such property; and

(iv) in fact used by the debtor to acquire such property; and

(B) that is perfected before 10 days after such security interest attaches;

(4) to or for the benefit of a creditor, to the extent that, after such transfer, such creditor gave new value to or for the benefit of the debtor—

(A) not secured by an otherwise unavoidable security interest; and

(B) on account of which new value the debtor did not make an otherwise unavoidable transfer to or for the benefit of such creditor;

(5) of a perfected security interest in inventory or a receivable or the proceeds of either, except to the extent that the aggregate of all such transfers to the transferee caused a reduction, as of the date of the filing of the petition and to the prejudice of other creditors holding unsecured claims, of any amount by which the debt secured by such security interest exceeded the value of all security interest for such debt on the later of—

(A) (i) with respect to a transfer to which subsection (b) (4) (A) of this section applies, 90 days before the date of the filing of the petition; or

(ii) with respect to a transfer to which subsection (b) (4) (B) of this section applies, one year before the date of the filing of the petition; and

(B) the date on which new value was first given under the security agreement creating such security interest; or

(6) that is the fixing of a statutory lien that is not avoidable under section 545 of this title.

(d) A trustee may avoid a transfer of property of the debtor transferred to secure reimbursement of a surety that furnished a bond or other obligation to dissolve a judicial lien that would have been avoidable by the trustee under subsection (b) of this section. The liability of such surety under such bond or obligation shall be discharged to the extent of the value of such property recovered by the trustee or the amount paid to the trustee.

(e) (1) For the purposes of this section—

(A) a transfer of real property other than fixtures, but including the interest of a seller or purchaser under a contract for the sale of real property, is perfected when a bona fide purchaser of such property from the debtor against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of the transferee; and

(B) a transfer of a fixture or property other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the interest of the transferee.

(2) For the purposes of this section, except as provided in paragraph (3) of this subsection, a transfer is made—

(A) at the time such transfer takes effect between the transferor and the transferee, if such transfer is perfected at, or within 10 days after, such time;

(B) at the time such transfer is perfected, if such transfer is perfected after such 10 days; or

(C) immediately before the date of the filing of the petition, if such transfer is not perfected at the later of—

(i) the commencement of the case; and

(ii) 10 days after such transfer takes effect between the transferor and the transferee.

(3) For the purposes of this section, a transfer is not made until the debtor has acquired rights in the property transferred.

(f) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

11 USC 548.

§ 548. Fraudulent transfers and obligations

(a) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, if the debtor—

(1) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer occurred or such obligation was incurred, indebted; or

(2)(A) received less than a reasonably equivalent value in exchange for such transfer or obligation; and

(B)(i) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(ii) was engaged in business, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or

(iii) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.

(b) The trustee of a partnership debtor may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, to a general partner in the debtor, if the debtor was insolvent on the date such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation.

(c) Except to the extent that a transfer or obligation voidable under this section is voidable under section 544, 545, or 547 of this title, a transferee or obligee of such a transfer or obligation that takes for value and in good faith has a lien on any interest transferred, may retain any lien transferred, or may enforce any obligation incurred, as the case may be, to the extent that such transferee or obligee gave value to the debtor in exchange for such transfer or obligation.

(d)(1) For the purposes of this section, a transfer is made when such transfer becomes so far perfected that a bona fide purchaser from the debtor against whom such transfer could have been perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the commencement of the case, such transfer occurs immediately before the date of the filing of the petition.

(2) In this section—

"Value".

(A) "value" means property, or satisfaction or securing of a present or antecedent debt of the debtor, but does not include an unperformed promise to furnish support to the debtor or to a relative of the debtor; and

(B) a commodity broker or forward contract merchant that receives a margin payment, as defined in section 761(15) of this title, takes for value.

§ 549. Postpetition transactions 11 USC 549.

(a) Except as provided in subsection (b) and (c) of this section, the trustee may avoid a transfer of property of the estate—

(1) that occurs after the commencement of the case; and

(2)(A) that is authorized under section 303(f) or 542(c) of this title; or *Ante*, p. 2559.

(B) that is not authorized under this title or by the court.

(b) In an involuntary case, a transfer that occurs after the commencement of such case but before the order for relief is valid against the trustee to the extent of any value, including services, but not including satisfaction or securing of a debt that arose before the commencement of the case, given after the commencement of the case in exchange for such transfer, notwithstanding any notice or knowledge of the case that the transferee has.

(c) The trustee may not avoid under subsection (a) of this section a transfer, to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value or to a purchaser at a judicial sale, of real property located other than in the county in which the case is commenced, unless a copy of the petition was filed in the office where conveyances of real property in such county are recorded before such transfer was so far perfected that a bona fide purchaser of such property against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of such good faith or judicial sale purchaser. A good faith purchaser, without knowledge of the commencement of the case and for less than present fair equivalent value, of real property located other than in the county in which the case is commenced, under a transfer that the trustee may avoid under this section, has a lien on the property transferred to the extent of any present value given, unless a copy of the petition was so filed before such transfer was so perfected.

(d) An action or proceeding under this section may not be commenced after the earlier of—

(1) two years after the date of the transfer sought to be avoided; and

(2) the time the case is closed or dismissed.

§ 550. Liability of transferee of avoided transfer 11 USC 550.

(a) Except as otherwise provided in this section, to the extent that a transfer is avoided under section 544, 545, 547, 548, 549, or 724(a) of this title, the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from—

(1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or

(2) any immediate or mediate transferee of such initial transferee.

(b) The trustee may not recover under section (a)(2) of this section from—

(1) a transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

(2) any immediate or mediate good faith transferee of such transferee.

(c) The trustee is entitled to only a single satisfaction under subsection (a) of this section.

(d)(1) A good faith transferee from whom the trustee may recover under subsection (a) of this section has a lien on the property recovered to secure the lesser of—

(A) the cost, to such transferee, of any improvement made after the transfer, less the amount of any profit realized by such transferee from such property; and

(B) any increase in value as a result of such improvement, of the property transferred.

"Improvement". (2) In this subsection, "improvement" includes—

(A) physical additions or changes to the property transferred;

(B) repairs to such property;

(C) payment of any tax on such property;

(D) payment of any debt secured by a lien on such property;

(E) discharge of any lien against such property that is superior or equal to the rights of the trustee; and

(F) preservation of such property.

(e) An action or proceeding under this section may not be commenced after the earlier of—

(1) one year after the avoidance of the transfer on account of which recovery under this section is sought; and

(2) the time the case is closed or dismissed.

11 USC 551. **§ 551. Automatic preservation of avoided transfer**

Any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or any lien void under section 506(d) of this title, is preserved for the benefit of the estate but only with respect to property of the estate.

11 USC 552. **§ 552. Postpetition effect of security interest**

(a) Except as provided in subsection (b) of this section, property acquired by the estate or by the debtor after the commencement of the case is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

Ante, p. 2572. (b) Except as provided in sections 363, 506(c), 544, 545, 547, and 548 of this title, if the debtor and a secured party enter into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, product, offspring, rents, or profits of such property, then such security interest extends to such proceeds, product, offspring, rents, or profits acquired by the estate after the commencement of the case to the extent provided by such security agreement and by applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

11 USC 553. **§ 553. Setoff**

Ante, p. 2570. (a) Except as otherwise provided in this section and in sections 362 and 363 of this title, this title does not affect any right of a creditor to offset a mutual debt owing by such creditor to the debtor that arose before the commencement of the case under this title against a claim of such creditor against the debtor that arose before the commencement of the case, except to the extent that—

Ante, p. 2579. (1) the claim of such creditor against the debtor is disallowed other than under section 502(b)(3) of this title;

(2) such claim was transferred, by an entity other than the debtor, to such creditor—

(A) after the commencement of the case; or

(B)(i) after 90 days before the date of the filing of the petition; and

(ii) while the debtor was insolvent; or

(3) the debt owed to the debtor by such creditor was incurred by such creditor—

(A) after 90 days before the date of the filing of the petition;

(B) while the debtor was insolvent; and

(C) for the purpose of obtaining a right of setoff against the debtor.

(b)(1) Except with respect to a setoff of a kind described in section 362(b)(6) or 365(h)(1) of this title, if a creditor offsets a mutual debt owing to the debtor against a claim against the debtor on or within 90 days before the date of the filing of the petition, then the trustee may recover from such creditor the amount so offset to the extent that any insufficiency on the date of such setoff is less than the insufficiency on the later of— *Ante*, pp. 2570, 2574.

(A) 90 days before the date of the filing of the petition; and

(B) the first date during the 90 days immediately preceding the date of the filing of the petition on which there is an insufficiency.

(2) In this subsection, "insufficiency" means amount, if any, by which a claim against the debtor exceeds a mutual debt owing to the debtor by the holder of such claim. "Insufficiency".

(c) For the purposes of this section, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.

§ 554. Abandonment of property of the estate 11 USC 554.

(a) After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

(b) On request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

(c) Unless the court orders otherwise, any property that is scheduled under section 521(1) of this title and that is not administered before a case is closed under section 350 of this title is deemed abandoned. *Ante*, p. 2569.

(d) Unless the court orders otherwise, property of the estate that is not abandoned under section (a) or (b) of this section and that is not administered in the case remains property of the estate.

CHAPTER 7—LIQUIDATION

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

Sec.

701. Interim trustee.
702. Election of trustee.
703. Succesor trustee.
704. Duties of trustee.
705. Creditors' committee.
706. Conversion.
707. Dismissal.

SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

721. Authorization to operate business.
722. Redemption.
723. Rights of partnership trustee against general partners.
724. Treatment of certain liens.
725. Disposition of certain property.
726. Distribution of property of the estate.
727. Discharge.
728. Special tax provisions.

SUBCHAPTER III—STOCKBROKER LIQUIDATION

741. Definitions for this subchapter.
742. Effect of section 362 of this title in this subchapter.
743. Notice.
744. Executory contracts.
745. Treatment of accounts.
746. Extent of customer claims.
747. Subordination of certain customer claims.
748. Reduction of securities to money.
749. Voidable transfers.
750. Distribution of securities.
751. Customer name securities.
752. Customer property.

SUBCHAPTER IV—COMMODITY BROKER LIQUIDATION

761. Definitions for this subchapter.
762. Notice to the Commission and right to be heard.
763. Treatment of accounts.
764. Voidable transfers.
765. Customer instructions.
766. Treatment of customer property.

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

11 USC 701.

§ 701. Interim trustee

(a) Promptly after the order for relief under this chapter, the court shall appoint one disinterested person that is a member of the panel of private trustees established under section 604(f) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

(b) The service of an interim trustee under this section terminates when a trustee elected or designated under section 702 of this title to serve as trustee in the case qualifies under section 322 of this title.

Ante, p. 2562.

(c) An interim trustee serving under this section is a trustee in a case under this title.

11 USC 702.

§ 702. Election of trustee

(a) A creditor may vote for a candidate for trustee only if such creditor—

(1) holds an allowable, undisputed, fixed, liquidated, unsecured claim of a kind entitled to distribution under section 726(a)(2), 726(a)(3), or 726(a)(4) of this title;

(2) does not have an interest materially adverse, other than an equity interest that is not substantial in relation to such creditor's interest as a creditor, to the interest of creditors entitled to such distribution; and

(3) is not an insider.

Ante, p. 2564.

(b) At the meeting of creditors under section 341 of this title, creditors may elect one person to serve as trustee in the case if election

of a trustee is requested by creditors that may vote under subsection (a) of this section, and that hold at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section.

(c) A candidate for trustee is elected trustee if—

(1) creditors holding at least 20 percent in amount of the claims specified in subsection (a)(1) of this section that are held by creditors that may vote under subsection (a) of this section vote; and

(2) such candidate receives the votes of creditors holding a majority in amount of claims specified in subsection (a)(1) of this section that are held by creditors that vote for trustee.

(d) If a trustee is not elected under subsection (c) of this section, then the interim trustee shall serve as trustee in the case.

§ 703. Successor trustee 11 USC 703.

(a) If a trustee dies or resigns during a case, fails to qualify under section 322 of this title, or is removed under section 324 of this title, *Ante*, p. 2562. creditors may elect, in the manner specified in section 702 of this title, a person to fill the vacancy in the office of trustee.

(b) Pending election of a trustee under subsection (a) of this section, if necessary to preserve or prevent loss to the estate, the court may appoint an interim trustee in the manner specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee.

(c) If creditors do not elect a successor trustee under subsection (a) of this section, or if a trustee is needed in a case reopened under section 350 of this title, then the court shall appoint one disinterested *Ante*, p. 2569. person that is a member of the panel of private trustees established under section 604(f) of title 28 to serve as trustee in the case.

§ 704. Duties of trustee 11 USC 704.

The trustee shall—

(1) collect and reduce to money the property of the estate for which such trustee serves, and close up such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

(3) investigate the financial affairs of the debtor;

(4) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;

(5) if advisable, oppose the discharge of the debtor;

(6) unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;

(7) if the business of the debtor is authorized to be operated, file with the court and with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation, periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements, and such other information as the court requires; and

(8) make a final report and file a final account of the administration of the estate with the court.

§ 705. Creditors' committee 11 USC 705.

(a) At the meeting under section 341(a) of this title, creditors that *Ante*, p. 2564. may vote for a trustee under section 702(a) of this title may elect a

committee of not fewer than three, and not more than eleven, creditors, each of whom holds an allowable unsecured claim of a kind entitled to distribution under section 726(a)(2) of this title.

(b) A committee elected under subsection (a) of this section may consult with the trustee in connection with the administration of the estate, make recommendations to the trustee respecting the performance of the trustee's duties, and submit to the court any question affecting the administration of the estate.

11 USC 706.

§ 706. Conversion

(a) The debtor may convert a case under this chapter to a case under chapter 11 or 13 of this title at any time, if the case has not been converted under section 1112 or 1307 of this title. Any waiver of the right to convert a case under this subsection is unenforceable.

Post, pp. 2626, 2645.
Post, pp. 2630, 2647.

(b) On request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title at any time.

(c) The court may not convert a case under this chapter to a case under chapter 13 of this title unless the debtor requests such conversion.

(d) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

11 USC 707.

§ 707. Dismissal

The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors; and

(2) nonpayment of any fees and charges required under chapter 123 of title 28.

28 USC 1911 *et seq.*

SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

11 USC 721.

§ 721. Authorization to operate business

The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate.

11 USC 722.

§ 722. Redemption

An individual debtor may, whether or not the debtor has waived the right to redeem under this section, redeem tangible personal property intended primarily for personal, family, or household use, from a lien securing a dischargeable consumer debt, if such property is exempted under section 522 of this title or has been abandoned under section 554 of this title, by paying the holder of such lien the amount of the allowed secured claim of such holder that is secured by such lien.

Ante, p. 2586.

11 USC 723.

§ 723. Rights of partnership trustee against general partners

(a) If there is a deficiency of property of the estate to pay in full all claims allowed in a case under this title concerning a partnership, then each general partner in such partnership is liable to the trustee for the full amount of such deficiency.

(b) To the extent practicable, the trustee shall first seek recovery of such deficiency from any general partner in such partnership that is not a debtor in a case under this title. Pending determination of such deficiency, the court may order any such partner to provide the estate

with indemnity for, or assurance of payment of, any deficiency recoverable from such partner, or not to dispose of property.

(c) Notwithstanding section 728(c) of this title, the trustee has a claim against the estate of each general partner in such partnership that is a debtor in a case under this title for the full amount of all claims of creditors allowed in the case concerning such partnership. Notwithstanding section 502 of this title, there shall not be allowed in such case a claim against such partner on which both such partner and such partnership are liable, except to any extent that such claim is secured only by property of such partner and not be property of such partnership. The claim of the trustee under this subsection is entitled to distribution in such case under section 726(a) of this title the same as any other claim of the kind specified in such section.

Ante, p. 2579.

(d) If the aggregate that the trustee recovers from the estates of general partners under subsection (c) of this section is greater than any deficiency not recovered under subsection (b) of this section, the court, after notice and a hearing, shall determine an equitable distribution of the surplus so recovered, and the trustee shall distribute such surplus to the estates of the general partners in such partnership according to such determination.

§ 724. Treatment of certain liens

11 USC 724.

(a) The trustee may avoid a lien that secures a claim of a kind specified in section 726(a)(4) of this title.

(b) Property in which the estate has an interest and that is subject to a lien that is not avoidable under this title and that secures an allowed claim for taxes, or proceeds of such property, shall be distributed—

(1) first, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is senior to such tax lien;

(2) second, to claims specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent of the amount of such allowed tax claim that is secured by such tax lien;

Ante, p. 2583.

(3) third, to the holder of such tax lien, to any extent that such holder's allowed claim that is secured by such tax lien exceeds any amount distributed under paragraph (2) of this subsection;

(4) fourth, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is junior to such tax lien;

(5) fifth, to the holder of such tax lien, to the extent that such holder's allowed claim secured by such tax lien is not paid under paragraph (3) of this subsection; and

(6) sixth, to the estate.

(c) If more than one creditor is entitled to distribution under a particular paragraph of subsection (b) of this section, distribution to such creditors under such paragraph shall be in the same order as distribution to such creditors would have been other than under this section.

(d) A statutory lien whose priority is determined in the same manner as the priority of a tax lien under section 6323 of the Internal Revenue Code of 1954 (26 U.S.C. 6323) shall be treated under subsection (b) of this section the same as a tax lien.

§ 725. Disposition of certain property

11 USC 725.

After the commencement of a case under this chapter, but before

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final distribution under section 726 of this title, the trustee, after notice and a hearing, shall dispose of any property in which an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title.

11 USC 726.

§ 726. Distribution of property of the estate

Ante, p. 2586.

(a) Except as provided in section 510 of this title, property of the estate shall be distributed—

Ante, p. 2583.

(1) first, in payment of claims of the kind specified in, and in the order specified in, section 507 of this title;

(2) second, in payment of any allowed unsecured claim, other than a claim of a kind specified in paragraph (1), (3), or (4) of this subsection, proof of which is—

Ante, p. 2578.

(A) timely filed under section 501(a) of this title;

(B) timely filed under section 501(b) or 501(c) of this title; or

(C) tardily filed under section 501(a) of this title, if—

(i) the creditor that holds such claim did not have notice or actual knowledge of the case in time for timely filing of a proof of such claim under section 501(a) of this title; and

(ii) proof of such claim is filed in time to permit payment of such claim;

(3) third, in payment of any allowed unsecured claim proof of which is tardily filed under section 501(a) of this title, other than a claim of the kind specified in paragraph (2)(C) of this subsection;

(4) fourth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of a trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim;

(5) fifth, in payment of interest at the legal rate from the date of the filing of the petition, on any claim paid under paragraph (1), (2), (3), or (4) of this subsection; and

(6) sixth, to the debtor.

(b) Payment on claims of a kind specified in paragraph (1), (2), (3), (4), (5), or (6) of section 507(a) of this title, or in paragraph (2), (3), (4), or (5) of subsection (a) of this section, shall be made pro rata among claims of the kind specified in a particular paragraph, except that in a case that has been converted to this chapter under section 1112 or 1307 of this title, administrative expenses incurred under this chapter after such conversion have priority over administrative expenses incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title.

Post, pp. 2630, 2647.

(c) Notwithstanding subsections (a) and (b) of this section, if there is property of the kind specified in section 541(a)(2) of this title, or proceeds of such property, in the estate, such property or proceeds shall be segregated from other property of the estate, and such property or proceeds and other property of the estate shall be distributed as follows:

(1) Administrative expenses shall be paid either from property of the kind specified in section 541(a)(2) of this title, or from other property of the estate, as the interest of justice requires.

(2) Claims other than for administrative expenses shall be paid

in the order specified in subsection (a) of this section, and, with respect to claims of a kind specified in a particular paragraph of section 507 of this title or subsection (a) of this section, in the following order and manner:

(A) First, community claims against the debtor or the debtor's spouse shall be paid from property of the kind specified in section 541(a)(2) of this title, except to the extent that such property is solely liable for debts of the debtor.

(B) Second, to the extent that community claims against the debtor are not paid under subparagraph (A) of this paragraph, such community claims shall be paid from property of the kind specified in section 541(a)(2) of this title that is solely liable for debts of the debtor.

(C) Third, to the extent that all claims against the debtor including community claims against the debtor are not paid under subparagraph (A) or (B) of this paragraph such claims shall be paid from property of the estate other than property of the kind specified in section 541(a)(2) of this title.

(D) Fourth, to the extent that community claims against the debtor or the debtor's spouse are not paid under subparagraph (A), (B), or (C) of this paragraph, such claims shall be paid from all remaining property of the estate.

§ 727. Discharge 11 USC 727.

(a) The court shall grant the debtor a discharge, unless—

(1) the debtor is not an individual;

(2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed—

(A) property of the debtor, within one year before the date of the filing of the petition; or

(B) property of the estate, after the date of the filing of the petition;

(3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case;

(4) the debtor knowingly and fraudulently, in or in connection with the case—

(A) made a false oath or account;

(B) presented or used a false claim;

(C) gave, offered, received, or attempted to obtain money, property, or advantage, or a promise of money, property, or advantage, for acting or forbearing to act; or

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs;

(5) the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities;

(6) the debtor has refused, in the case—

(A) to obey any lawful order of the court, other than an order to respond to a material question or to testify;

(B) on the ground of privilege against self-incrimination, to respond to a material question approved by the court or to testify, after the debtor has been granted immunity with respect to the matter concerning which such privilege was invoked; or

(C) on a ground other than the property invoked privilege against self-incrimination, to respond to a material question approved by the court or to testify;

(7) the debtor has committed any act specified in paragraph (2), (3), (4), (5), or (6) of this subsection, on or within one year before the date of the filing of the petition, or during the case, in connection with another case concerning an insider;

(8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371 or 476 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition;

Post, p. 2638.

11 USC 32, 771, 876.

(9) the debtor has been granted a discharge under section 1328 of this title, or under section 660 or 661 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition, unless payments under the plan in such case totaled at least—

11 USC 1060, 1061.

(A) 100 percent of the allowed unsecured claims in such case; or

(B) (i) 70 percent of such claims; and

(ii) the plan was proposed by the debtor in good faith, and was the debtor's best effort; or

(10) the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter.

(b) Except as provided in section 523 of this title, a discharge under subsection (a) of this section discharges the debtor from all debts that arose before the date of the order for relief under this chapter, and any liability on a claim that is determined under section 502 of this title as if such claim had arisen before the commencement of the case, whether or not a proof of claim based on any such debt or liability is filed under section 501 of this title, and whether or not a claim based on any such debt or liability is allowed under section 502 of this title.

Ante, p. 2590.

Ante, p. 2579.

Ante, p. 2578.

(c) (1) The trustee or a creditor may object to discharge under subsection (a) of this section.

(2) On request of a party in interest, the court may order the trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

(d) On request of the trustee or a creditor, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if—

(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of, or entitlement to, such property, or to deliver or surrender such property to the trustee; or

(3) the debtor committed an act specified in subsection (a) (6) of this section.

(e) The trustee or a creditor may request a revocation of a discharge—

(1) under subsection (d)(1) of this section, within one year after such discharge was granted; or

(2) under subsection (d)(2) or (d)(3) of this section, before the later of—

(A) one year after the granting of such discharge; and

(B) the date the case is closed.

§ 728. Special tax provisions 11 USC 728.

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 1112 of this title.

(b) Notwithstanding any State or local law imposing a tax on or measured by income, the trustee shall make tax returns of income for the estate of an individual debtor in a case under this chapter or for a debtor that is a corporation in a case under this chapter only if such estate or corporation has net taxable income for the entire period after the order for relief under this chapter during which the case is pending. If such entity has such income, or if the debtor is a partnership, then the trustee shall make and file a return of income for each taxable period during which the case was pending after the order for relief under this chapter.

(c) If there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, a governmental unit's claim for any unpaid liability of such partner for a State or local tax on or measured by income, to the extent that such liability arose from the inclusion in such partner's taxable income, of earnings of such partnership that were not withdrawn by such partner, is a claim only against such partnership.

(d) Notwithstanding section 541 of this title, if there are pending a case under this chapter concerning a partnership and a case under this chapter concerning a partner in such partnership, then any State or local tax refund or reduction of tax of such partner that would have otherwise been property of the estate of such partner under section 541 of this title—

(1) is property of the estate of such partnership to the extent that such tax refund or reduction of tax is fairly apportionable to losses sustained by such partnership and not reimbursed by such partner; and

(2) is property of the estate of such partner otherwise.

SUBCHAPTER III—STOCKBROKER LIQUIDATION

§ 741. Definitions for this subchapter 11 USC 741.

In this subchapter—

(1) "Commission" means Securities and Exchange Commission;

(2) "customer" includes—

(A) entity with whom the debtor deals as principal or agent and that holds a claim against the debtor on account of a security received, acquired, or held by the debtor in the ordinary course of business as a stockbroker from or for the securities account or accounts of such entity—

(i) for safekeeping;

(ii) with a view to sale;

(iii) to cover a consummated sale;
(iv) pursuant to a purchase;
(v) as collateral under a security agreement; or
(vi) for the purpose of effecting registration of transfer; and

(B) entity that holds a claim against the debtor arising out of—

(i) a sale or conversion of a security received, acquired, or held as specified in subparagraph (A) of this paragraph; or
(ii) a deposit of cash, a security, or other property with the debtor for the purpose of purchasing or selling a security;

(3) "customer name security" means security—

(A) held for the account of a customer on the date of the filing of the petition by or on behalf of the debtor;
(B) registered in such customer's name on such date or in the process of being so registered under instructions from the debtor; and
(C) not in a form transferable by delivery on such date;

(4) "customer property" means cash, security, or other property, and proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the securities account of a customer—

(A) including—

(i) property that was unlawfully converted and that is property of the estate;
(ii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;
(iii) resources provided through the use or realization of a customer's debit cash balance or a debit item includible in the Formula for Determination of Reserve Requirement for Brokers and Dealers as promulgated by the Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and
(iv) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including—

(i) a customer name security delivered to or reclaimed by a customer under section 751 of this title; or
(ii) property to the extent that a customer does not have a claim against the debtor based on such property;

(5) "net equity" means, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A) (i) aggregate dollar balance that would remain in such accounts after the liquidation, by sale or purchase, at the time of the filing of the petition of all securities positions in all such accounts, except customer name securities of such customer; minus
(ii) any claim of the debtor against such customer that

would have been owing immediately after such liquidation; plus

(B) any payment by such customer to the trustee, within 60 days after notice under section 342 of this title, of any business related claim of the debtor against such customer; *Ante*, p. 2565.

(6) "SIPC" means Security Investor Protection Corporation.

§ 742. Effect of section 362 of this title in this subchapter 11 USC 742.

Notwithstanding section 362 of this title, SIPC may file an application for a protective decree under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.). The filing of such application stays all proceedings in the case under this chapter unless and until such application is dismissed. If SIPC completes the liquidation of the debtor, then the court shall dismiss the case. *Ante*, p. 2570.

§ 743. Notice 11 USC 743.

The clerk shall give the notice required by section 342(a) of this title to SIPC and to the Commission.

§ 744. Executory contracts 11 USC 744.

Notwithstanding section 365(d)(1) of this title, the trustee shall assume or reject, under section 365 of this title, any executory contract of the debtor for the purchase or sale of a security in the ordinary course of the debtor's business, within a reasonable time after the date of the order for relief, not to exceed 30 days. If the trustee does not assume such a contract within such time, such contract is rejected. *Ante*, p. 2574.

§ 745. Treatment of accounts 11 USC 745.

(a) Accounts held by a particular customer in separate capacities shall be treated as accounts of separate customers.

(b) If a stockbroker or a bank holds a customer net equity claim against the debtor that arose out of a transaction for a customer of such stockbroker or bank, each such customer of such stockbroker or bank shall be treated as a separate customer of the debtor.

(c) A trustee's account specified as such on the debtor's books, and supported by a trust deed filed with, and qualified as such by, the Internal Revenue Service, and under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), shall be treated as a separate customer account for each beneficiary under such trustee account.

§ 746. Extent of customer claim 11 USC 746.

(a) If, after the date of the filing of the petition, an entity effects, with respect to cash or a security, a transaction with the debtor, in a manner that would have made such entity a customer with respect to such cash or security had such transaction occurred before such date, and such transaction was effected by such entity in good faith and before the qualification under section 322 of this title of a trustee, such entity shall be deemed a customer, and the date of such transaction shall be deemed to be the date of the filing of the petition for the purpose of determining such entity's net equity with respect to such cash or security. *Ante*, p. 2562.

(b) An entity does not have a claim as a customer to the extent that such entity has a claim for cash or a security that, by contract, agreement, understanding, or operation of law, is—

(1) part of the capital of the debtor; or

(2) is subordinated to the claims of any or all creditors.

§ 747. Subordination of certain customer claims 11 USC 747.

Except as provided in section 510 of this title, unless all other cus- *Ante*, p. 2586.

tomer net equity claims have been paid in full, the trustee may not pay in full or pay in part, directly or indirectly, any net equity claim of a customer that was, on the date such claim arose—

(1) an insider;

(2) a beneficial owner of at least five percent of any class of equity securities of the debtor, other than—

(A) nonconvertible stock having fixed preferential dividend and liquidation rights; or

(B) interests of limited partners in a limited partnership;

(3) a limited partner with a participation of at least five percent in the net assets or net profits of the debtor; or

(4) an entity that, directly or indirectly, through agreement or otherwise, exercised or had the power to exercise control over the management or policies of the debtor.

11 USC 748.

§ 748. Reduction of securities to money

As soon as practicable after the date of the order for relief, the trustee shall reduce to money, consistent with good market practice, all securities held as property of the estate, except for customer name securities delivered or reclaimed under section 751 of this title.

Infra.

11 USC 749.

§ 749. Voidable transfers

Any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, or 724(a) of this title. For the purpose of such sections, the property so transferred shall be deemed to have been property of the debtor and, if such transfer was made to a customer or for a customer's benefit, such customer shall be deemed, for the purposes of this section, to have been a creditor.

11 USC 750.

§ 750. Distribution of securities

The trustee may not distribute a security except under section 751 of this title.

11 USC 751.

§ 751. Customer name securities

The trustee shall deliver any customer name security to or on behalf of the customer entitled to such security, unless such customer has a negative net equity. With the approval of the trustee, a customer may reclaim a customer name security after payment to the trustee, within such period as the trustee allows, of any claim of the debtor against such customer to the extent that such customer will not have a negative net equity after such payment.

11 USC 752.

§ 752. Customer property

(a) The trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers allowed net equity claims and in priority to all other claims, except claims specified in section 507(a)(1) of this title that are attributable to the administration of customer property.

Ante, p. 2583.

(b)(1) The trustee shall distribute customer property in excess of that distributed under subsection (a) of this section in accordance with section 726 of this title.

Ante, p. 2586.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a) of this title.

(c) Subject to section 741(4)(B) of this title, any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor shall be apportioned between the general estate and customer property in the proportion that the general property of the debtor and the cash or securities of customers were subject to such security interest.

SUBCHAPTER IV—COMMODITY BROKER LIQUIDATION

§ 761. Definitions for this subchapter

11 USC 761.

In this subchapter—

(1) "Act" means Commodity Exchange Act (7 U.S.C. 1 et seq.);

(2) "clearing organization" means organization that clears commodity contracts on, or subject to the rules of, a contract market or board of trade;

(3) "Commission" means Commodity Futures Trading Commission;

(4) "commodity contract" means—

(A) if the debtor is a futures commission merchant, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

(B) if the debtor is a foreign futures commission merchant, foreign future;

(C) if the debtor is a leverage transaction merchant, leverage transaction;

(D) if the debtor is a clearing organization, contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by the debtor; or

(E) if the debtor is a commodity options dealer, commodity option;

(5) "commodity option" means agreement or transaction subject to regulation under section 4c(b) of the Act (7 U.S.C. 6c(b));

(6) "commodity options dealer" means person that extends credit to, or that accepts cash, a security, or other property from, a customer of such person for the purchase or sale of an interest in a commodity option;

(7) "contract market" means board of trade designated as a contract market by the Commission under the Act;

(8) "contract of sale", "commodity", "future delivery", "board of trade", and "futures commission merchant" have the meanings assigned to those terms in the Act;

(9) "customer" means—

(A) if the debtor is a futures commission merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a futures commission merchant from or for the commodity futures account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making, liquidation, or change in the value of a commodity contract of a kind specified in clause (i) of this subparagraph;

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a commodity contract; or

(III) the making or taking of delivery on such a commodity contract;

(B) if the debtor is a foreign futures commission merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a foreign futures commission merchant from or for the foreign futures account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making, liquidation, or change in value of a commodity contract of a kind specified in clause (i) of this subparagraph;

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making or margining such a commodity contract; or

(III) the making or taking of delivery on such a commodity contract;

(C) if the debtor is a leverage transaction merchant—

(i) entity for or with whom the debtor deals and that holds a claim against the debtor on account of a commodity contract engaged in by or with the debtor in the ordinary course of the debtor's business as a leverage transaction merchant from or for the leverage account of such entity;

(ii) entity that hold a claim against the debtor arising out of—

(I) the making, liquidation, or change in value of a commodity contract of a kind specified in clause (i) of this subparagraph;

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of entering into or margining such a commodity contract; or

(III) the making or taking of delivery on such a commodity contract;

(D) if the debtor is a clearing organization, clearing member of the debtor with whom the debtor deals and that holds a claim against the debtor on account of cash, a security, or other property received by the debtor to margin, guarantee, or secure a commodity contract in such clearing member's proprietary account or customers' account; or

(E) if the debtor is a commodity options dealer—

(i) entity for or with whom the debtor deals and that holds a claim on account of a commodity contract made, received, acquired, or held by or through the debtor in the ordinary course of the debtor's business as a commodity options dealer from or for the commodity options account of such entity; or

(ii) entity that holds a claim against the debtor arising out of—

(I) the making of, liquidation of, exercise of, or a change in value of, a commodity contract of a kind specified in clause (i) of this subparagraph; or

(II) a deposit or payment of cash, a security, or other property with the debtor for the purpose of making, exercising, or margining such a commodity contract;

(10) "customer property" means cash, a security, or other property, or proceeds of such cash, security, or property, at any time received, acquired, or held by or for the account of the debtor, from or for the account of a customer—

(A) including—

(i) property received, acquired, or held to margin, guarantee, secure, purchase, or sell a commodity contract;

(ii) profits or contractual or other rights accruing to a customer as a result of a commodity contract;

(iii) an open commodity contract;

(iv) specifically identifiable customer property;

(v) warehouse receipt or other document held by the debtor evidencing ownership of or title to property to be delivered to fulfill a commodity contract from or for the account of a customer;

(vi) cash, a security, or other property received by the debtor as payment for a commodity to be delivered to fulfill a commodity contract from or for the account of a customer;

(vii) a security held as property of the debtor to the extent such security is necessary to meet a net equity claim based on a security of the same class and series of an issuer;

(viii) property that was unlawfully converted and that is property of the estate; and

(ix) other property of the debtor that any applicable law, rule, or regulation requires to be set aside or held for the benefit of a customer, unless including such property as customer property would not significantly increase customer property; but

(B) not including property to the extent that a customer does not have a claim against the debtor based on such property;

(11) "foreign future" means contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade outside the United States;

(12) "foreign futures commission merchant" means entity engaged in soliciting or accepting orders for the purchase or sale of a foreign future or that, in connection with such a solicitation or acceptance, accepts cash, a security, or other property or extends credit, to margin, guarantee, or secure any trade or contract that results from such a solicitation or acceptance;

(13) "leverage transaction" means agreement that is subject to regulation under section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a), and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(14) "leverage transaction merchant" means person that is engaged in the business of engaging in leverage transactions;

(15) "margin payment" means payment or deposit of cash, a security, or other property, that is commonly known to the commodities trade as original margin, initial margin, maintenance margin, or variation margin, including a daily variation settlement payment;

(16) "member property" means customer property at any time received, acquired, or held by or for the account of a debtor that is a clearing organization, from or for the proprietary account of a customer that is a clearing member of the debtor; and

(17) "net equity" means, subject to such rules and regulations as the Commission promulgates under the Act, with respect to the aggregate of all of a customer's accounts that such customer holds in the same capacity—

(A) balance remaining in such customer's accounts immediately after—

(i) all commodity contracts of such customer have been transferred, liquidated, or become identified for delivery; and

(ii) all obligations of such customer to the debtor have been offset; plus

(B) the value, as of the date of return under section 766 of this title, of any specifically identifiable customer property actually returned to such customer before the date specified in subparagraph (A) of this paragraph; plus

(C) the value, as of the date of transfer, of—

(i) any commodity contract to which such customer is entitled that is transferred to another person under section 766 of this title; and

(ii) any cash, security, or other property of such customer transferred to such other person under section 766 of this title to margin or secure such transferred commodity contract.

11 USC 762.

§ 762. Notice to the Commission and right to be heard

Ante, p. 2565

(a) The clerk shall give the notice required by section 342 of this title to the Commission.

(b) The Commission may raise and may appear and be heard on any issue in a case under this chapter.

11 USC 763.

§ 763. Treatment of accounts

(a) Accounts held by a particular customer in separate capacities shall be deemed to be accounts of separate customers.

(b) A member of a clearing organization shall be deemed to hold such member's proprietary account in a separate capacity from such member's customers' account.

(c) The net equity in a customer's account may not be offset against the net equity in the account of any other customer.

11 USC 764.

§ 764. Voidable transfers

(a) Except as otherwise provided in this section, any transfer of property that, except for such transfer, would have been customer property, may be avoided by the trustee, and shall be treated as customer property, if and to the extent that the trustee avoids such transfer under section 544, 545, 547, 548, 549, or 724(a) of this title. For the purpose of such sections, the property so transferred is deemed to have been property of the debtor, and, if such transfer was made to a customer or for a customer's benefit, such customer is deemed, for the purposes of this section, to have been a creditor.

Ante, pp. 2596, 2597.

(b) Notwithstanding sections 544, 545, 547, 548, 549, and 724(a) of this title, the trustee may not avoid a transfer made before five days after the date of the filing of the petition, if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is— *Ante*, pp. 2596, 2597.

(1) a transfer of a commodity contract entered into or carried by or through the debtor on behalf of a customer, and of any cash, securities, or other property margining or securing such commodity contract; or

(2) the liquidation of a commodity contract entered into or carried by or through the debtor on behalf of a customer.

(c) Notwithstanding sections 544, 545, 547, 548, and 724(a) of this title, the trustee may not avoid a transfer that is a margin payment to or deposit with a commodity broker or forward contract merchant or is a settlement payment made by a clearing organization and that occurs before the commencement of the case, except under section 548(a)(1) of this title.

§ 765. Customer instructions 11 USC 765.

(a) The notice under section 342 of this title to customers shall instruct each customer— *Ante*, p. 2565.

(1) to file a proof of such customer's claim promptly, and to specify in such claim any specifically identifiable security, property, or commodity contract; and

(2) to instruct the trustee of such customer's desired disposition, including transfer under section 766 of this title or liquidation, of any commodity contract specifically identified to such customer. *Infra.*

(b) The trustee shall comply, to the extent practicable, with any instruction received from a customer regarding such customer's desired disposition of any commodity contract specifically identified to such customer. If the trustee has transferred, under section 766 of this title, such a commitment, the trustee shall transmit any such instruction to the commodity broker to whom such commodity contract was so transferred.

§ 766. Treatment of customer property 11 USC 766.

(a) The trustee shall answer all margin calls with respect to a specifically identifiable commodity contract of a customer until such time as the trustee returns or transfers such commodity contract, but the trustee may not make a margin payment that has the effect of a distribution of more than that to which such customer is entitled under subsection (h) or (i) of this section.

(b) The trustee shall prevent any open commodity contract that is being actively traded as of the date of the filing of the petition from remaining open after the last day of trading in such commodity contract, or into the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever occurs first. With respect to any commodity contract that has remained open after the last day of trading in such commodity contract or with respect to which delivery must be made or accepted under the rules of contract market on which such commodity contract was made, the trustee may operate the business of the debtor for the purpose of—

(1) accepting or making tender of notice of intent to deliver the physical commodity underlying such commodity contract;

(2) facilitating delivery of such commodity; or

(3) disposing of such commodity if a party to such commodity contract defaults.

(c) The trustee shall return promptly to a customer any specifically identifiable security, property, or commodity contract to which such customer is entitled, or shall transfer, on such customer's behalf, such security, property, or commodity contract to a commodity broker that is not a debtor under this title, subject to such rules or regulations as the Commission may prescribe, to the extent that the value of such security, property, or commodity contract does not exceed the amount to which such customer would be entitled under subsection (h) or (i) of this section if such security, property, or commodity contract were not returned or transferred under this subsection.

(d) If the value of a specifically identifiable security, property, or commodity contract exceeds such amount, then the customer to whom such security, property, or commodity contract is specifically identified may deposit cash with the trustee equal to the difference between the value of such security, property, or commodity contract and such amount, and the trustee shall—

(1) return promptly such security, property, or commodity contract to such customer; or

(2) transfer, on such customer's behalf, such security, property, or commodity contract to a commodity broker that is not a debtor under this title, subject to such rules or regulations as the Commission may prescribe.

(e) Subject to subsection (b) of this section, the trustee shall liquidate any commodity contract that—

(1) is identified to a particular customer and with respect to which such customer has not timely instructed the trustee as to the desired disposition of such commodity contract;

(2) cannot be transferred under subsection (c) of this section; or

(3) cannot be identified to a particular customer.

(f) As soon as practicable after the commencement of the case, the trustee shall reduce to money, consistent with good market practice, all securities and other property, other than commodity contracts, held as property of the estate, except for specifically identifiable securities or property distributable under subsection (h) or (i) of this section.

(g) The trustee may not distribute a security or other property except under subsection (h) or (i) of this section.

(h) Except as provided in subsection (b) of this section, the trustee shall distribute customer property ratably to customers on the basis and to the extent of such customers' allowed net equity claims, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of customer property. Such distribution shall be in the form of—

Ante, p. 2583.

(1) cash;

(2) the return or transfer, under subsection (c) or (d) of this section, of specifically identifiable customer securities, property, or commodity contracts; or

(3) payment of margin calls under subsection (a) of this section.

(i) If the debtor is a clearing organization, the trustee shall distribute—

(1) customer property, other than member property, ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' accounts other than proprietary accounts, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of such customer property; and

(2) member property ratably to customers on the basis and to the extent of such customers' allowed net equity claims based on such customers' proprietary accounts, and in priority to all other claims, except claims of a kind specified in section 507(a)(1) of this title that are attributable to the administration of member property or customer property. *Ante*, p. 2583.

(j)(1) The trustee shall distribute customer property in excess of that distributed under subsection (h) or (i) of this section in accordance with section 726 of this title.

(2) Except as provided in section 510 of this title, if a customer is not paid the full amount of such customer's allowed net equity claim from customer property, the unpaid portion of such claim is a claim entitled to distribution under section 726(a) of this title.

CHAPTER 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
901. Applicability of other sections of this title.
902. Definitions for this chapter.
903. Reservation of State power to control municipalities.
904. Limitation on jurisdiction and powers of court.

SUBCHAPTER II—ADMINISTRATION

921. Petition and proceedings relating to petition.
922. Automatic stay of enforcement of claims against the debtor.
923. Notice.
924. List of creditors.
925. Effect of list of claims.
926. Avoiding powers.
927. Dismissal.

SUBCHAPTER III—THE PLAN

941. Filing of plan.
942. Modification of plan.
943. Confirmation.
944. Effect of confirmation.
945. Continuing jurisdiction and closing of the case.
946. Effect of exchange of securities before the date of the filing of the petition.

SUBCHAPTER I—GENERAL PROVISIONS

§ 901. Applicability of other sections of this title 11 USC 901.

(a) Sections 301, 344, 347(b), 349, 350(b), 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(1), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 1102, 1103, 1109, 1111(b) 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and 1145 of this title apply in a case under this chapter. *Ante*, pp. 2558, 2565, 2568–2570, 2574, 2578–2583, 2585, 2586, 2592, 2596, 2597, 2600–2602.

(b) A term used in a section of this title made applicable in a case under this chapter by subsection (a) of this section or section 103(e) of this title has the meaning defined for such term for the purpose of such applicable section, unless such term is otherwise defined in section 902 of this title. *Ante*, p. 2555.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

11 USC 902.

§ 902. Definitions for this chapter

In this chapter—

(1) "property of the estate", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means property of the debtor;

Ante, p. 2555.

(2) "special tax payer" means record owner or holder of title, legal or equitable, to real property against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of an obligation issued by the debtor to defray the cost of an improvement relating to such real property;

(3) "special tax payer affected by the plan" means special tax payer with respect to whose real property the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (2) of this section assessed against such real property; and

(4) "trustee", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means debtor, except as provided in section 926 of this title.

11 USC 903.

§ 903. Reservation of State power to control municipalities

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise, but—

(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and

(2) a judgment entered under such a law may not bind a creditor to that does not consent to such composition.

11 USC 904.

§ 904. Limitation on jurisdiction and powers of court

Notwithstanding any power of the court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with—

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property.

SUBCHAPER II—ADMINISTRATION

11 USC 921.

§ 921. Petition and proceedings relating to petition

Ante, pp. 2557, 2558.

(a) Notwithstanding sections 109(c) and 301 of this title, a case under this chapter concerning an unincorporated tax or special assessment district that does not have such district's own officials is commenced by the filing under section 301 of this title of a petition under this chapter by such district's governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of such district.

(b) The chief judge of the court of appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the case.

(c) After an objection to the petition, the court, after notice and a hearing, may dismiss the petition, if the debtor did not file the petition in good faith, or if the petition does not meet the requirements of this title.

(e) If the petition is not dismissed under subsection (d) of this section, the court shall order relief under this chapter.

(f) The court may not, on account of an appeal from an order for relief, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction does not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of this title. *Ante*, p. 2574.

§ 922. Automatic stay of enforcement of claims against the debtor 11 USC 922.

(a) A petition filed under this chapter operates as a stay, in addition to the stay provided by section 362 of this title, applicable to all entities, of— *Ante*, p. 2570.

(1) the commencement or continuation, including the issuance or employment of process, of judicial, administrative, or other proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor; and

(2) the enforcement of a lien on or arising out of taxes or assessments owed to the debtor.

(b) Subsections (c), (d), (e), (f), and (g) of section 362 of this title apply to a stay under subsection (a) of this section the same as such subsections apply to a stay under section 362(a) of this title.

§ 923. Notice 11 USC 923.

There shall be given notice of the commencement of a case under this chapter, notice of an order for relief under this chapter, and notice of the dismissal of a case under this chapter. Such notice shall also be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the district in which the case is commenced, and in such other newspaper having a general circulation among bond dealers and bondholders as the court designates.

§ 924. List of creditors 11 USC 924.

The debtor shall file a list of creditors.

§ 925. Effect of list of claims 11 USC 925.

A proof of claim is deemed filed under section 501 of this title for any claim that appears in the list filed under section 924 of this title, except a claim that is listed as disputed, contingent, or unliquidated.

§ 926. Avoiding powers 11 USC 926.

If the debtor refuses to pursue a cause of action under section 544, 545, 547, 548, 549(a), or 550 of this title, then on request of a creditor, the court may appoint a trustee to pursue such cause of action. *Ante*, pp. 2596, 2597, 2600, 2601.

§ 927. Dismissal 11 USC 927.

(a) After notice and a hearing, the court may dismiss a case under this chapter for cause, including— Notice and hearing.

(1) want of prosecution;

(2) unreasonable delay by the debtor that is prejudicial to creditors;

(3) failure to propose a plan within the time fixed under section 941 of this title;

(4) if a plan is not accepted within any time fixed by the court;

(5) denial of confirmation of a plan under section 943(b) of this title and denial of additional time for filing another plan or a modification of a plan; or

(6) if the court has retained jurisdiction after confirmation of a plan—

(A) material default by the debtor with respect to a term of such plan; or

(B) termination of such plan by reason of the occurrence of a condition specified in such plan.

(b) The court shall dismiss a case under this chapter if confirmation is refused.

SUBCHAPTER III—THE PLAN

11 USC 941.

§ 941. Filing of plan

The debtor shall file a plan for the adjustment of the debtor's debts. If such a plan is not filed with the petition, the debtor shall file such a plan at such later time as the court fixes.

11 USC 942.

§ 942. Modification of plan

The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of this chapter. After the debtor files a modification, the plan as modified becomes the plan.

11 USC 943.

§ 943. Confirmation

(a) A special tax payer may object to confirmation of a plan.

(b) The court shall confirm the plan if—

(1) the plan complies with the provisions of this title made applicable by sections 103(e) and 901 of this title; *Ante*, p. 2555.

(2) the plan complies with the provisions of this chapter;

(3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;

(4) the debtor is not prohibited by law from taking any action necessary to be taken to carry out the plan;

(5) the plan provides that each holder of a claim of the kind specified in section 507(a)(1) of this title will receive, on account of such claim, property of a value, as of the effective date of the plan, equal to the allowed amount of such claim, except to the extent that the holder of a particular claim of such kind has waived such payment on such claim; and *Ante*, p. 2583.

(6) the plan is in the best interests of creditors and is feasible.

11 USC 944.

§ 944. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and any creditor, whether or not—

(1) a proof of such creditor's claim is filed or deemed filed under section 501 of this title; *Ante*, p. 2578.

(2) such claim is allowed under section 502 of this title; or *Ante*, p. 2579.

(3) such creditor has accepted the plan.

(b) Except as provided in subsection (c) of this section, the debtor is discharged from all debts as of the time when—

(1) the plan is confirmed;

(2) the debtor deposits any consideration to be distributed under the plan with a disbursing agent appointed by the court; and

(3) the court has determined—

(A) that any security so deposited will constitute, after distribution, a valid legal obligation of the debtor; and

(B) that any provision made to pay or secure payment of such obligation is valid.

(c) The debtor is not discharged under subsection (b) of this section from any debt—

(1) excepted from discharge by the plan or order confirming the plan; or

(2) owed to an entity that, before confirmation of the plan, had neither notice nor actual knowledge of the case.

§ 945. Continuing jurisdiction and closing of the case 11 USC 945.

(a) The court may retain jurisdiction over the case for such period of time as is necessary for the successful execution of the plan.

(b) Except as provided in subsection (a) of this section, the court shall close the case when administration of the case has been completed.

§ 946. Effect of exchange of securities before the date of the filing of the petition 11 USC 946.

The exchange of a new security under the plan for a claim covered by the plan, whether such exchange occurred before or after the date of the filing of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The amount and number specified in section 1126(c) of this title include the amount and number of claims formerly held by a creditor that has participated in any such exchange.

CHAPTER 11—REORGANIZATION

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

Sec.

1101. Definitions for this chapter.
1102. Creditors' and equity security holders' committees.
1103. Powers and duties of committees.
1104. Appointment of trustee or examiner.
1105. Termination of trustee's appointment.
1106. Duties of trustee and examiner.
1107. Rights, powers, and duties of debtor in possession.
1108. Authorization to operate business.
1109. Right to be heard.
1110. Aircraft equipment and vessels.
1111. Claims and interests.
1112. Conversion or dismissal.

SUBCHAPTER II—THE PLAN

1121. Who may file a plan.
1122. Classification of claims or interests.
1123. Contents of plan.
1124. Impairment of claims or interests.
1125. Postpetition disclosure and solicitation.
1126. Acceptance of plan.
1127. Modification of plan.
1128. Confirmation hearing.
1129. Confirmation of plan.

SUBCHAPTER III—POSTCONFIRMATION MATTERS

1141. Effect of confirmation.
1142. Execution of plan.
1143. Distribution.
1144. Revocation of an order of confirmation.
1145. Exemption from securities laws.
1146. Special tax provisions.

SUBCHAPTER IV—RAILROAD REORGANIZATION

Sec.
1161. Inapplicability of other sections.
1162. Definition.
1163. Appointment of trustee.
1164. Right to be heard.
1165. Protection of the public interest.
1166. Effect of Interstate Commerce Act and of Federal, State, or local regulations.
1167. Collective bargaining agreements.
1168. Rolling stock equipment.
1169. Effect of rejection of lease of railroad line.
1170. Abandonment of railroad line.
1171. Priority claims.
1172. Contents of plan.
1173. Confirmation of plan.
1174. Liquidation.

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

11 USC 1101.

§ 1101. Definitions for this chapter

In this chapter—

(1) "debtor in possession" means debtor except when a person that has qualified under section 322 of this title is serving as trustee in the case;

Ante, p. 2562.

(2) "substantial consummation" means—

(A) transfer of all or substantially all of the property proposed by the plan to be transferred;

(B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and

(C) commencement of distribution under the plan.

11 USC 1102.

§ 1102. Creditors' and equity security holders' committees

(a)(1) As soon as practicable after the order for relief under this chapter, the court shall appoint a committee of creditors holding unsecured claims.

(2) On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The court shall appoint any such committee.

(b)(1) A committee of creditors appointed under subsection (a) of this section shall ordinarily consist of the persons, willing to serve, that hold the seven largest claims against the debtor of the kinds represented on such committee, or of the members of a committee organized by creditors before the order for relief under this chapter, if such committee was fairly chosen and is representative of the different kinds of claims to be represented.

(2) A committee of equity security holders appointed under subsection (a)(2) of this section shall ordinarily consist of the persons, willing to serve, that hold the seven largest amounts of equity securities of the debtor of the kinds represented on such committee.

(c) On request of a party in interest and after notice and a hearing, the court may change the membership or the size of a committee appointed under subsection (a) of this section if the membership of such committee is not representative of the different kinds of claims or interests to be represented.

§ 1103. Powers and duties of committees 11 USC 1103.

(a) At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and with the court's approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

(b) A person employed to represent a committee appointed under section 1102 of this title may not, while employed by such committee, represent any other entity in connection with the case.

(c) A committee appointed under section 1102 of this title may—

(1) consult with the trustee or debtor in possession concerning the administration of the case;

(2) investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(3) participate in the formulation of a plan, advise those represented by such committee of such committee's recommendations as to any plan formulated, and collect and file with the court acceptances of a plan;

(4) request the appointment of a trustee or examiner under section 1104 of this title, if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case; and *Infra.*

(5) perform such other services as are in the interest of those represented.

(d) As soon as practicable after the appointment of a committee under section 1102 of this title, the trustee shall meet with such committee to transact such business as may be necessary and proper.

§ 1104. Appointment of trustee or examiner 11 USC 1104.

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court shall order the appointment of a trustee—

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

(b) If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court shall order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor, if—

(1) such appointment is in the interests of creditors, any equity security holders, and other interests of the estate; or

(2) the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5,000,000.

(c) If the court orders the appointment of a trustee or an examiner, if a trustee or an examiner dies or resigns during the case or is removed under section 324 of this title, or if a trustee fails to qualify under section 322 of this title, then the court shall appoint one disinterested person to serve as trustee or examiner, as the case may be, in the case.

Ante, p. 2562.
Ante, p. 2562.

11 USC 1105.

§ 1105. Termination of trustee's appointment

At any time before confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court may terminate the trustee's appointment and restore the debtor to possession and management of the property of the estate, and operation of the debtor's business.

11 USC 1106.

§ 1106. Duties of trustee and examiner

(a) A trustee shall—

(1) perform the duties of a trustee specified in sections 704(2), 704(4), 704(6), 704(7), and 704(8) of this title;

Ante, p. 2605.

(2) if the debtor has not done so, file the list, schedule, and statement required under section 521(1) of this title;

Ante, p. 2586.

(3) except to the extent that the court orders otherwise, investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan;

(4) as soon as practicable—

(A) file a statement of any investigation conducted under paragraph (3) of this subsection, including any fact ascertained pertaining to fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor, or to a cause of action available to the estate; and

(B) transmit a copy or a summary of any such statement to any creditors' committee or equity security holders' committee, to any indenture trustee, and to such other entity as the court designates;

(5) as soon as practicable, file a plan under section 1121 of this title, file a report of why the trustee will not file a plan, or recommend conversion of the case to a case under chapter 7 or 13 of this title or dismissal of the case;

Ante, p. 2603.

(6) for any year for which the debtor has not filed a tax return required by law, furnish, without personal liability, such information as may be required by the governmental unit with which such tax return was to be filed, in light of the condition of the debtor's books and records and the availability of such information; and

(7) after confirmation of a plan, file such reports as are necessary or as the court orders.

(b) An examiner appointed under section 1104(c) of this title shall perform the duties specified in paragraphs (3) and (4) of subsection (a) of this section, and any other duties of the trustee that the court orders the debtor in possession not to perform.

11 USC 1107.

§ 1107. Rights, powers, and duties of debtor in possession

(a) Subject to any limitations on a trustee under this chapter, and to such limitations or conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensa-

tion under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a)(2), (3), and (4) of this title, of a trustee serving in a case under this chapter. *Ante*, p. 2564.

(b) Notwithstanding section 327(a) of this title, a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case. *Ante*, p. 2563.

§ 1108. Authorization to operate business 11 USC 1108.

Unless the court orders otherwise, the trustee may operate the debtor's business.

§ 1109. Right to be heard 11 USC 1109.

(a) The Securities and Exchange Commission may raise and may appear and be heard on any issue in a case under this chapter, but the Securities and Exchange Commission may not appeal from any judgment, order, or decree entered in the case.

(b) A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter.

§ 1110. Aircraft equipment and vessels 11 USC 1110.

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), or vessels of the United States, as defined in subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4)), that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, a debtor that is an air carrier operating under a certificate of convenience and necessity issued by the Civil Aeronautics Board, or a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, as the case may be, to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless— *Ante*, pp. 2570, 2572.

(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be— *Ante*, p. 2574.

(A) that occurred before such date is cured before the expiration of such 60-day period; and

(B) that occurs after such date is cured before the later of—

(i) 30 days after the date of such default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under

subsection (a) of this section may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

11 USC 1111.

§ 1111. Claims and interests

(a) A proof of claim or interest is deemed filed under section 501 of this title for any claim or interest that appears in the schedules filed under section 521(1) or 1106(a)(2) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.

Ante, p. 2578.

Ante, p. 2586.

(b)(1)(A) A claim secured by a lien on property of the estate shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder has such recourse, unless—

Ante, p. 2579.

(i) the class of which such claim is a part elects, by at least two-thirds in amount and more than half in number of allowed claims of such class, application of paragraph (2) of this subsection; or

(ii) such holder does not have such recourse and such property is sold under section 363 of this title or is to be sold under the plan.

Ante, p. 2572.

(B) A class of claims may not elect application of paragraph (2) of this subsection if—

(i) the interest on account of such claims of the holders of such claims in such property is of inconsequential value; or

(ii) the holder of a claim of such class has recourse against the debtor on account of such claim and such property is sold under section 363 of this title or is to be sold under the plan.

(2) If such an election is made, then notwithstanding section 506(a) of this title, such claim is a secured claim to the extent that such claim is allowed.

Ante, p. 2583.

11 USC 1112.

§ 1112. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless—

Ante, p. 2603.

(1) the debtor is not a debtor in possession;

(2) the case is an involuntary case originally commenced under this chapter; or

(3) the case was converted to a case under this chapter on other than the debtor's request.

Notice and hearing.

(b) Except as provided in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including—

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) inability to effectuate a plan;

(3) unreasonable delay by the debtor that is prejudicial to creditors;

(4) failure to propose a plan under section 1121 of this title within any time fixed by the court;

(5) denial of confirmation of every proposed plan and denial of additional time for filing another plan or a modification of a plan;

(6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(7) inability to effectuate substantial consummation of a confirmed plan;

(8) material default by the debtor with respect to a confirmed plan; and

(9) termination of a plan by reason of the occurrence of a condition specified in the plan.

(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion. *Ante*, p. 2603.

(d) The court may convert a case under this chapter to a case under chapter 13 of this title only if—

(1) the debtor requests such conversion; and

(2) the debtor has not been discharged under section 1141(d) of this title.

(e) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

SUBCHAPTER II—THE PLAN

§ 1121. Who may file a plan 11 USC 1121.

(a) The debtor may file a plan with a petition commencing a voluntary case, or at any time in a voluntary case or an involuntary case.

(b) Except as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter.

(c) Any party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan if and only if—

(1) a trustee has been appointed under this chapter;

(2) the debtor has not filed a plan before 120 days after the date of the order for relief under this chapter; or

(3) the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class the claims or interests of which are impaired under the plan.

(d) On request of a party in interest and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

§ 1122. Classification of claims or interests 11 USC 1122.

(a) Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.

(b) A plan may designate a separate class of claims consisting only of every unsecured claim that is less than or reduced to an amount that the court approves as reasonable and necessary for administrative convenience.

§ 1123. Contents of plan 11 USC 1123.

(a) A plan shall—

(1) designate, subject to section 1122 of this title, classes of claims other than claims of a kind specified in section 507(a)(1), 507(a)(2), or 507(a)(6) of this title and classes of interests; *Ante*, p. 2583.

(2) specify any class of claims or interests that is not impaired under the plan;

(3) shall specify the treatment of any class of claims or interests that is impaired under the plan;

(4) provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest;

(5) provide adequate means for the plan's execution, such as—

(A) retention by the debtor of all or any part of the property of the estate;

(B) transfer of all or any part of the property of the estate to one or more entities, whether organized before or after the confirmation of such plan;

(C) merger or consolidation of the debtor with one or more persons;

(D) sale of all or any part of the property of the estate, either subject to or free of any lien, or the distribution of all or any part of the property of the estate among those having an interest in such property of the estate;

(E) satisfaction or modification of any lien;

(F) cancellation or modification of any indenture or similar instrument;

(G) curing or waiving any default;

(H) extension of a maturity date or a change in an interest rate or other term of outstanding securities;

(I) amendment of the debtor's charter; or

(J) issuance of securities of the debtor, or of any entity referred to in subparagraph (B) or (C) of this paragraph, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purpose;

(6) provide for the inclusion in the charter of the debtor, if the debtor is a corporation, or of any corporation referred to in paragraph (5)(B) or (5)(C) of this subsection, of a provision prohibiting the issuance of nonvoting equity securities, and providing, as to the several classes of securities possessing voting power, an appropriate distribution of such power among such classes, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for the election of directors representing such preferred class in the event of default in the payment of such dividends; and

(7) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to such officer, director, or trustee.

(b) Subject to subsection (a) of this section, a plan may—

(1) impair or leave unimpaired any class of claims, secured or unsecured, or of interests;

Ante, p. 2574.

(2) subject to section 365 of this title, provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

(3) provide for—

(A) the settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

(B) the retention and enforcement by the debtor, by the trustee, or by a representative of the estate appointed for such purpose, of any such claim or interest;

(4) provide for the sale of all or substantially all of the property of the estate, and the distribution of the proceeds of such sale among holders of claims or interests; and

(5) include any other appropriate provision not inconsistent with the applicable provisions of this title.

(c) In a case concerning an individual, a plan proposed by an entity other than the debtor may not provide for the use, sale, or lease of property exempted under section 522 of this title, unless the debtor consents to such use, sale, or lease.

Ante, p. 2586.

§ 1124. Impairment of claims or interests

11 USC 1124.

Except as provided in section 1123(a)(4) of this title, a class of claims or interests is impaired under a plan unless, with respect to each claim or interest of such class, the plan—

(1) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest;

(2) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default—

(A) cures any such default, other than a default of a kind specified in section 365(b)(2) of this title, that occurred before or after the commencement of the case under this title;

Ante, p. 2574.

(B) reinstates the maturity of such claim or interest as such maturity existed before such default;

(C) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; and

(D) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest; or

(3) provides that, on the effective date of the plan, the holder of such claim or interest receives, on account of such claim or interest, cash equal to—

(A) with respect to a claim, the allowed amount of such claim; or

(B) with respect to an interest, if applicable, the greater of—

(i) any fixed liquidation preference to which the terms of any security representing such interest entitle the holder of such interest; and

(ii) any fixed price at which the debtor, under the terms of such security, may redeem such security from such holder.

§ 1125. Postpetition disclosure and solicitation

11 USC 1125.

(a) In this section—

(1) "adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan; and

"Adequate information."

(2) "investor typical of holders of claims or interests of the relevant class" means investor having—

"Investor typical of holders of claims or interests of the relevant class."

(A) a claim or interest of the relevant class;

(B) such a relationship with debtor as the holders of other claims or interests of such class generally have; and

(C) such ability to obtain such information from sources other than the disclosure required by this section as holders claims or interests in such class generally have.

(b) An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information. The court may approve a disclosure statement without a valuation of the debtor or an appraisal of the debtor's assets.

(c) The same disclosure statement shall be transmitted to each holder of a claim or interest of a particular class, but there may be transmitted different disclosure statements, differing in amount, detail, or kind of information, as between classes.

(d) Whether a disclosure statement contains adequate information is not governed by any otherwise applicable nonbankruptcy law, rule, or regulation, but an agency or official whose duty is to administer or enforce such a law, rule, or regulation may be heard on the issue of whether a disclosure statement contains adequate information. Such an agency or official may not appeal from an order approving a disclosure statement.

(e) A person that solicits, in good faith and in compliance with the applicable provisions of this title, or that participates, in good faith and in compliance with the applicable provisions of this title, in the offer, issuance, sale, or purchase of a security, offered or sold under the plan, of the debtor, of an affiliate participating in a joint plan with the debtor, or of a newly organized successor to the debtor under the plan, is not liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the offer, issuance, sale, or purchase of securities.

11 USC 1126.

§ 1126. Acceptance of plan

Ante, p. 2579.

(a) The holder of a claim or interest allowed under section 502 of this title may accept or reject a plan. If the United States is a creditor or equity security holder, the Secretary of the Treasury may accept or reject the plan on behalf of the United States.

(b) For the purposes of subsections (c) and (d) of this section, a holder of a claim or interest that has accepted or rejected the plan before the commencement of the case under this title is deemed to have accepted or rejected such plan, as the case may be, if—

(1) the solicitation of such acceptance or rejection was in compliance with any applicable nonbankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation; or

(2) if there is not any such law, rule, or regulation, such acceptance or rejection was solicited after disclosure to such holder of adequate information, as defined in section 1125(a)(1) of this title.

(c) A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interests other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

Notice and hearing.

(e) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

(f) Notwithstanding any other provision of this section, a class that is not impaired under a plan is deemed to have accepted the plan, and solicititation of acceptances with respect to such class from the holders of claims or interest of such class is not required.

(g) Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to any payment or compensation under the plan on account of such claims or interests.

§ 1127. Modification of plan

11 USC 1127.

(a) The proponent of a plan may modify such plan at any time before confirmation, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. After the proponent files a modification with the court, the plan as modified becomes the plan.

(b) The proponent of a plan or the reorganized debtor may modify such plan at any time after confirmation of such plan and before substantial consummation of such plan, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. Such plan as modified under this subsection becomes the plan only if the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification.

(c) The proponent of a modification shall comply with section 1125 of this title with respect to the plan as modified.

(d) Any holder of a claim or interest that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, such plan as modified, unless, within the time fixed by the court, such holder changes such holder's previous acceptance or rejection.

§ 1128. Confirmation hearing

11 USC 1128.

(a) After notice, the court shall hold a hearing on confirmation of a plan.

(b) A party in interest may object to confirmation of a plan.

§ 1129. Confirmation of plan

11 USC 1129.

(a) The court shall confirm a plan only if all of the following requirements are met:

(1) The plan complies with the applicable provisions of this chapter.

(2) The proponent of the plan complies with the applicable provisions of this chapter.

(3) The plan has been proposed in good faith and not by any means forbidden by law.

(4)(A) Any payment made or promised by the proponent, by the debtor, or by a person issuing securities or acquiring property

under the plan, for services or for costs and expenses in, or in connection with, the case, or in connection with the plan and incident to the case, has been disclosed to the court; and

(B) (i) any such payment made before confirmation of the plan is reasonable; or

(ii) if such payment is to be fixed after confirmation of the plan, such payment is subject to the approval of the court as reasonable.

(5) (A) (i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy.

(B) The proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each class—

(A) each holder of a claim or interest of such class—

(i) has accepted the plan; or

(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date; or

Ante, p. 2603.

(B) if section 1111(b)(2) of this title applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such creditor's interest in the estate's interest in the property that secures such claims.

(8) With respect to each class—

(A) such class has accepted the plan; or

(B) such class is not impaired under the plan.

(9) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that—

(A) with respect to a claim of a kind specified in section 507(a)(1) or 507(a)(2) of this title, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

Ante, p. 2583.

(B) with respect to a class of claims of a kind specified in section 507(a)(3), 507(a)(4), or 507(a)(5) of this title, each holder of a claim of such class will receive—

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and

(C) with respect to a claim of a kind specified in section 507(a)(6) of this title, the holder of such claim will receive

on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim.

(10) At least one class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim of such class.

(11) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(b)(1) Notwithstanding section 510(a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan. *Ante*, p. 2586.

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

(A) With respect to a class of secured claims, the plan provides—

(i)(I) that the holders of such claims retain the lien securing such claims, whether the property subject to such lien is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the lien securing such claims, free and clear of such lien, with such lien to attach to the proceeds of such sale, and the treatment of such lien on proceeds under clause (i) or (iii) of this subparagraph; or *Ante*, p. 2572.

(iii) for the realization by such holders of the indubitable equivalent of such claims.

(B) With respect to a class of unsecured claims—

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain on account of such junior claim or interest any property.

(C) With respect to a class of interests—

(i) the plan provides that each holder of an interest of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, and the value of such interest; or

(ii) the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

(c) Notwithstanding subsections (a) and (b) of this section and except as provided in section 1127(b) of this title, the court may confirm only one plan, unless the order of confirmation in the case has been revoked under section 1144 of this title. If the requirements of subsections (a) and (b) of this section are met with respect to more than one plan, the court shall consider the preferences of creditors and equity security holders in determining which plan to confirm.

(d) Notwithstanding any other provision of this section, on request of a party in interest that is a governmental unit, the court may not confirm a plan if the principal purpose of the plan is the avoidance of taxes or the avoidance of section 5 of the Securities Act of 1933 (15 U.S.C. 77e).

SUBCHAPTER III—POSTCONFIRMATION MATTERS

11 USC 1141.

§ 1141. Effect of confirmation

(a) Except as provided in subsections (d)(2) and (d)(3) of this section, the provisions of a confirmed plan bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor or equity security holder of, or general partner in, the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) After confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, of equity security holders, and of general partners in the debtor, except as otherwise provided in the plan or in the order confirming the plan.

(d)(1) Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan—

(A) discharges the debtor from any debt that arose before the date of such confirmation, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of this title, whether or not—

Ante, p. 2579.

(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title;

Ante, p. 2578.

(ii) such claim is allowed under section 502 of this title; or

(iii) the holder of such claim has accepted the plan; and

(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

(2) The confirmation of a plan does not discharge an individual debtor from any debt excepted from discharge under section 523 of this title.

Ante, p. 2590.

(3) The confirmation of a plan does not discharge a debtor if—

(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

(B) the debtor does not engage in business after consummation of the plan; and

(C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title.

Ante, p. 2609.

Waiver.

(4) The court may approve a written waiver of discharge executed by the debtor after the order for relief under this chapter.

§ 1142. Execution of plan 11 USC 1142.

(a) Notwithstanding any otherwise applicable nonbankruptcy law, rule, or regulation relating to financial condition, the debtor and any entity organized or to be organized for the purpose of carrying out the plan shall carry out the plan, and shall comply with any orders of the court.

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

§ 1143. Distribution 11 USC 1143.

If a plan requires presentment or surrender of a security or the performance of any other act as a condition to participation in distribution under the plan, such action shall be taken not later than five years after the date of the entry of the order of confirmation. Any entity that has not within such time presented or surrendered such entity's security or taken any such other action that the plan requires may not participate in distribution under the plan.

§ 1144. Revocation of an order of confirmation 11 USC 1144.

On request of a party in interest at any time before 180 days after the date of the entry of the order of confirmation, and after notice and a hearing, the court may revoke such order if such order was procured by fraud. An order under this section revoking an order of confirmation shall—

(1) contain such provisions as are necessary to protect any entity acquiring rights in good faith reliance on the order of confirmation; and

(2) revoke the discharge of the debtor.

§ 1145. Exemption from securities laws 11 USC 1145.

(a) Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section 5 of the Securities Act of 1933 (15 U.S.C. 77e) and any State or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security does not apply to—

(1) the offer or sale under a plan of a security of the debtor, of an affiliate participating in a joint plan with the debtor, or of a successor to the debtor under the plan—

(A) in exchange for a claim against, an interest in, or a claim for an administrative expense in the case concerning, the debtor or such affiliate; or

(B) principally in such exchange and partly for cash or property;

(2) the offer of a security through any warrant, option, right to subscribe, or conversion privilege that was sold in the manner specified in paragraph (1) of this subsection, or the sale of a security upon the exercise of such a warrant, option, right, or privilege;

(3) the offer or sale, other than under a plan, of a security of an issuer other than the debtor or an affiliate, if—

(A) such security was owned by the debtor on the date of the filing of the petition;

(B) the issuer of such security is—

(i) required to file reports under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(ii) in compliance with all applicable requirements for the continuance of trading in such security on the date of such offer or sale; and

(C) such offer or sale is of securities that do not exceed—

(i) during the two-year period immediately following the date of the filing of the petition, four percent of the securities of such class outstanding on such date; and

(ii) during any 180-day period following such two-year period, one percent of the securities outstanding at the beginning of such 180-day period; or

(4) a transaction by a stockholder in a security that is executed after a transaction of a kind specified in paragraph (1) or (2) of this subsection in such security and before the expiration of 40 days after the first date on which such security was bona fide offered to the public by the issuer or by or through an underwriter, if such stockbroker provides, at the time of or before such transaction by such stockholder, a disclosure statement approved under section 1125 of this title, and, if the court orders, information supplementing such disclosure statement.

(b)(1) Except as provided in paragraph (2) of this subsection, an entity is an underwriter under section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)), if such entity—

(A) purchases a claim against, interest in, or claim for an administrative expense in the case concerning, the debtor, if such purchase is with a view to distribution of any security received or to be received in exchange for such a claim or interest;

(B) offers to sell securities offered or sold under the plan for the holders of such securities;

(C) offers to buy securities offered or sold under the plan for the holders of such securities, if such offer to buy is—

(i) with a view to distribution of such securities; and

(ii) under an agreement made in connection with the plan, with the consummation of the plan, or with the offer or sale of securities under the plan; or

(D) is an issuer, as used in such section 2(11), with respect to such securities.

(2) An entity is not an underwriter under section 2(11) of the Securities Act of 1933 or under paragraph (1) of this subsection with respect to an agreement that provides only for—

(A)(i) the matching combination of fractional interests in securities offered or sold under the plan into whole interests; or

(ii) the purchase or sale of such fractional interests among entities receiving such fractional interests under the plan; or

(B) the purchase or sale for such entities of such fractional or whole interests as are necessary to adjust for any remaining fractional interests after such matching.

(3) An entity other than an entity of the kind specified in paragraph (1) of this subsection is not an underwriter under section 2(11) of the Securities Act of 1933 with respect to any securities offered or sold to such entity in the manner specified in subsection (a)(1) of this section.

(c) An offer or sale of securities of the kind and in the manner specified under subsection (a)(1) of this section is deemed to be a public offering.

(d) The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) does not apply to a commercial note issued under the plan that matures not later than one year after the effective date of the plan.

§ 1146. Special tax provisions 11 USC 1146.

(a) For the purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 706 of this title. *Ante*, p. 2606.

(b) The trustee shall make a State or local tax return of income for the estate of an individual debtor in a case under this chapter for each taxable period after the order for relief under this chapter during which the case is pending.

(c) The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 of this title, may not be taxed under any State or local law imposing a stamp tax or similar tax.

(d) The court may authorize the proponent of a plan to request a determination, limited to questions of law, by a State or local governmental unit charged with responsibility for collection or determination of a tax on or measured by income, of the tax effects, under section 346 of this title and under the law imposing such tax, of the plan. In the event of an actual controversy, the court may declare such effects after the earlier of— *Ante*, p. 2565.

(1) the date on which such governmental unit responds to the request under this subsection; and

(2) 270 days after such request.

SUBCHAPTER IV—RAILROAD REORGANIZATION

§ 1161. Inapplicability of other sections 11 USC 1161.

Sections 341, 343, 1102(a)(1), 1104, 1105, 1107, 1129(a)(7), and 1129(c) of this title do not apply in a case concerning a railroad. *Ante*, pp. 2564, 2565.

§ 1162. Definition 11 USC 1162.

In this subchapter, "Commission" means Interstate Commerce Commission.

§ 1163. Appointment of trustee 11 USC 1163.

As soon as practicable after the order for relief, the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustee in the case. The court shall appoint one of such persons to serve as trustee in the case.

§ 1164. Right to be heard 11 USC 1164.

The Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and may appear and be heard on any issue in a case under this chapter, but may not appeal from any judgment, order, or decree entered in the case.

§ 1165. Protection of the public interest 11 USC 1165.

In applying sections 1166, 1167, 1169, 1170, 1171, 1172, 1173, and 1174 of this title, the court and the trustee shall consider the public interest in addition to the interests of the debtor, creditors, and equity security holders.

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11 USC 1166.

§ 1166. Effect of Interstate Commerce Act and of Federal, State, or local regulations

Except with respect to abandonment under section 1170 of this title, or merger, modification of the financial structure of the debtor, or issuance or sale of securities under a plan, the trustee and the debtor are subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads, and the trustee is subject to orders of any Federal, State, or local regulatory body to the same extent as the debtor would be if a petition commencing the case under this chapter had not been filed, but—

(1) any such order that would require the expenditure, or the incurring of an obligation for the expenditure, of money from the estate is not effective unless approved by the court; and

(2) the provisions of this chapter are subject to section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)).

11 USC 1167.

§ 1167. Collective bargaining agreements

Ante, p. 2574.

Notwithstanding section 365 of this title, neither the court nor the trustee may change the wages or working conditions of employees of the debtor established by a collective bargaining agreement that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.) except in accordance with section 6 of such Act (45 U.S.C. 156).

11 USC 1168.

§ 1168. Rolling stock equipment

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, rolling stock equipment or accessories used on such equipment, including superstructures and racks, that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, the debtor to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

Ante, pp. 2570, 2572.

(1) before 60 days after the date of the commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

Ante, p. 2574.

(A) that occurred before such date and is an event of default therewith is cured before the expiration of such 60-day period; and

(B) that occurs or becomes an event of default after such date is cured before the later of—

(i) 30 days after the date of such default or event of default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval to extend the 60-day period specified in subsection (a)(1) of this section.

§ 1169. Effect of rejection of lease of railroad line 11 USC 1169.

(a) Except as provided in subsection (b) of this section, if a lease of a line of railroad under which the debtor is the lessee is rejected under section 365 of this title, and if the trustee, within such time as the court fixes, and with the court's approval, elects not to operate the leased line, the lessor under such lease, after such approval, shall operate the line. *Ante*, p. 2574.

(b) If operation of such line by such lessor is impracticable or contrary to the public interest, the court, on request of such lessor, and after notice and a hearing, shall order the trustee to continue operation of such line for the account of such lessor until abandonment is ordered under section 1170 of this title, or until such operation is otherwise lawfully terminated, whichever occurs first. Notice and hearing.

(c) During any such operation, such lessor is deemed a carrier subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) that are applicable to railroads.

§ 1170. Abandonment of railroad line 11 USC 1170.

(a) The court, after notice and a hearing, may authorize the abandonment of a railroad line if such abandonment is— Notice and hearing.

(1) (A) in the best interest of the estate; or

(B) essential to the formulation of a plan; and

(2) consistent with the public interest.

(b) If, except for the pendency of the case under this chapter, such abandonment would require approval by the Commission under a law of the United States, the trustee shall initiate an appropriate application for such abandonment with the Commission. The court may fix a time within which the Commission shall report to the court on such application.

(c) After the court receives the report of the Commission, or the expiration of the time fixed under subsection (b) of this section, whichever occurs first, the court may authorize such abandonment after notice to the Commission, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing.

(d) (1) Enforcement of an order authorizing such abandonment shall be stayed until the time for taking an appeal has expired, or, if an appeal is timely taken, until such order has become final.

(2) If an order authorizing the abandonment of a railroad line is appealed, the court, on request of a party in interest, may authorize termination of service on a line or a portion of a line pending the determination of such appeal, after notice to the Commission, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing. An appellant may not obtain a stay of the enforcement of an order authorizing such termination by the giving of a supersedeas bond or otherwise, during the pendency of such appeal.

§ 1171. Priority claims 11 USC 1171.

(a) There shall be paid as an administrative expense any claim of an individual or of the personal representative of a deceased individual against the debtor or the estate, for personal injury to or death of such individual arising out of the operation of the debtor or the estate, whether such claim arose before or after the commencement of the case.

(b) Any unsecured claim against the debtor that would have been entitled to priority if a receiver in equity of the property of the debtor

had been appointed by a Federal court on the date of the order for relief under this title shall be entitled to such priority in the case under this chapter.

11 USC 1172.

§ 1172. Contents of plan

(a) In addition to the provisions required or permitted under section 1123 of this title, a plan—

(1) shall specify the extent to and the means by which the debtor's rail service is proposed to be continued, and the extent to which any of the debtor's rail service is proposed to be terminated; and

(2) may include a provision for—

(A) the transfer of any or all of the operating railroad lines of the debtor to another operating railroad; or

(B) abandonment of any railroad line in accordance with section 1170 of this title.

(b) If, except for the pendency of the case under this chapter, transfer of, or operation of or over, any of the debtor's rail lines by an entity other than the debtor or a successor to the debtor under the plan would require approval by the Commission under a law of the United States, then a plan may not propose such a transfer or such operation unless the proponent of the plan initiates an appropriate application for such a transfer or such operation with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

11 USC 1173.

§ 1173. Confirmation of plan

(a) The court shall confirm a plan if—

(1) the applicable requirements of section 1129 of this title have been met;

(2) each creditor or equity security holder will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the value of property that each such creditor or equity security holder would so receive or retain if all of the operating railroad lines of the debtor were sold, and the proceeds of such sale, and the other property of the estate, were distributed under chapter 7 of this title on such date;

Ante, p. 2603.

(3) in light of the debtor's past earnings and the probable prospective earnings of the reorganized debtor, there will be adequate coverage by such prospective earnings of any fixed charges, such as interest on debt, amortization of funded debt, and rent for leased railroads, provided for by the plan; and

(4) the plan is compatible with the public interest.

(b) If the requirements of subsection (a) of this section are met with respect to more than one plan, the court shall confirm the plan that is most likely to maintain adequate rail service in the public interest.

11 USC 1174.

§ 1174. Liquidation

Notice and hearing.

On request of a party in interest and after notice and a hearing, the court may, or, if a plan has not been confirmed under section 1173 of this title before five years after the date of the order for relief, the court shall, order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of this title.

CHAPTER 13—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

Sec.
1301. Stay of action against codebtor.
1302. Trustee.
1303. Rights and powers of debtor.
1304. Debtor engaged in business.
1305. Filing and allowance of postpetition claims.
1306. Property of the estate.
1307. Conversion or dismissal.

SUBCHAPTER II—THE PLAN

1321. Filing of plan.
1322. Contents of plan.
1323. Modification of plan before confirmation.
1324. Confirmation hearing.
1325. Confirmation of plan.
1326. Payments.
1327. Effect of confirmation.
1328. Discharge.
1329. Modification of plan after confirmation.
1330. Revocation of an order of confirmation.

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

§ 1301. Stay of action against codebtor

11 USC 1301.

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title.

Ante, pp. 2603, 2625.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.

(c) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that—

Notice and hearing.

(1) as between the debtor and the individual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor;

(2) the plan filed by the debtor proposes not to pay such claim; or

(3) such creditor's interest would be irreparably harmed by such stay.

§ 1302. Trustee

11 USC 1302.

(a) If the court has appointed an individual under subsection (d) of this section to serve as standing trustee in cases under this chapter and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. Otherwise, the court shall appoint a person to serve as trustee in the case.

Ante, p. 2562.

(b) The trustee shall—

(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), and 704(8) of this title;

Ante, p. 2605.

(2) appear and be heard at any hearing that concerns—
(A) the value of property subject to a lien;
(B) confirmation of a plan; or
(C) modification of the plan after confirmation; and
(3) advise, other than on legal matters, and assist the debtor in performance under the plan.

(c) If the debtor is engaged in business, then in addition to the duties specified in subsection (b) of this section, the trustee shall perform the duties specified in sections 1106(a)(3) and 1106(a)(4) of this title.

(d) If the number of cases under this chapter commenced in a particular judicial district so warrant, the court may appoint one or more individuals to serve as standing trustee for such district in cases under this chapter.

(e)(1) A court that has appointed an individual under subsection (d) of this section to serve as standing trustee in cases under this chapter shall fix—

(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments under plans in the cases under this chapter for which such individual serves as standing trustee. Such individual shall pay annually to the Treasury—

(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under this chapter for which such individual serves as standing trustee; and

(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

11 USC 1303.

§ 1303. Rights and powers of debtor

Subject to any limitations on a trustee under this chapter, the debtor shall have, exclusive of the trustee, the rights and powers of a trustee under sections 363(b), 363(d), 363(e), 363(f), and 363(l), of this title.

Ante, p. 2572.

11 USC 1304.

§ 1304. Debtor engaged in business

(a) A debtor that is self-employed and incurs trade credit in the production of income from such employment is engaged in business.

(b) Unless the court orders otherwise, a debtor engaged in business may operate the business of the debtor, and, subject to any limitations on a trustee under sections 363(c) and 364 of this title and to such limitations or conditions as the court prescribes, shall have, exclusive of the trustee, the rights and powers of the trustee under such sections.

Ante, pp. 2572, 2574.

(c) A debtor engaged in business shall perform the duties of the trustee specified in section 704(7) of this title.

Ante, p. 2605.

§ 1305. Filing and allowance of postpetition claims 11 USC 1305.

(a) A proof of claim may be filed by any entity that holds a claim against the debtor—

(1) for taxes that become payable to a governmental unit while the case is pending; or

(2) that is a consumer debt, that arises after the date of the order for relief under this chapter, and that is for property or services necessary for the debtor's performance under the plan.

(b) Except as provided in subsection (c) of this section, a claim filed under subsection (a) of this section shall be allowed or disallowed under section 502 of this title, but shall be determined as of the date such claim arises, and shall be allowed under section 502(a), 502(b), or 502(c) of this title, or disallowed under section 502(d) or 502(e) of this title, the same as if such claim had arisen before the date of the filing of the petition. *Ante*, p. 2579.

(c) A claim filed under subsection (a)(2) of this section shall be disallowed if the holder of such claim knew or should have known that prior approval by the trustee of the debtor's incurring the obligation was practicable and was not obtained.

§ 1306. Property of the estate 11 USC 1306.

(a) Property of the estate includes, in addition to the property specified in section 541 of this title— *Ante*, p. 2594.

(1) all property of the kind specified in such section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title, whichever occurs first; and *Ante*, pp. 2603, 2625.

(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title, whichever occurs first.

(b) Except as provided in a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

§ 1307. Conversion or dismissal 11 USC 1307.

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.

(b) On request of the debtor at any time if the case has not been converted under section 706 or 1112 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable. *Ante*, p. 2606.

(c) Except as provided in subsection (e) of this section, on request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including— Notice and hearing.

(1) unreasonable delay by the debtor that is prejudicial to creditors;

(2) nonpayment of any fees and charges required under chapter 123 of title 28;

(3) failure to file a plan timely under section 1321 of this title;

(4) denial of confirmation of a plan under section 1325 of this title and denial of additional time for filing another plan or a modification of a plan;

(5) material default by the debtor with respect to a term of a confirmed plan;

(6) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title; and

(7) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan.

(d) Except as provided in subsection (e) of this section, at any time before the confirmation of a plan under section 1325 of this title, on request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title.

Ante, p. 2625.

(e) The court may not convert a case under this chapter to a case under chapter 7 or 11 of this title if the debtor is a farmer, unless the debtor requests such conversion.

Ante, p. 2603.

(f) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

SUBCHAPTER II—THE PLAN

11 USC 1321.

§ 1321. Filing of plan

The debtor shall file a plan.

11 USC 1322.

§ 1322. Contents of plan

(a) The plan shall—

(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan;

(2) provide for the full payment, in deferred cash payments of all claims entitled to priority under section 507 of this title, unless the holder of a particular claim agrees to a different treatment of such claim; and

Ante, p. 2583.

(3) if the plan classifies claims, provide the same treatment for each claim within a particular class.

(b) Subject to subsections (a) and (c) of this section, the plan may—

(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated;

(2) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims;

Default.

(3) provide for the curing or waiving of any default;

(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any unsecured claim;

(5) notwithstanding paragraph (2) of this subsection, provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

(6) provide for the payment of all or any part of any claim allowed under section 1305 of this title;

(7) provide for the assumption or rejection of any executory contract or unexpired lease of the debtor not previously rejected under section 365 of this title;

Ante, p. 2574.

(8) provide for the payment of all or any part of a claim against the debtor from property of the estate or property of the debtor;

(9) provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity; and

(10) include any other appropriate provision not inconsistent with this title.

(c) The plan may not provide for payments over a period that is longer than three years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than five years.

§ 1323. Modification of plan before confirmation 11 USC 1323.

(a) The debtor may modify the plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1322 of this title.

(b) After the debtor files a modification under this section, the plan as modified becomes the plan.

(c) Any holder of a secured claim that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and such holder changes such holder's previous acceptance or rejection.

§ 1324. Confirmation hearing 11 USC 1324.

After notice, the court shall hold a hearing on the confirmation of the plan. A party in interest may object to the confirmation of the plan.

§ 1325. Confirmation of plan 11 USC 1325.

(a) The court shall confirm a plan if—

(1) the plan complies with the provisions of this chapter and with other applicable provisions of this title;

(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid; 28 USC 1911 *et seq.*

(3) the plan has been proposed in good faith and not by any means forbidden by law;

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date; *Ante*, p. 2603.

(5) with respect to each allowed secured claim provided for by the plan—

(A) the holder of such claim has accepted the plan;

(B) (i) the plan provides that the holder of such claim retain the lien securing such claim; and

(ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or

(C) the debtor surrenders the property securing such claim to such holder; and

(6) the debtor will be able to make all payments under the plan and to comply with the plan.

(b) After confirmation of a plan, the court may order any entity from whom the debtor receives income to pay all or any part of such income to the trustee.

11 USC 1326.

§ 1326. Payments

(a) Before or at the time of each payment to creditors under the plan, there shall be paid—

Ante, p. 2583.

(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; and

(2) if a standing trustee appointed under section 1302(d) is serving in the case, the percentage fee fixed for such standing trustee under section 1302(e) of this title.

(b) Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

11 USC 1327.

§ 1327. Effect of confirmation

(a) The provisions of a confirmed plan bind the debtor and each creditor, whether or not the claim of such creditor is provided for by the plan, and whether or not such creditor has objected to, has accepted, or has rejected the plan.

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

(c) Except as otherwise provided in the plan or in the order confirming the plan, the property vesting in the debtor under subsection (b) of this section is free and clear of any claim or interest of any creditor provided for by the plan.

11 USC 1328.

§ 1328. Discharge

(a) As soon as practicable after completion by the debtor of all payments under the plan, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title, except any debt—

Ante, p. 2579.

(1) provided for under section 1322(b)(5) of this title; or

Ante, p. 2590.

(2) of the kind specified in section 523(a)(5) of this title.

Notice and hearing.

(b) At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

Ante, p. 2603.

(3) modification of the plan under section 1329 of this title is not practicable.

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1322(b)(5) of this title; or

(2) of a kind specified in section 523(a) of this title.

(d) Notwithstanding any other provision of this section, a discharge granted under this section does not discharge the debtor from any debt based on an allowed claim filed under section 1305(a)(2) of this title if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.

(e) On request of a party in interest before one year after a discharge under this section is granted, and after notice and a hearing, the court may revoke such discharge only if— Notice and hearing.

(1) such discharge was obtained through fraud; and

(2) knowledge of such fraud came to the requesting party after such discharge was granted.

§ 1329. Modification of plan after confirmation 11 USC 1329.

(a) At any time after confirmation but before the completion of payments under a plan, the plan may be modified to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

(2) extend or reduce the time for such payments; or

(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan, to the extent necessary to take account of any payment of such claim other than under the plan.

(b)(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved. Notice and hearing.

(c) A plan modified under this section may not provide for payments over a period that expires after three years after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

§ 1330. Revocation of an order of confirmation 11 USC 1330.

(a) On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1325 of this title, and after notice and a hearing, the court may revoke such order if such order was procured by fraud. Notice and hearing.

(b) If the court revokes an order of confirmation under subsection (a) of this section, the court shall dispose of the case under section 1307 of this title, unless, within the time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1329 of this title.

CHAPTER 15—UNITED STATES TRUSTEES

Sec.

1501. Applicability of this chapter.

SUBCHAPTER I—GENERAL PROVISIONS

15101. Definitions.
15102. Rule of construction.
15103. Applicability of subchapters and sections.

SUBCHAPTER III—CASE ADMINISTRATION

15303. Involuntary cases.
15321. Eligibility to serve as trustee.
15322. Qualification of trustee.
15324. Removal of trustee.
15326. Limitation on compensation of trustee.
15330. Compensation of officers.
15343. Examination of debtor.
15345. Money of estates.

SUBCHAPTER VII—LIQUIDATION

Sec.
15701. Interim trustee.
15703. Successor trustee.
15704. Duties of trustee.
15727. Discharge.

SUBCHAPTER XI—REORGANIZATION

151102. Creditors' and equity security holders' committees.
151104. Appointment of trustee or examiner.
151105. Termination of trustee's appointment.
151163. Appointment of trustee.

SUBCHAPTER XIII—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

151302. Trustee.
151326. Payments.

11 USC 1501.

§ 1501. Applicability of chapter

This chapter applies only in cases under this title pending in the following districts:

(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island.

(2) Southern District of New York.

(3) District of Delaware and District of New Jersey.

(4) Eastern District of Virginia and District of District of Columbia.

(5) Northern District of Alabama.

(6) Northern District of Texas.

(7) Northern District of Illinois.

(8) District of Minnesota, District of North Dakota, and District of South Dakota.

(9) Central District of California.

(10) District of Colorado and District of Kansas.

SUBCHAPTER I—GENERAL PROVISIONS

11 USC 15101.

§ 15101. Definitions

In this title—

(1) "entity" includes United States trustee; and

(2) "governmental unit" does not include United States trustee while serving as a trustee in a case under this title.

11 USC 15102.

§ 15102. Rule of construction

In this title, a reference to a section that is made inapplicable under section 15103(f) of this chapter refers to the section of this chapter that replaces such inapplicable section.

11 USC 15103.

§ 15103. Applicability of subchapters and sections

(a) Subchapters I and III of this chapter apply in a case under chapter 7, 11, or 13 of this title, except that section 15343 of this title does not apply in a case concerning a railroad.

Ante, pp. 2603, 2625.

(b) Subchapter VII of this chapter applies only in a case under chapter 7 of this title.

(c) Subchapter XI of this chapter applies only in a case under chapter 11 of this title that does not concern a railroad.

(d) Section 151163 of this title applies only in a case concerning a railroad.

(e) Subchapter XIII of this chapter applies only in a case under chapter 13 of this title.

(f) Sections 303(g), 322(b), 324, 326(b), 343, 345(b), 701(a),)3(b), 703(c), 704(8), 727(c), 727(d), 727(e), 1102(a), 1104, 1105, .63, 1302(a), 1302(d), 1302(e), and 1326(a) of this title do not apply a case under this title. *Ante*, pp. 2559, 2562, 2565, 2604, 2605, 2609, 2626–2628, 2641.

SUBCHAPTER III—CASE ADMINISTRATION

15303. Involuntary cases 11 USC 15303.

At any time after the commencement of an involuntary case under apter 7 of this title but before an order for relief in the case, the urt, on request of a party in interest, after notice to the debtor id a hearing, and if necessary to preserve the property of the estate to prevent loss to the estate, may order the United States trustee to)point an interim trustee under section 15701 of this title to take)ssession of the property of the estate and to operate any business of e debtor. Before an order for relief, the debtor may regain posses-)n of property in the possession of a trustee ordered appointed ıder this subsection if the debtor files such bond as the court requires, nditioned on the debtor's accounting for and delivering to the trustee there is an order for relief in the case, such property, or the value, as the date the debtor regains possession, of such property. Notice and hearing. *Ante*, p. 2603.

15321. Eligibility to serve as trustee 11 USC 15321.

The United States trustee for the judicial district in which the case pending is eligible to serve as trustee in the case.

15322. Qualification of trustee 11 USC 15322.

(a) A United States trustee qualifies whenever such trustee serves a case under this title.

(b) The United States trustee shall determine—

(1) the amount of a bond filed under section 322(a)(2); and *Ante*, p. 2562.

(2) the sufficiency of the surety on such bond.

15324. Removal of trustee or examiner 11 USC 15324.

The court, after notice and a hearing, may remove a trustee other an the United States trustee, or an examiner, for cause. Notice and hearing.

15326. Limitation on compensation of trustee 11 USC 15326.

In a case under chapter 13 of this title, the court may not allow mpensation for services or reimbursement of expenses of the United ates trustee or of a standing trustee appointed under section 586(b) title 28, but may allow reasonable compensation under section 330 this title of a trustee appointed under section 1302(a) of this title r the trustee's services, payable after the trustee renders such serv- es, not to exceed five percent upon all payments under the plan. *Post*, p. 2663. *Ante*, p. 2564.

15330. Compensation of officers 11 USC 15330.

In a case in which the United States trustee serves as trustee, the mpensation of the trustee under section 330 of this title shall be paid the clerk of the bankruptcy court, and by the clerk, into the reasury.

15343. Examination of the debtor 11 USC 15343.

The debtor shall appear and submit to examination under oath at e meeting of creditors under section 341(a) of this title. Creditors, ıy indenture trustee, any trustee or examiner in the case, or the nited States trustee may examine the debtor. *Ante*, p. 2564.

11 USC 15345.

§ 15345. Money of estates

(a) Except with respect to a deposit or investment that is insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States, the trustee shall require from an entity with which such money is deposited or invested—

(1) a bond—

(A) in favor of the United States;

(B) secured by the undertaking of a corporate surety approved by the United States trustee for the district in which the case is pending; and

(C) conditioned on—

(i) a proper accounting for all money so deposited or invested and for any return on such money;

(ii) prompt repayment of such money and return; and

(iii) faithful performance of duties as a depository; or

(2) the deposit of securities of the kind specified in section 15 of title 6.

(b) The United States trustee may aggregate money of estates for which such United States trustee serves as trustee for deposit or investment under this section, in order to increase the return on such money, taking into account the safety of such deposit or investment. The United States trustee shall maintain complete records identifying separately the money of each estate included in such an aggregation. Any return on any such deposit or investment shall be paid by the United States trustee into the Treasury.

SUBCHAPTER VII—LIQUIDATION

11 USC 15701.

§ 15701. Interim trustee

Ante, p. 2603.

(a) Promptly after the order for relief under chapter 7 of this title, the United States trustee shall appoint one disinterested person that is a member of the panel of private trustee established under section 586(a)(1) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

(b) If none of such persons is willing to serve as interim trustee in the case, then the United States trustee shall serve as interim trustee in the case.

11 USC 15703.

§ 15703. Successor trustee

Ante, p. 2605.

(a) Pending election of a trustee under section 703(a) of this title, if necessary to preserve or prevent loss to the estate, the United States trustee may appoint an interim trustee in the manner specified in section 15701(a) of this title. Section 701(b) and 701(c) of this title apply to such interim trustee.

Ante, p. 2604.

(b) If creditors do not elect a successor trustee under section 703(a) of this title, or if a trustee is needed in a case reopened under section 350 of this title, then the United States truste shall serve, or shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 to serve, as trustee in the case.

Ante, p. 2569.

Post, p. 2663.

§ 15704. Duties of trustee 11 USC 15704.

The trustee shall make a final report and file a final account of the administration of the estate with the court and with the United States trustee.

§ 15727. Discharge 11 USC 15727.

(a)(1) The trustee, a creditor, or the United States trustee may object to discharge under section 727(a) of this title.

(2) On request of a party in interest, the court may order the United States trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

(b) On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under section 727(a) of this title if— *Ante*, p. 2609.

(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of, or entitlement to, such property, or to deliver or surrender such property to the trustee; or

(3) the debtor committed an act specified in section 727(a)(6) of this title.

(c) The trustee, a creditor, or the United States trustee may request a revocation of a discharge—

(1) under section 727(d)(1) of this title within one year after such discharge was granted; or

(2) under section 727(d)(2) or 727(d)(3) of this title before the later of—

(A) one year after the granting of such discharge; and

(B) the date the case is closed.

SUBCHAPTER XI—REORGANIZATION

§ 151102. Creditors' and equity security holders' committees 11 USC 151102.

(a) As soon as practicable after the order for relief under chapter 11 of this title, the United States trustee shall appoint a committee of creditors holding unsecured claims. *Ante*, p. 2625.

(b) On request of a party in interest of the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The United States trustee shall appoint any such committee.

§ 151104. Appointment of trustee or examiner 11 USC 151104.

(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of a trustee— Notice and hearing.

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

(b) If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor, if—

(1) such appointment is in the best interest of creditors, any equity security holders, and other interests of the estate; or

(2) the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5,000,000.

(c) If the court orders the appointment of a trustee or an examiner, if a trustee or an examiner dies or resigns during the case or is removed under section 324 of this title, or if a trustee fails to qualify under section 322 of this title, then the United States trustee, after consultation with parties in interest, shall appoint, subject to the court's approval, one disinterested person other than the United States trustee to serve as trustee or examiner, as the case may be, in the case.

Ante, p. 2562.

Ante, p. 2562.

11 USC 151105.

§ 151105. Termination of trustee's appointment

Notice and hearing.

At any time before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may terminate the trustee's appointment and restore the debtor to possession and management of the property of the estate, and operation of the debtor's business.

11 USC 151163.

§ 151163. Appointment of trustee

As soon as practicable after the order for relief the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustee in the case. The United States trustee shall appoint one of such persons to serve as trustee in the case.

SUBCHAPTER XIII—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

11 USC 151302.

§ 151302. Trustee

(a) If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under chapter 13 of this title and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. The United States trustee shall serve as trustee in the case otherwise.

Post, p. 2663.

(b) The trustee shall—

(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), and 704(8) of this title;

Ante, p. 2605.

(2) appear and be heard at any hearing that concerns—

(A) the value of property subject to a lien;

(B) confirmation of a plan; or

(C) modification of the plan after confirmation; and

(3) advise, other than on legal matters, and assist the debtor in performance under the plan.

§ 151326. Payments 11 USC 151326.

Before or at the time of each payment to creditors under the plan, there shall be paid—

(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; and *Ante*, p. 2583.

(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28. *Post*, p. 2663.

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 5 the following:

"CHAPTER 6—BANKRUPTCY COURTS

"Sec.
"151. Creation and composition of bankruptcy courts.
"152. Appointment of bankruptcy judges.
"153. Tenure and residence of bankruptcy judges.
"154. Salaries of bankruptcy judges.
"155. Chief judge; precedence of bankruptcy judges.
"156. Division of business among bankruptcy judges.
"157. Times of holding court.
"158. Accommodations at places for holding court.
"159. Vacant judgeship as affecting proceedings.
"160. Appellate panels.

"§ 151. Creation and composition of bankruptcy courts 28 USC 151.

"(a) There shall be in each judicial district, as an adjunct to the district court for such district, a bankruptcy court which shall be a court of record known as the United States Bankruptcy Court for the district.

"(b) Each bankruptcy court shall consist of the bankruptcy judge or judges for the district in regular active service. Justices or judges designated and assigned shall be competent to sit as judges of the bankruptcy court.

"(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a bankruptcy court with respect to any action, suit or proceeding may be exercised by a single bankruptcy judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other bankruptcy judges.

"§ 152. Appointment of bankruptcy judges 28 USC 152.

"The President shall appoint, by and with the advice and consent of the Senate, bankruptcy judges for the several judicial districts. In each instance, the President shall give due consideration to the recommended nominee or nominees of the Judicial Council of the Circuit within which an appointment is to be made.

"§ 153. Tenure and residence of bankruptcy judges 28 USC 153.

"(a) Each bankruptcy judge shall hold office for a term of 14 years, but may continue to perform the duties of his office until his successor takes office, unless such office has been eliminated.

"(b) Removal of a bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judi-

cial council of the circuit or circuits in which the bankruptcy judge serves, but removal may not occur unless a majority of all the judges of such circuit council or councils concur in the order of removal. Before any order of removal may be entered, a full specification of the charges shall be furnished to the bankruptcy judge, and he shall be accorded an opportunity to be heard on the charges. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit or circuits in which he serves, and a copy of the report shall at the same time be transmitted to the circuit council or councils and to the bankruptcy judge.

"(c) Each bankruptcy judge shall reside in the district or one of the districts for which he is appointed, or within 20 miles of his official station.

"(d) If the public interest and the nature of the business of a bankruptcy court require that a bankruptcy judge should maintain his abode at or near a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the bankruptcy judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order the judicial council of the circuit may decide which of them shall do so.

28 USC 154.

"§ 154. Salaries of bankruptcy judges

"Each judge of a bankruptcy court shall receive a salary at an annual rate of $50,000, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), and section 461 of this title.

28 USC 461.

28 USC 155.

"§ 155. Chief judge; precedence of bankruptcy judges

"(a) In each district having more than one judge the bankruptcy judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the bankruptcy court. If all the bankruptcy judges in regular active service are 70 years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under 70 years of age, but a judge may not act as chief judge until he has served as a bankruptcy judge for one year.

"(b) The chief judge shall have precedence and preside at any session which he attends.

"Other bankruptcy judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) A judge whose commission extends over more than one district shall be junior to all bankruptcy judges except in the district in which he resided at the time he entered upon the duties of his office.

"(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a bankruptcy judge, he may so certify to the chief judge of the court of appeals for the circuit in which the bankruptcy judge serves, and thereafter the bankruptcy judge in active service next in precedence and willing to serve shall be designated by the chief judge of the court of appeals as the chief judge of the bankruptcy court.

"(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the bankruptcy judge in active service, present in the district and able and qualified to act, who is next in precedence.

"(f) Service as a referee in bankruptcy or as a bankruptcy judge under the Bankruptcy Act shall be taken into account in the determination of seniority of commission under this section. 11 USC prec. 1.

"§ 156. Division of business among bankruptcy judges 28 USC 156.

"The business of a bankruptcy court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

"The chief judge of the bankruptcy court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

"If the bankruptcy judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

"§ 157. Times of holding court 28 USC 157.

"(a) The bankruptcy court at each designated location shall be deemed to be in continuous session on all business days throughout the year.

"(b) Each bankruptcy court may establish by local rule or order schedules of court sessions at designated places of holding court other than the headquarters office of the court. Such schedules may be pretermitted by order of the court.

"(c) Bankruptcy court may be held at any place within the territory served, in any case, on order of the bankruptcy court, for the convenience of the parties, on such notice as the bankruptcy court orders.

"§ 158. Accommodations at places for holding court 28 USC 158.

"Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where court is authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.

"§ 159. Vacant judgeship as affecting proceedings 28 USC 159.

"When the office of a bankruptcy judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court.

"§ 160. Appellate panels 28 USC 160.

"(a) If the circuit council of a circuit orders application of this section to a district within such circuit, the chief judge of each circuit shall designate panels of three bankruptcy judges to hear appeals from judgments, orders, and decrees of the bankruptcy court of the United States for such district. Except as provided in section 293(e) of this title, a panel shall be composed only of bankruptcy judges for districts located in the circuit in which the appeal arises. The chief judge shall designate a sufficient number of such panels so that appeals may be heard and disposed of expeditiously.

"(b) A panel designated under subsection (a) of this section may not hear an appeal from a judgment, order, or decree entered by a member of the panel.

"(c) When hearing an appeal, a panel designated under subsection (a) of this section shall sit at a place convenient to the parties to the appeal.".

(b) The table of chapters of part I of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 5 of such title the following:

"6. Bankruptcy courts..... 151".

SEC. 202. Section 291(c) of title 28 of the United States Code is amended by inserting "or bankruptcy" immediately after "to hold a district".

SEC. 203. Section 292(b) of title 28 of the United States Code is amended by inserting "or a bankruptcy court" immediately after "to hold a district court".

SEC. 204. Section 292(d) of title 28 of the United States Code is amended—

(1) by striking out "either";

(2) by inserting "bankruptcy court," immediately after "in a"; and

(3) by inserting a comma immediately after "district court".

SEC. 205. Section 293 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e)(1) The Chief Justice of the United States may designate and assign temporarily a bankruptcy judge of one circuit for service in a bankruptcy court in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

"(2) The chief judge of a circuit may, in the public interest, designate and assign temporarily a bankruptcy judge of the circuit to hold a bankruptcy court in any district within the circuit.".

SEC. 206. Section 294 of title 28 of the United States Code is amended—

(1) in subsection (c), by deleting "or district" and inserting "district or bankruptcy judge"; and

(2) in subsection (d), by striking out "or district judge" and inserting in lieu thereof ", district judge or bankruptcy judge".

SEC. 207. Section 295 of title 28 of the United States Code is amended by striking out "or district" and inserting in lieu thereof "district, or bankruptcy".

SEC. 208. Section 331 of title 28 of the United States Code is amended—

(1) by striking out "and a district judge from each judicial circuit" in the first sentence of the first paragraph thereof and inserting "a district judge from each judicial circuit, and two bankruptcy judges" in lieu thereof;

(2) by inserting "circuit and district" in the second paragraph—

(A) immediately after "amended section the";

(B) immediately after "for one year, the"; and

(C) immediately after "two years and the";

(3) by inserting immediately after the second paragraph the following: "The bankruptcy judges to be summoned shall be chosen at large by all the bankruptcy judges. Each bankruptcy judge chosen shall serve as a member of the conference for three successive years, except that in the year following the effective date of this sentence the bankruptcy judges shall choose one bankruptcy judge to serve for two years.";

(4) by inserting "or a bankruptcy judge chosen by the bankruptcy judges" immediately after "judges of the circuit" in the first sentence in the third paragraph; and

(5) by inserting "or any other bankruptcy judge" immediately before the period in the first sentence in the third paragraph.

SEC. 209. Section 332(d) of title 28 of the United States Code is amended by inserting "and bankruptcy judges" immediately after "The district judges".

SEC. 210. Section 333 of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 211. Section 376(a)(2)(A) of title 28 of the United States Code is amended by inserting ", or (iii) in the case of a bankruptcy judge, after retirement under section 337 of this title" immediately before the semicolon.

SEC. 213. Section 451 of title 28 of the United States Code is amended—

(1) by inserting a comma and "and bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'court of the United States' "; and

(2) by inserting a comma and "and judge of the bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'judge of the United States' ".

SEC. 214. (a) Sections 455(a) and 455(e) of title 28 of the United States Code are each amended by striking out "magistrate, or referee in bankruptcy" each place it appears and inserting in lieu thereof "or magistrate".

(b) The heading for section 455 of title 28 of the United States Code is amended by striking out **"magistrate, or referee in bankruptcy"** and inserting in lieu thereof, **"or magistrate".**

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "magistrate, or referee in bankruptcy" and inserting in lieu thereof "or magistrate".

SEC. 215. Section 456 of title 28 of the United States Code is amended—

(1) by striking out "and the United States District Court for the District of Columbia," and inserting in lieu thereof "the United States District Court for the District of Columbia, and the United States Bankruptcy Court for the District of Columbia,";

(2) by striking out "and district" and inserting in lieu thereof ", district and bankruptcy"; and

(3) by striking out "and each district judge" and inserting in lieu thereof ", each district judge; and each bankruptcy judge".

SEC. 216. Section 457 of title 28 of the United States Code is amended by inserting "of bankruptcy courts," immediately after "The record".

SEC. 217. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out **"Alaska,".**

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 218. Section 506 of title 28 of the United States Code is amended by striking out "nine" and inserting in lieu thereof "ten".

SEC. 219. (a) Section 526(a)(1) of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

(b) The heading for section 526 of title 28 of the United States Code is amended by striking out "**and marshals**" and inserting in lieu thereof "**, marshals, and trustee**".

(c) The item relating to section 526 in the table of sections of chapter 31 of title 28 of the United States Code is amended by striking out "and marshals" and inserting in lieu thereof ", marshals, and trustees".

SEC. 220. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees,";

(2) by striking out "and receivers in bankruptcy" and inserting in lieu thereof "in cases under title 11"; and

(3) by striking out "commissioners" and inserting "magistrates" in lieu thereof.

SEC. 221. Section 569(a) of title 28 of the United States Code is amended by striking out "of the district court" and inserting in lieu thereof "of the bankruptcy, of the district court,".

SEC. 222. Section 571(a) of title 28 of the United States Code is amended—

(1) by striking out "and of the marshals" and inserting in lieu thereof "of the marshals"; and

(2) by inserting ", and of the United States trustees, their assistants, staff and other employees" immediately after "clerical assistance".

SEC. 223. Section 571(b) of title 28 of the United States Code is amended by striking out "and district" and inserting in lieu thereof ", district, and bankruptcy".

SEC. 224. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following:

"CHAPTER 39—UNITED STATES TRUSTEES

"Sec.
"581. United States trustees.
"582. Assistant United States trustees.
"583. Oath of office.
"584. Official stations.
"585. Vacancies.
"586. Duties; supervision by Attorney General.
"587. Salaries.
"588. Expenses.
"589. Staff and other employees.

28 USC 581.

"§ 581. United States trustees

"(a) The Attorney General shall appoint one United States trustee for each of the following districts or groups of districts:

"(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island.

"(2) Southern District of New York.

"(3) District of Delaware and District of New Jersey.

"(4) Eastern District of Virginia and District of District of Columbia.

"(5) Northern District of Alabama.

"(6) Northern District of Texas.

"(7) Northern District of Illinois.

"(8) District of Minnesota, District of North Dakota, District of South Dakota.

"(9) Central District of California.

"(10) District of Colorado and District of Kansas.

"(b) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term, a United States trustee shall continue to perform the duties of his Office until his successor is appointed and qualifies.

"(c) Each United States trustee is subject to removal for cause by the Attorney General.

"§ 582. Assistant United States trustees 28 USC 582.

"(a) The Attorney General may appoint one or more assistant United States trustees in any district when the public interest so requires.

"(b) Each assistant United States trustee is subject to removal for cause by the Attorney General.

"§ 583. Oath of office 28 USC 583.

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully his duties.

"§ 584. Official stations 28 USC 584.

"The Attorney General may determine the official stations of the United States trustees and assistant United States trustees within the districts for which they were appointed.

"§ 585. Vacancies 28 USC 585.

"The Attorney General may appoint an acting United States trustee for a district in which the office of United States trustee is vacant, or may designate a United States trustee for another judicial district to serve as trustee for the district in which such vacancy exists. The individual so appointed or designated may serve until the earlier of 90 days after such appointment or designation, as the case may be, or the date on which the vacancy is filled by appointment under section 581 of this title.

"§ 586. Duties; supervision by Attorney General 28 USC 586.

"(a) Each United States trustee, within his district, shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11; *Ante*, p. 2603.

"(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

"(3) supervise the administration of cases and trustees in cases under chapter 7, 11, or 13 of title 11; *Ante*, pp. 2625, 2645.

"(4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11; *Ante*, p. 2565.

"(5) perform the duties prescribed for the United States trustee under title 11; and

"(6) make such reports as the Attorney General directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustee, in cases under such chapter. The United States trustee for such district shall

supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

Rules.

"(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.

Ante, p. 2645.

"(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

5 USC 5332 note.

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage for all such cases exceeds—

"(i) such individual actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

28 USC 587.

"§ 587. Salaries

"The Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

28 USC 588.

"§ 588. Expenses

"Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

28 USC 589.

"§ 589. Staff and other employees

"The United States trustee may employ staff and other employees on approval of the Attorney General.".

(b) The table of chapters of part II of title 28 of the United States Code is amended by inserting at the end thereof the following:

"39. United States Trustees ..... 581".

SEC. 225. (a) Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;". Statistical tables.

(b) Section 604 of title 28 of the United States Code, is amended by adding at the end thereof the following:

"(f) For each bankruptcy court, the Director shall name qualified persons to membership on the panel of trustees. The number and qualifications of persons named to membership on the panel of trustees shall be determined by rules and regulations to be adopted by the Director. An individual named to membership on the panel of trustees shall have a residency or office in the State served by the court or in any adjacent State. A corporation named to membership on the panel of trustees shall be authorized by its charter or by law to act as trustee and shall have an office in the State served by the court. The Director on his own initiative may at any time remove for cause a person named to a panel of trustees or remove a trustee appointed from the panel.". Rules and regulations.

SEC. 226. Section 610 of title 28 of the United States Code is amended by striking out "and district courts" and inserting in lieu thereof ", district courts, and bankruptcy courts".

SEC. 227. Section 620(b)(3) of title 28 of the United States Code is amended—

(1) by striking out "referees,"; and

(2) by striking out "commissioners" and inserting "magistrates" in lieu thereof.

SEC. 228. Section 621(a)(2) of title 28 of the United States Code is amended by striking out "and three active judges of the district courts of the United States" and inserting in lieu thereof ", three active judges of the district courts of the United States, one active judge of the bankruptcy courts of the United States".

SEC. 229. Section 621(b) of title 28 of the United States Code is amended by striking out everything after "years" down through "That a" and inserting in lieu thereof ". A".

SEC. 230. Chapter 42 of title 28 of the United States Code is amended— 28 USC 620 *et seq.*

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 231. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 232. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,", and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title,". 2 USC 351.

SEC. 233. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 the following:

"CHAPTER 50—BANKRUPTCY COURTS

"Sec.
"771. Clerks.
"772. Other employees.
"773. Records of proceedings; reporters.
"774. Power to appoint.
"775. Salaries of employees.

28 USC 771.

"§ 771. Clerks

"(a) Based on need each bankruptcy court may appoint a clerk who shall be subject to removal only by the court.

"(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants, and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants, and employees shall be subject to removal only by the clerk with the approval of the court. If there is no clerk, the Bankruptcy Judge shall perform the duties of this subsection.

"(c) The clerk of each bankruptcy court shall reside in the district for which he is appointed. The bankruptcy court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

"(d) A clerk of a bankruptcy court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

"(e) The clerk of each bankruptcy court shall pay into the Treasury all fees, costs and other moneys collected by him, except uncollected fees not required by Act of Congress to be prepaid.

"He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

28 USC 772.

"§ 772. Other employees

"Bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of such employees which may be imposed by law.

28 USC 773.

"§ 773. Records of proceedings; reporters

"(a) The bankruptcy court shall require a record to be made, whenever practicable, of all proceedings in cases had in open court. The Judicial Conference shall prescribe that the record be taken by electronic sound recording means, by a court reporter appointed or employed by such bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of such court designated by such court to take such a verbatim record.

"(b) On the request of a party to a proceeding that has been recorded who has agreed to pay the fee for a transcript, or a judge of the bankruptcy court, a transcript of the original record of the requested parts of such proceeding shall be made and delivered promptly to such party or judge. Any such transcript that is certified shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcript of the proceedings of the bankruptcy court shall be considered as official except those made from certified records.

"(c) Fees for transcripts furnished in proceedings to persons permitted to appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

"§ 774. Power to appoint 28 USC 774.

"Whenever a majority of the bankruptcy judges of any bankruptcy court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

"§ 775. Salaries of employees 28 USC 775.

"The salary of an individual appointed or employed under section 771(a), 772, or 773(a) of this title shall be the same as the salary of an individual appointed or employed under section 751(a), 752, or 753(a) of this title, as the case may be. The salaries of individuals appointed under section 771(b) of this title shall be comparable to the salaries of individuals appointed under section 751(b) of this title.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50. Bankruptcy Courts..... 771".

SEC. 234. Section 957(a) of title 28 of the United States Code is amended by inserting "or bankruptcy court" immediately after "district court".

SEC. 235. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1166 of title 11, a".

SEC. 236. (a) Chapter 83 of title 28 of the United States Code is amended by inserting immediately after section 1292 the following:

"§ 1293. Bankruptcy appeals 28 USC 1293.

"(a) The courts of appeals shall have jurisdiction of appeals from all final decisions of panels designated under section 160(a) of this title.

"(b) Notwithstanding section 1482 of this title, a court of appeals shall have jurisdiction of an appeal from a final judgment, order, or decree of an appellate panel created under section 160 or a District court of the United States or from a final judgment, order, or decree of a bankruptcy court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.". *Post*, p. 2671.

(b) The table of sections of chapter 83 of title 28 of the United States Code is amended by inserting immediately after the item relating to section 1292 the following:

"1293. Bankruptcy appeals.".

SEC. 237. Section 1294 of title 28 of the United States Code is amended—

(1) by striking out "district and territorial" and inserting in lieu thereof "district, bankruptcy, and territorial";

(2) by striking out the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following:

"(5) From a panel designated under section 160(a) of this title to the court of appeals for the circuit in which the panel was so designated;

"(6) From a bankruptcy court of the United States to the court of appeals for the circuit embracing the district in which the bankruptcy court is located.".

SEC. 238. (a) Section 1334 of title 28 of the United States Code is amended to read as follows:

28 USC 1334.

"§ 1334. Bankruptcy appeals

"(a) The district courts for districts for which panels have not been ordered appointed under section 160 of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) The district courts for such districts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

"(c) A district court may not refer an appeal under that section to a magistrate or to a special master.".

(b) The table of sections of chapter 85 of title 28 of the United States Code is amended by striking out the item relating to section 1334 and inserting in lieu thereof the following:

"1334. Bankruptcy appeals.".

SEC. 239. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 240. (a) Chapter 87 of title 28 of the United States Code is amended by adding at the end thereof the following:

28 USC 1408.

"§ 1408. Bankruptcy appeals

Supra.

"An appeal under section 1334 of this title from a judgment, order, or decree of a bankruptcy court may be brought only in the judicial district in which such bankruptcy court is located.".

(b) The table of sections of chapter 87 of title 28 of the United States Code is amended by adding at the end thereof the following:

"1408. Bankruptcy appeals.".

SEC. 241. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 89 the following:

"CHAPTER 90—DISTRICT COURTS AND BANKRUPTCY COURTS

"Sec.
"1471. Jurisdiction.
"1472. Venue of cases under title 11.
"1473. Venue of proceedings arising under or related to cases under title 11.
"1474. Venue of cases ancillary to foreign proceedings.
"1475. Change of venue.
"1476. Creation or alteration of district or division.
"1477. Cure or waiver of defects.
"1478. Removal to the bankruptcy courts.
"1479. Provisional remedies; security.
"1480. Jury trials.
"1481. Powers of bankruptcy court.
"1482. Appeals.

28 USC 1471.

"§ 1471. Jurisdiction

"(a) Except as provided in susbection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

"(c) The bankruptcy court for the district in which a case under title 11 is commenced shall exercise all of the jurisdiction conferred by this section on the district courts.

"(d) Subsection (b) or (c) of this section does not prevent a district court or a bankruptcy court, in the interest of justice, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

"(e) The bankruptcy court in which a case under title 11 is commenced shall have exclusive jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of such case.

§ 1472. Venue of cases under title 11 28 USC 1472.

"Except as provided in section 1474 of this title, a case under title 11 may be commenced in the bankruptcy court for a district—

"(1) in which the domicile, residence, principal place of business, in the United States, or principal assets, in the United States, of the person or entity that is the subject of such case have been located for the 180 days immediately preceding such commencement, or for a longer portion of such 180-day period than the domicile, residence, principal place of business, in the United States, or principle assets, in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1473. Venue of proceedings arising under or related to cases under title 11 28 USC 1473.

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the bankruptcy court in which such case is pending.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the bankruptcy court for the district in which a defendant resides.

"(c) Except as provided in section (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the bankruptcy court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the bankruptcy court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the bankruptcy court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the bankruptcy court in which such case in pending.

28 USC 1474.

"§ 1474. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the bankruptcy court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

Ante, p. 2560.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the bankruptcy court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the bankruptcy court for the district in which is located the principal assets in the United States, of the estate that is the subject of such case.

28 USC 1475.

"§ 1475. Change of venue

"A bankruptcy court may transfer a case under title 11 or a proceeding arising under or related to such a case to a bankruptcy court for another district, in the interest of justice and for the convenience of the parties.

28 USC 1476.

"§ 1476. Creation or alteration of district or division

"Cases or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the case or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

28 USC 1477.

"§ 1477. Cure or waiver of defects

"(a) The bankruptcy court of a district in which is filed a case or proceeding laying venue in the wrong division or district may, in the interest of justice and for the convenience of the parties, retain such case or proceeding, or may transfer, under section 1475 of this title, such case or proceeding to any other district or division.

"(b) Nothing in this chapter shall impair the jurisdiction of a bankruptcy court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

28 USC 1478.

"§ 1478. Removal to the bankruptcy courts

"(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a Government unit to enforce such governmental unit's police or regulatory power, to the bankruptcy court for the district where such civil action is pending, if the bankruptcy courts have jurisdiction over such claim or cause of action.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order under this subsection remanding a claim or cause of action, or a decision not so remanding, is not reviewable by appeal or otherwise.

28 USC 1479.

"§ 1479. Provisional remedies; security

"(a) Whenever any action is removed to a bankruptcy court under section 1478 of this title, any attachment or sequestration of the goods or estate of the defendant in such action shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the court from which the action was removed, unless the attachment or sequestration is invalidated under applicable law.

"(b) Any bond, undertaking, or security given by either party in an action prior to removal under section 1478 of this title shall remain valid and effectual notwithstanding such removal, unless such bond, undertaking, or other security is invalidated under applicable law.

"(c) All injunctions, orders, or other proceedings in an action prior to removal of such action under section 1478 of this title shall remain in full force and effect until dissolved or modified by the bankruptcy court.

"§ 1480. Jury trials 28 USC 1480.

"(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury, in a case under title 11 or in a proceeding arising under title 11 or arising in or related to a case under title 11, that is provided by any statute in effect on September 30, 1979.

"(b) The bankruptcy court may order the issues arising under section 303 of title 11 to be tried without a jury. *Ante*, p. 2559.

"§ 1481. Powers of bankruptcy court 28 USC 1481.

"A bankruptcy court shall have the powers of a court of equity, law, and admiralty, but may not enjoin another court or punish a criminal contempt not committed in the presence of the judge of the court or warranting a punishment of imprisonment.

"§ 1482. Appeals 28 USC 1482.

"(a) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts. *Ante*, p. 2659.

"(b) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.".

(b) The table of chapters of part IV of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 89 the following:

"90. District Courts and Bankruptcy Courts---------- 1471".

SEC. 242. Section 1656 of title 28 of the United States Code is amended by inserting "or in a bankruptcy court" immediately after "a district court".

SEC. 243. Section 1869(f) of title 28 of the United States Code is amended by inserting "chapter 6 of title 28, United States Code," immediately after "chapter 5 of title 28, United States Code,".

SEC. 244. Section 1914(a) of title 28 of the United States Code is amended by striking out "$15" and inserting "$60" in lieu thereof.

SEC. 245. Section 1923(b) of title 28 of the United States Code is amended by inserting "and United States trustees" immediately after "United States attorneys".

SEC. 246. (a) Chapter 123 of title 28 of the United States Code is amended by inserting immediately after section 1929 the following:

"§ 1930. Bankruptcy courts 28 USC 1930.

"(a) Notwithstanding section 1915 of this title, the parties commencing a case under title 11 shall pay to the clerk of the bankruptcy court the following filing fees:

"(1) For a case commenced under chapter 7 or 13 of title 11, $60. *Ante*, pp. 2603, 2645.

"(2) For a case commenced under chapter 9 of title 11, $300. *Ante*, p. 2621.

"(3) For a case commenced under chapter 11 of title 11 that does not concern a railroad, as defined in section 101 of title 11, $200. *Ante*, p. 2625. *Ante*, p. 2549.

Ante, p. 2625.

"(4) For a case commenced under chapter 11 of title 11 concerning a railroad, as so defined, $500.

An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments.

Fees.

"(b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914(b) of this title.

"(c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari $5 shall be paid to the clerk of the bankruptcy court, by the appellant or petitioner.

"(d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.

"(e) The clerk of the bankruptcy court may collect only the fees prescribed under this section.".

(b) The table of sections of chapter 123 of title 28 of the United States Code is amended by adding at the end thereof the following:

"1930. Bankruptcy courts.".

SEC. 247. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

SEC. 248. Section 2107 of title 28 of the United States Code is amended—

(1) by inserting "or the bankruptcy court" immediately after "district court"; and

(2) by striking out the final paragraph.

Ante, pp. 2582, 2641.

SEC. 249. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505 or 1146 of title 11" immediately after "the Internal Revenue Code of 1954".

SEC. 250. (a) Chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

28 USC 2256.

"§ 2256. Habeas corpus from bankruptcy courts

"A bankruptcy court may issue a writ of habeas corpus—

"(1) when appropriate to bring a person before the court—

"(A) for examination;

"(B) to testify; or

"(C) to perform a duty imposed on such person under this title; or

"(2) ordering the release of a debtor in a case under title 11 in custody under the judgment of a Federal or State court if—

"(A) such debtor was arrested or imprisoned on process in any civil action;

"(B) such process was issued for the collection of a debt—

"(i) dischargeable under title 11; or

"(ii) that is or will be provided for in a plan under chapter 11 or 13 of title 11; and

Ante, p. 2645.

"(C) before the issuance of such writ, notice and a hearing have been afforded the adverse party of such debtor in custody to contest the issuance of such writ.".

(b) The table of sections for chapter 153 of title 28 of the United States Code is amended by adding at the end thereof the following:

"2256. Habeas corpus from bankruptcy courts.".

SEC. 251. (a) Rule 1101(a) of the Federal Rules of Evidence is amended by striking out ", referees in bankruptcy,". 28 USC app.

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code".

SEC. 252. Rule 1101(a) of the Federal Rules of Evidence is amended by inserting "the United States bankruptcy courts," immediately after "the United States district courts,".

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)) is amended—

(1) by striking out "sections 402(d) and" and inserting "section" in lieu thereof; and

(2) by inserting "and magistrates" immediately before the semicolon.

SEC. 302. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end thereof the following:

"SEC. 19. (a) Notwithstanding title 11 of the United States Code, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11 of the United States Code, by rule or regulation— 7 USC 24. *Ante*, p. 2603.

"(1) that certain cash, securities, other property, or commodity contracts are to be included in or excluded from customer property or member property;

"(2) that certain cash, securities, other property, or commodity contracts are to be specifically identifiable to a particular customer in a specific capacity;

"(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter;

"(4) any persons to which customer property and commodity contracts may be transferred under section 766 of title 11 of the United States Code; and *Ante*, p. 2619.

"(5) how the net equity of a customer is to be determined.

"(b) As used in this section, the terms 'commodity broker', 'commodity contract', 'customer', 'customer property', 'member property', 'net equity', and 'security' have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11 of the United States Code.". Definitions. *Ante*, p. 2615.

SEC. 303. (a) Subsection (a) of section 4 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499d(a)), is amended by inserting ", unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination" immediately after "bankrupt".

(b) Subsection (e) of section 4 of such Act (7 U.S.C. 499d(e)) is amended by inserting "and if he finds that the circumstances of such bankruptcy warrant such a refusal," immediately after "corporation adjudicated or discharged as a bankrupt,".

SEC. 304. Section 21(a) of the Agricultural Adjustment Act (7 U.S.C. 623(a)) is amended—

(1) by striking out "receivership, and bankruptcy" and inserting "and receivership" in lieu thereof; and

(2) by striking out "bankruptcy," in the second sentence.

SEC. 305. The first section of the Act entitled "An Act to authorize the Secretary of Agriculture to compromise, adjust, or cancel certain indebtedness, and for other purposes." approved December 20, 1944 (58 Stat. 836; 12 U.S.C. 1150), is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States' " and inserting "Bankruptcy Act or under title 11 of the United States Code" in lieu thereof.

SEC. 306. (a) Section 3(a)(7) of the Securities Act of 1933 (15 U.S.C. 77c(a)(7)) is amended by striking out "in bankruptcy" and inserting "or debtor in possession in a case under title 11 of the United States Code" in lieu thereof.

(b) Paragraphs (9) and (10) of section 3(a) of such Act (15 U.S.C. 77c(a) (9) and (10)) are each amended by striking out "Any" and inserting in lieu thereof the following: "Except with respect to a security exchanged in a case under title 11 of the United States Code, any".

SEC. 307. Section 303(18) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(18)) is amended by striking out "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended, whether amended prior to or after the enactment of this title" and inserting "Bankruptcy Act or title 11 of the United States Code" in lieu thereof.

SEC. 308. (a) Section 5(b)(1)(A) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(1)) is amended—

(1) by striking out "the Bankruptcy Act" and inserting "section 101 of title 11 of the United States Code" in lieu thereof;

Ante, p. 2549.

(2) by striking out subparagraph (B) thereof; and

(3) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Section 5(b)(2)(A)(iii) of such Act (15 U.S.C. 78eee(b)(2)(A)(iii)) is amended by striking out "bankruptcy by the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under title 11 of the United States Code" in lieu thereof.

(c) Section 5(b)(2)(B)(iii) of such Act (15 U.S.C. 78eee(b)(2)(B)(iii)) is amended by striking out ", the right of setoff provided in section 68 of the Bankruptcy Act, and" and inserting in lieu thereof "any right of setoff, except to the extent such right may be affected under section 553 of title 11 of the United States Code, and shall not abrogate".

11 USC 108.

Ante, p. 2602.

(d) Section 5(b)(3) of such Act (15 U.S.C. 78eee(b)(3)) is amended by striking out "the applicable provisions of the Bankruptcy Act" and inserting "section 322 of title 11 of the United States Code" in lieu thereof.

Ante, p. 2562.

(e) Section 5(b) of such Act (15 U.S.C. 78eee(b)) is amended by striking out paragraph (4) thereof and inserting in lieu thereof the following:

"(4) REMOVAL TO BANKRUPTCY COURT.—Upon the issuance of a protective decree and appointment of a trustee, or a trustee and counsel, under this section, the court shall forthwith order the removal of the entire liquidation proceeding to the court of the United States in the same judicial district having jurisdiction over cases under title 11 of the United States Code. The latter court shall thereupon have all of the jurisdiction, powers, and duties conferred by this Act upon the court to which application for the issuance of the protective decree was made.".

(f) Section 5(b)(5) of such Act (15 U.S.C. 78eee(b)(5)) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "the Bankruptcy Act governing applications for allowances under such Act" in subparagraph (C) and inserting "title 11 of the United States Code governing applications for allowances under such title";

(3) by striking out "C" in subparagraph (D) and inserting "(B)" in lieu thereof;

(4) by striking out "the Bankruptcy Act" in subparagraph (E) and inserting "section 504 of title 11 of the United States Code" in lieu thereof; and *Ante*, p. 2582.

(5) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(g) Section 6(b) of such Act (15 U.S.C. 78fff(b)) is amended—

(1) by striking out ", the Bankruptcy Act." and all that follows through the end of subsection (b), and inserting in lieu thereof "chapters 1, 3, and 5 and subchapters I and II of chapter 7 of title 11 of the United States Code. For the purposes of applying such title in carrying out this section, a reference in such title to the date of the filing of the petition shall be deemed to be a reference to the filing date under this Act."; and *Ante*, pp. 2549, 2558, 2578, 2604, 2606.

(2) by striking out "Application of Bankruptcy Act" and inserting "Application of Title 11 of the United States Code" in lieu thereof.

(h) Section 6(e) of such Act (15 U.S.C. 78fff(e)) is amended— *Ante*, p. 260.

(1) by striking out "in the Bankruptcy Act" and inserting "in section 726 of title 11 of the United States Code" in lieu thereof; and *Ante*, p. 2608.

(2) by striking out "as a first priority under the Bankruptcy Act" and inserting "under section 507(a)(1) of title 11 of the United States Code" in lieu thereof. *Ante*, p. 2583.

(i) Section 7(a) of such Act (15 U.S.C. 78fff–1(a)) is amended by striking out "bankruptcy under the Bankruptcy Act has with respect to a bankrupt and the property of a bankrupt" and inserting "a case under title 11 of the United States Code" in lieu thereof. *Ante*, p. 260.

(j) Section 7(b) of such Act (15 U.S.C. 78fff–1(b)) is amended by striking out "in bankruptcy" and inserting "in a case under chapter 7 of title 11 of the United States Code, including, if the debtor is a commodity broker, as defined under section 101 of such title, the duties specified in subchapter IV of such chapter 7," in lieu thereof.

(k) Section 7(c) of such Act (15 U.S.C. 78fff–1(c)) is amended by striking out "by the Bankruptcy Act" and inserting "of a trustee in a case under chapter 7 of title 11 of the United States Code" in lieu thereof.

(l) Section 8(a)(1) of such Act (15 U.S.C. 78fff–2(a)(1)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof. *Ante*, p. 261.

(m) Section 8(c)(3) of such Act (15 U.S.C. 78fff–2(c)(3)) is amended by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

(n) Section 10(e) of such Act (15 U.S.C. 78fff–4(e)) is amended— *Ante*, p. 266.

(1) by striking out "Jurisdiction of District Courts" and inserting "Jurisdiction of Bankruptcy Courts" in lieu thereof;

(2) by striking out "district courts of the United States" and inserting "courts of the United States having jurisdiction over cases under title 11 of the United States Code" in lieu thereof; and

(3) by striking out ", without regard to the citizenship of the parties or the amount in the controversy".

Ante, p. 271.

(o) Section 16 of such Act (15 U.S.C. 78lll) is amended—

(1) by striking out paragraph (1) thereof;

(2) by striking out paragraph (8)(A) thereof and inserting in lieu thereof the following:

"(A) if a petition under title 11 of the United States Code concerning the debtor was filed before such date, the term 'filing date' means the date on which such petition was filed;" and

(3) by redesignating paragraphs (2) through (15) thereof as paragraphs (1) through (14), respectively.

SEC. 309. Section 11(f) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(f)) is amended by striking out "bankruptcy" and inserting "case under title 11 of the United States Code" in lieu thereof.

SEC. 310. (a) Section 2(a)(8) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(8)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the Unitde States Code" in lieu thereof.

(b) Section 6(a)(2) of such Act (15 U.S.C. 80a-6(a)(2)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(c) Section 25(d) of such Act (15 U.S.C. 80a-25(d)) is amended by striking out "the Bankruptcy Act of 1898, as amended" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 311. Section 202(a)(5) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(5)) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 312. (a) Section 303(b)(1)(B) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(B)) is amended by striking out "court of bankruptcy under chapter XIII of the Bankruptcy Act" and inserting "court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code" in lieu thereof.

Ante, p. 2645.

(b) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended to read as follows:

"(1) cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.".

11 USC prec. 1.

SEC. 313. Section 201(e) of title 17 of the United States Code is amended by striking out the period at the end thereof and inserting ", except as provided under title 11." in lieu thereof.

18 USC 151 *et seq.*

SEC. 314. (a) Chapter 9 of title 18 of the United States Code is amended—

(1) by striking out "bankrupt" each place it appears and inserting "debtor" in lieu thereof;

(2) by striking out "bankruptcy proceeding" each place it appears and inserting "case under title 11" in lieu thereof;

(3) by striking out "bankruptcy law" each place it appears and inserting "provisions of title 11" in lieu thereof.

(b)(1) Title 18 of the United States Code is amended by striking out section 151 and inserting in lieu thereof the following:

18 USC 151.

"§ 151. Definition

"As used in this chapter, the term 'debtor' mean a debtor concerning whom a petition has been filed under title 11.".

(2) The item relating to section 151 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out "Definitions" and inserting "Definition" in lieu thereof.

(c) Section 152 of title 18 of the United States Code is amended by—

(1) striking out "the receiver," each place it appears and inserting "a" in lieu thereof; and

(2) striking out "document affecting or relating to the property or affairs of a" and inserting in lieu thereof "recorded information, including books, documents, records, and papers, relating to the property or financial affairs of a".

(d)(1) Section 153 of title 18 of the United States Code is amended by striking out "receiver,".

(2) The heading for section 153 of title 18 of the United States Code is amended by striking out **", receiver".**

(3) The item relating to section 153 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out ", receiver".

(e)(1) Section 154 of title 18 of the United States Code is amended—

(A) by striking out "Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or"; and

(B) by striking out "referee, receiver,".

(2) The heading for section 154 of title 18 of the United States Code is amended by striking out **"referees and other".**

(3) The item relating to section 154 in the table of contents for chapter 9 of title 18 of the United States Code is amended by striking out "referees and other".

(f)(1) Section 155 of title 18 of the United States Code is amended—

(A) by striking out the semicolon at the end of the first paragraph thereof and all that follows down through "Shall" and inserting in lieu thereof ", shall";

(B) by inserting "knowingly and fraudulently" immediately after "supervision,"; and

(C) by striking out ", bankruptcy or reorganization proceeding" and inserting "or case under title 11" in lieu thereof.

(2) The heading for section 155 of title 18 of the United States Code is amended by striking out **"bankruptcy proceedings"** and inserting in lieu thereof **"cases under title 11 and receiverships".**

(3) The item relating to section 155 in the table of sections for chapter 9 of title 18 of the United States Code is amended by striking out "bankruptcy proceedings" and inserting "cases under title 11 and receiverships" in lieu thereof.

(g) Section 1961(1)(D) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(h) Section 2516(1)(e) of title 18 of the United States Code is amended by striking out "bankruptcy fraud" and inserting "fraud connected with a case under title 11" in lieu thereof.

(i) Section 3057 of title 18 of the United States Code is amended—

(1) by striking out "referee" each place it appears and inserting "judge" in lieu thereof; and

(2) by striking out "violations of the bankruptcy laws" and inserting "violation under chapter 9 of this title" in lieu thereof.

(j)(1) Section 2256 of title 28 of the United States Code is redesignated as section 3244 of title 18 of the United States Code.

18 USC 3231 *et seq.*

(2) The table of sections of chapter 211 of title 18 of the United States Code is amended by adding at the end thereof the following:

"3244. Jurisdiction of proceedings relating to transferred offenders.".

(k) Section 3284 of title 18 of the United States Code is amended by striking out "bankrupt or other debtor" and inserting "debtor in a case under title 11" in lieu thereof.

(l) Section 6001(4) of title 18 of the United States Code is amended by inserting "a United States bankruptcy court established under chapter 6, title 28, United States Code," immediately after "title 28, United States Code,".

SEC. 315. Section 485(f) of the Tariff Act of 1930 (19 U.S.C. 1485 (f)) is amended by striking out "receiver or trustee in bankruptcy" and inserting "trustee in a case under title 11 of the United States Code" in lieu thereof.

SEC. 316. Section 302(l)(3) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2022(l)(3)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

Repeal.

SEC. 317. Section 439A of part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087-3) is repealed.

SEC. 318. Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by striking out "the priority" and inserting "any priority" in lieu thereof.

SEC. 319. Section 2(1) of the National Labor Relations Act (29 U.S.C. 152(1)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 320. Section 3(d) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402(d)) is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 321. (a) Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended in subsection (f)—

(1) by striking out "bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" and inserting "the United States having jurisdiction over cases under chapter 11 of title 11 of the United States Code" in lieu thereof; and

(2) by striking out "bankruptcy,".

(b) Section 4062(c)(2) of such Act (29 U.S.C. 1362(c)(2)) is amended—

(1) by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof; and

(2) by striking out "the subject of a proceeding under that Act" and inserting "a debtor in a case under chapter 7 of such title" in lieu thereof.

Ante, p. 2603.

(c) Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended—

(1) by striking out "the case of bankruptcy or" and inserting "a case under title 11 of the United States Code or in" in lieu thereof; and

(2) by striking out "the Bankruptcy Act" and inserting "title 11 of the United States Code" in lieu thereof.

SEC. 322. (a) Section 3466 of the Revised Statutes of the United States (31 U.S.C. 191) is amended by adding at the end the following: "The priority established under this section does not apply, however, in a case under title 11 of the United States Code."

(b) Section 3467 of the Revised Statutes of the United States (31 U.S.C. 192) is amended by striking out "Every" and inserting in lieu thereof the following: "Except with respect to a trustee acting in accordance with the provisions of title 11 of the United States Code, every".

(c) Section 3469 of the Revised Statutes of the United States (31 U.S.C. 194) is repealed. Repeal.

(d) Section 3473 of the Revised Statutes of the United States (31 U.S.C. 198) is repealed. Repeal.

(e) Section 3474 of the Revised Statutes of the United States (31 U.S.C. 199) is repealed. Repeal.

(f) The table of sections for title XXXVI of the Revised Statutes of the United States is amended by striking out the items relating to sections 3469, 3473, and 3474.

(g) Section 5256 of the Revised Statutes of the United States (45 U.S.C. 81) is amended by striking out "The laws of the United States providing for proceedings in bankruptcy shall not be held to apply to said corporation.".

SEC. 323. Section 1 of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (54 Stat. 497; 33 U.S.C. 511), is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 324. Subsection (a) of section 17 of the Act of March 4, 1927 (44 Stat. 1434; 33 U.S.C. 917(a)), is repealed. Repeal.

SEC. 325. Section 213 of the Transportation Act, 1920 (40 U.S.C. 316), is amended by striking out "bankruptcy" and inserting "case under title 11 of the United States Code" in lieu thereof.

SEC. 326. Section 7 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2039; 41 U.S.C. 41), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 327 Subsection (g) of section 733 of the Public Health Service Act (42 U.S.C. 294f) is repealed. Repeal.

SEC. 328. Subsection (b) of section 456 of the Social Security Act (42 U.S.C. 656(b)) is repealed. Repeal.

SEC. 329. Section 503 (42 U.S.C. 1473) of the Housing Act of 1949 is amended by striking out "This" and inserting "Except as provided in title 11 of the United States Code, this" in lieu thereof.

SEC. 330. Section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) is amended by striking out "bankruptcy" and inserting "cases under title 11, United States Code" in lieu thereof.

SEC. 331. Section 802(d) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (82 Stat. 81; 42 U.S.C. 3602(d)), is amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof.

SEC. 332. Section 17 of the Boulder Canyon Project Act (43 U.S.C. 617p) is amended by striking out "Claims" and inserting "Except as provided in title 11 of the United States Code, claims" in lieu thereof.

SEC. 333. Subsection (c) of section 3 of the Emergency Rail Services Act of 1970 (54 U.S.C. 662) is repealed. Repeal. 45 USC 662.

SEC. 334. Title IX of the Merchant Marine Act, 1936 (46 U.S.C. 1241 et seq.), is amended by adding at the end thereof the following:

46 USC 1247.

"SEC. 908. (a) Notwithstanding any other provision of law, in any proceeding in a bankruptcy, equity, or admiralty court of the United States in which a receiver or trustee may be appointed for any corporation engaged in the operation of one or more vessels of United States registry between the United States and any foreign country, upon which the United States holds mortgages, the court, upon finding that it will inure to the advantage of the estate and the parties in interest and that it will tend to further the purposes of this Act, may constitute and appoint the Secretary of Commerce as sole trustee or receiver, subject to the directions and orders of the court, and in any such proceeding the appointment of any person other than the Secretary as trustee or receiver shall become effective upon the ratification thereof by the Secretary without a hearing, unless the Secretary shall deem a hearing necessary. In no such proceeding shall the Secretary be constituted as trustee or receiver without the Secretary's express consent.

"(b) If the court, in any such proceeding, is unwilling to permit the trustee or receiver to operate such vessels in such service pending the termination of such proceeding, without financial aid from the Government, and the Secretary certifies to the court that the continued operation of such vessel is, in the opinion of the Secretary, essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes and policy of this Act, the court may permit the Secretary to operate the vessels subject to the orders of the court and upon terms decreed by the court sufficient to protect all the parties in interest, for the account of the trustee or receiver, directly or through a managing agent or operator employed by the Secretary, if the Secretary undertakes to pay all operating losses resulting from such operation, and comply with the terms imposed by the court, and such vessel shall be considered to be a vessel of the United States within the meaning of the Suits in Admiralty Act. The Secretary shall have no claim against the corporation, its estate, or its assets for the amount of such payments, but the Secretary may pay such sums for depreciation as it deems reasonable and such other sums as the court may deem just. The payment of such sums, and compliance with other terms duly imposed by the court, together with the payment of the operating losses, shall be in satisfaction of all claims against the Secretary on account of the operation of such vessels.".

46 USC 741 *et seq.*

SEC. 335. (a) Section 22(a) of the Organic Act of Guam (48 U.S.C. 1424(a)) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 22(b) of such Act (48 U.S.C. 1424(b)) is amended by striking out "30 of the Bankruptcy Act of July 1, 1898, as amended (title 11, U.S.C., sec. 53), in bankruptcy cases;" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code," in lieu thereof.

SEC. 336. (a) Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1612) is amended by inserting "and a bankruptcy court" immediately after "jurisdiction of a district court".

(b) Section 25 of such Act (48 U.S.C. 1615) is amended by striking out "30 of the Bankruptcy Act in bankruptcy cases" and inserting "2075 of title 28, United States Code, in cases under title 11, United States Code" in lieu thereof.

SEC. 337. (a) Section 20c of the Interstate Commerce Act (49 U.S.C. 20c) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

(b) Section 213(a)(3) of such Act (49 U.S.C. 313(a)(3)) is amended—

(1) by striking out "bankruptcy from" and inserting "a case under title 11 of the United States Code from" in lieu thereof; and

(2) by striking out "bankruptcy" and inserting "such case" in lieu thereof.

(c) Section 323 of such Act (49 U.S.C. 922a) is amended by striking out "bankruptcy" and inserting "a case under title 11 of the United States Code" in lieu thereof.

SEC. 338. (a) Section 8339 of title 5 of the United States Code is amended—

(1) by inserting in subsection (f), immediately after "subsections (a)-(e)", the following: "and (o)";

(2) by inserting in subsection (i), immediately after "subsections (a)-(h)", the following "and (o)";

(3) by inserting in subsections (j) and (k)(1), immediately after "subsections (a)-(i)" each time it appears, the following: "and (o)";

(4) by inserting in subsection (l), immediately after "subsections (a)-(k)," the following: "and (o)";

(5) by inserting in subsection (m), immediately after "subsections (a)-(e)", the following: "and (o)";

(6) by adding at the end thereof the following:

"(o) The annuity of an employee who is a bankruptcy judge is computed with respect to service after March 31, 1979 and before April 1, 1984, as a bankruptcy judge and his military service (not exceeding five years) creditable under section 8332 of this title by multiplying 2½ percent of his average annual pay by the years of that service.".

(b) The first sentence of section 8334(c) of title 5, United States Code, is amended by adding at the end thereof the following new schedule:

"Bankruptcy judge---	2½--------	August 1, 1920, to June 30, 1926.
	3½--------	July 3, 1926, to June 30, 1942.
	5----------	July 1, 1942, to June 30, 1948.
	6----------	July 1, 1948, to October 31, 1956.
	6½--------	November 1, 1956, to December 31, 1969.
	7----------	After January 1, 1970.".

(c) Section 8341 of title 5, United States Code is amended—

(1) by inserting in subsection (b)(1), immediately after "section 8339(a)-(i)", the following: "and (o)"; and

(2) by striking out of subsection (d) "section 8339(a)-(f) and (i)" and insert in lieu thereof the following: "section 8339 (a)-(f), (i), and (o)".

(d) Section 8344(a)(A) of title 5, United States Code, is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (o)".

(e) Section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(22) 'bankruptcy judge' means an individual appointed under section 34 of the Bankruptcy Act (11 U.S.C. 62) or under section 404(d) of the Act adding this paragraph— "Bankruptcy judge".

"(A) who is serving as a United States bankruptcy judge on March 31, 1984, and that has agreed by filing a notice of such agreement with the President, the Senate, and the Direc-

tor of the Administrative Office of the United States Courts, to accept an appointment as a judge of a United States bankruptcy court established under section 201 of this Act but that is not appointed by the President as a judge of such court; or

Ante, p. 2657.

"(B) whose service as a United States bankruptcy judge during the transition period is terminated by reason of death or disability.".

TITLE IV—TRANSITION

REPEALER

Repeals.
11 USC prec. 1 note.

SEC. 401. (a) The Bankruptcy Act is repealed.

(b) Section 3 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved March 3, 1933 (47 Stat. 1482; 11 U.S.C. 101a), is repealed.

(c) Sections 3, 6, and 7 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States, approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 923, 924; 11 U.S.C. 76a, 203a, 205a), are repealed.

(d) The sentence beginning "Said section 74" in section 2 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 924; 11 U.S.C. 103a), is repealed.

11 USC 202a.

(e) Subsection (b) of section 4 of the Act entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved June 7, 1934 (48 Stat. 924; 11 U.S.C. 103a), is repealed.

(f) Section 2 of the Act entitled "An Act to amend the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended and supplemented", approved June 5, 1936 (49 Stat. 1476; 11 U.S.C. 93a), is repealed.

(g) Section 3 of the Act entitled "An Act to amend the Interstate Commerce Act, as amended, and for other purposes", approved April 9, 1948 (62 Stat. 167; 11 U.S.C. 208), is repealed.

EFFECTIVE DATES

11 USC prec. 101 note.

SEC. 402. (a) Except as otherwise provided in this title, this Act shall take effect on October 1, 1979.

Ante, p. 2657.

(b) Except as provided in subsections (c) and (d) of this section, the amendments made by title II of this Act shall take effect on April 1, 1984.

Ante, pp. 2661, 2662.

(c) The amendments made by sections 210, 214, 219, 220, 222, 224, 225, 228, 229, 235, 244, 245, 246, 249, and 251 of this Act shall take effect on October 1, 1979.

Ante, pp. 2661, 2662.

(d) The amendments made by sections 217, 218, 230, 247, 302, 314(j), 317, 327, 328, 338, and 411 of this Act shall take effect on the date of enactment of this Act.

(e) The amendments made by sections 335(a) and 336(a) of this Act shall take effect on April 1, 1984.

SAVINGS PROVISIONS

SEC. 403. (a) A case commenced under the Bankruptcy Act, and all matters and proceedings in or relating to any such case, shall be conducted and determined under such Act as if this Act had not been enacted, and the substantive rights of parties in connection with any such bankruptcy case, matter, or proceeding shall continue to be governed by the law applicable to such case, matter, or proceeding as if the Act had not been enacted. 11 USC prec. 101 note.

(b) Notwithstanding subsection (a) of this section, sections 1165, 1167, 1168, 1169, and 1171 of title 11 of the United States Code, as enacted by section 101 of this Act, apply to cases pending under section 77 of the Bankruptcy Act (11 U.S.C. 205) on the date of enactment of this Act in which the trustee has not filed a plan of reorganization. *Ante*, pp. 2641–2643. *Ante*, p. 2549.

(c) The repeal made by section 401(a) of this Act does not affect any right of a referee in bankruptcy, United States bankruptcy judge, or survivor of a referee in bankruptcy or United States bankruptcy judge to receive any annuity or other payment under the civil service retirement laws.

(d) The amendments made by section 314 of this Act do not affect the application of chapter 9, chapter 96, section 2516, section 3057, or section 3284 of title 18 of the United States Code to any act of any person— 18 USC 151 *et seq.*, 1961 *et seq.*

(1) committed before October 1, 1979; or

(2) committed after October 1, 1979, in connection with a case commenced before such date.

(e) Notwithstanding subsection (a) of this section, a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, to the extent that such fee exceeds $100,000. 11 USC 68.

COURTS DURING TRANSITION

SEC. 404. (a) The courts of bankruptcy, as defined under section 1(10) of the Bankruptcy Act, created under section 2a of the Bankruptcy Act, and existing on September 30, 1979, shall continue through March 31, 1984, to be the courts of bankruptcy for the purposes of this Act and the amendments made by this Act. Each of the courts of bankruptcy so continued shall constitute a separate department of the district court that is such court of bankruptcy under the Bankruptcy Act. 28 USC prec. 151 note. 11 USC 1. 11 USC 11.

(b) The term of a referee in bankruptcy who is serving on the date of enactment of this Act is extended to and expires on March 31, 1984 or when his successor takes office. During the period commencing on October 1, 1979, and ending on March 31, 1984 (hereinafter in this title referred to as "the transition period"), unless such referee is found to be not qualified by the Chief Judge of the Circuit Court after consultation with a merit screening committee established as provided in subsection (c) of this section, such a referee in bankruptcy upon the expiration of his appointed term as referee shall have the title of United States bankruptcy judge, and shall serve in the court of bankruptcy continued under subsection (a) of this section that appointed such United States bankruptcy judge, in the manner prescribed by this title. Section 8335(a) of title 5 of the United States Code shall not apply in respect of United States bankruptcy judges during the transition period. Referee.

State merit screening committee, establishment.

(c) There shall be established for each State a merit screening committee composed of the president or the designee of the president of the State bar association, the dean or the designee of the dean of a law school located within the State, and the president or designee of the president of a local bar association for the area wherein a referee in bankruptcy maintains his official headquarters within the State. Each such merit screening committee shall be organized and summoned to meetings by the circuit executive for the circuit embracing the State, who shall serve as secretary of each such screening committee established within the circuit. Before the expiration of the term of a referee in bankruptcy in office on the date of enactment of this Act, or if his successor has not been appointed before the date of enactment of this Act, a merit screening committee shall be organized by the circuit executive to pass on the qualifications of such referee for the purpose of determining whether the term of such referee shall be extended as provided under subsection (b) of this section.

(d) Except as otherwise provided in this section or in section 407 of this Act, matters relating to the office of United States bankruptcy judges and to United States bankruptcy judges shall continue to be governed during the transition period by the rules set forth in sections 34, 35, 36, 40a, 40b, 40d, 41, and 43 of the Bankruptcy Act as such Act existed on September 30, 1979. A court of bankruptcy may not appoint an individual under such section 34 if the merit screening committee established under subsection (c) of this section for the district of such court finds such individual to be not qualified.

(e) During the transition period, the United States bankruptcy judges of each district may appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of a United States bankruptcy court established under section 201 of this Act may appoint such officers and employees under the amendment made by section 233 of this Act. Such clerk, other employees, and reporters shall have the same rights and powers, shall perform the same functions and duties and shall be subject to the same provisions of title 28 of the United States Code, as a clerk, other employee, or reporter, as the case may be, appointed under the amendment made by section 233 of this Act by a United States bankruptcy court established under section 201 of this Act. The United States bankruptcy judges of each district shall have the same rights and powers as a United States bankruptcy court established under section 201 of this Act with respect to such clerk, other employees, and reporters.

Ante, p. 2657.
Ante, p. 2665.

(f) During the transition period, the provisions of sections 455, 456, 569(a), 571(b), 620(b)(3), and 957(a) of title 28 of the United States Code shall apply to United States bankruptcy judges and to any court officers or employees appointed or employed under subsection (e) of this section the same as such sections apply to the bankruptcy judges, and to any court officers or employees, of a United States bankruptcy court established under section 201 of this Act. During the transition period, the position of United States bankruptcy judge shall be deemed to be a position within the purview of subparagraph (C) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)).

(g) During the transition period, the Judicial Conference of the United States may from time to time in the light of the recommendations of the judicial councils of each circuit, made after advising with the district judges and the United States bankruptcy judges of the respective circuit, and of the Director of the Administrative Office of the United States Courts, increase the number of

full-time United States bankruptcy judges, or provide that a part-time United States bankruptcy judge for a particular district may serve in the capacity and receive the salary of a full-time United States bankruptcy judge, as the expeditious transaction of the business of the several courts of bankruptcy may require.

JURISDICTION AND PROCEDURE DURING TRANSITION

SEC. 405. (a)(1) All cases commenced under title 11 of the United States Code during the transition period shall be referred to the United States bankruptcy judges. The United States bankruptcy judges may exercise in such cases the jurisdiction and powers conferred by subsection (b) of this section on the courts of bankruptcy continued by section 404(a) of this Act, and all proceedings in such cases shall be before the United States bankruptcy judges, except— 28 USC prec. 1471 note.

(A) a proceeding to enjoin a court;

(B) a proceeding to punish a criminal contempt—

(i) not committed in the bankruptcy judge's actual presence; or

(ii) warranting a punishment of imprisonment; or

(C) an appeal from a judgment, order, decree, or decision of a United States bankruptcy judge.

(2) Except as provided in subsection (c) of this section, any proceeding in a court of bankruptcy in a case under title 11 of the United States Code that is not before the United States bankruptcy judge shall be before the judge of the court of bankruptcy for the district in which such case is pending.

(b) During the transition period, the amendments made by sections 241, 243, 250, and 252 of this Act shall apply to the courts of bankruptcy continued by section 404(a) of this Act the same as such amendments apply to the United States bankruptcy courts established under section 201 of this Act. *Ante*, p. 2657.

(c)(1) During the transition period, an appeal from a judgment, order, or decree of a United States bankruptcy judge shall be—

(A) if the circuit council of the circuit in which the bankruptcy judge sits so orders for the district in which the bankruptcy judge sits, then to a panel of three bankruptcy judges appointed in the manner prescribed by section 160 of title 28 of the United States Code, as added by section 201 of this Act; *Ante*, p. 2659.

(B) if the parties to the appeal agree to a direct appeal to the court of appeals for such circuit, then to such court of appeals; or

(C) to the district court for the district in which the bankruptcy judge sits.

(2) During the transition period, the jurisdiction of the district courts, the courts of appeals, and panels of bankruptcy judges to hear appeals shall be the same as the jurisdiction of such courts and panels granted under the amendments made by sections 236, 237, 238, and 241 of this Act to hear appeals from the judgments, orders, and decrees of the bankruptcy courts established under section 201 of this Act.

(d) The rules prescribed under section 2075 of title 28 of the United States Code and in effect on September 30, 1979, shall apply to cases under title 11, to the extent not inconsistent with the amendments made by this Act, or with this Act, until such rules are repealed or superseded by rules prescribed and effective under such section, as amended by section 248 of this Act.

TRANSITION STUDY

28 USC prec. 151 note.

Sec. 406. (a)(1) During the transition period, the Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine—

(A) the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act that will be needed after March 31, 1984, to provide for the expeditious and effective administration of justice; and

Ante, p. 2657.

(B) the regular places of offices and the places at which courts shall be held.

(2) In the course of any survey, the Director shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the average number and types of bankruptcy cases filed and closed during the transition period, the number of cases pending and judicial matters heard, and any other material factors. The Director shall give consideration to suggestions from any interested parties.

Report.

(b) Upon completion of the studies and surveys required by subsection (a) of this section, the Director shall report to the judicial councils of the circuits and the Judicial Conference of the United States his recommendations concerning the number of bankruptcy judges, their principal places of offices, and the places where court shall be held. The judicial councils shall advise the Conference, stating their recommendations and the reasons therefor. The Conference shall recommend to the Congress and to the President, before January 3, 1983, in light of the recommendations of the Director and the judicial councils, the number of bankruptcy judges of the United States bankruptcy courts established under section 201 of this Act that will be needed after March 31, 1984, and the locations at which they shall serve.

Recommendations to Congress and President.

JUDICIAL ADMINISTRATION

28 USC prec. 151 note.

Sec. 407. (a) The Director of the Administrative Office of the United States Courts shall appoint a committee of not fewer than seven United States bankruptcy judges to advise the Director with respect to matters that arise during the transition period or that are relevant to the purposes of the transition period.

(b) During the transition period, the Congress strongly recommends at least one-third of the members of any committee of the Judicial Conference of the United States that is concerned with the administration of the bankruptcy system shall be chosen from among the United States bankruptcy judges, and at least one member of any committee of the Judicial Conference that is concerned with court administration, supporting personnel, or bankruptcy court rules shall be chosen from among the United States bankruptcy judges.

(c) During the transition period, the chief judge of each circuit shall summon at least one bankruptcy judge from each judicial district within the circuit to the judicial conference of such circuit called and held under section 332 of title 28 of the United States Code.

UNITED STATES TRUSTEE PILOT

Studies and surveys. Report to Congress, President, and the Judicial Conference of the United States. 28 USC prec. 581 note.

SEC. 408. (a) The Attorney General shall conduct such studies and surveys as necessary to evaluate the needs, feasibility, and effectiveness of the United States trustee system, and shall report the result of such

studies and surveys to the Congress, the President, and the Judicial Conference of the United States, beginning on or before January 3, 1980, and annually thereafter during the transition period.

(b) Not later than January 3, 1984, the Attorney General shall report to the Congress, to the President, and the Judicial Conference of the United States, as to the feasibility, projected annual cost and effectiveness of the United States trustee system, as determined on the basis of the studies and surveys respecting the operation of the United States trustee system in the districts, together with recommendations as to the desirability and method of proceeding with implementation of the United States trustee system in all judicial districts of the United States.

Report to Congress, President, and the Judicial Conference of the United States.

(c) Chapter 15 of title 11 of the United States Code and chapter 39 of title 28 of the United States Code are repealed, and all references to the United States trustee contained in title 28 of the United States Code are deleted, as of April 1, 1984. The service of any United States trustee, of any assistant United States trustee, and of any employee employed or appointed under the authority of such chapter 39 is terminated on such date.

Repeal.
11 USC 1501 *et seq.*
Ante, p. 2662.

TRANSFER TO NEW COURT SYSTEM

SEC. 409. (a) On April 1, 1984, there shall be transferred to the appropriate United States bankruptcy court established under section 201 of this Act—

28 USC prec. 1471 note.
Ante, p. 2657.

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending, at the end of September 30, 1983, in the courts of bankruptcy continued under section 404(a) of this Act, other than cases, and matters and proceedings in cases, under—

11 USC prec. 1 note.

(A) section 77 or chapter IX of the Bankruptcy Act; or

11 USC 205, 401 *et seq.*

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect; and

11 USC 501 *et seq.*

(2) cases, and proceedings arising under or related to cases, under title 11 of the United States Code that are pending, at the end of March 31, 1984, in the courts of bankruptcy continued under section 404(a) of this Act.

11 USC 517.

(b) Civil actions pending on March 31, 1984, over which a United States bankrupcty court established under section 201 of this Act has jurisdiction on April 1, 1984, shall not abate, but continuation of any such action that has not been finally determined before April 1, 1985, may be enjoined, and any claims or causes of actions not resolved may be removed to a bankruptcy court under chapter 90 of title 28 of the United States Code.

(c) All Government publications, law books, recording equipment, and other property furnished to bankruptcy judges' offices as of March 31, 1984, and of particular use to the offices of the judges of the United States bankruptcy courts, shall be transferred to the United States bankruptcy courts under the supervision of the Director of the Administrative Office of the United States Courts.

ADDITIONAL RULEMAKING POWER

SEC. 410. The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new bankruptcy court system created by this Act.

28 USC prec. 1471 note.

SEC. 411. Section 40a of the Bankruptcy Act (11 U.S.C. 68(a)) is amended by striking out "$37,800" and inserting "$50,000" in lieu thereof, and by striking out "$18,900" and inserting "$25,000" in lieu thereof.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-595 (Comm. on the Judiciary).
SENATE REPORTS: No. 95-989 accompanying S. 2266 (Comm. on the Judiciary) and No. 95-1106 accompanying S. 2266. (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 27, 28, considered in House.
Vol. 124 (1978): Feb. 1, considered and passed House.
Sept. 7, considered and passed Senate, amended, in lieu of S. 2266.
Sept. 22, passage vitiated; amendment in the nature of a substitute agreed to by Senate.
Sept. 28, House concurred in Senate amendment with an amendment.
Oct. 5, Senate concurred in House amendment with an amendment.
Oct. 6, House concurred in Senate amendment.

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-FIFTH CONGRESS
OF THE UNITED STATES OF AMERICA

1978

AND

PROCLAMATIONS

VOLUME 92

IN THREE PARTS

PART 3

PUBLIC LAWS 95–599 THROUGH 95–633,
REORGANIZATION PLANS,
PROPOSED AMENDMENT TO THE CONSTITUTION,
JOINT RESOLUTION, PRIVATE LAWS,
CONCURRENT RESOLUTIONS AND PROCLAMATIONS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1980

PUBLIC LAWS

(CONTINUED)

Public Law 95-599
95th Congress

An Act

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

Nov. 6, 1978
[H.R. 11733]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

Surface Transportation Assistance Act of 1978.
23 USC 101 note.

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

Federal-Aid Highway Act of 1978.
23 USC 101 note.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1983, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1990.".

23 USC 101 note.

(b) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding at the end thereof the following: "Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors

23 USC 104 note.

contained in revised table 5 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

Appropriation authorization.

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $1,550,000,000 for the fiscal year ending September 30, 1979, $1,700,000,000 for the fiscal year ending September 30, 1980, $1,800,000,000 for the fiscal year ending September 30, 1981, and $1,500,000,000 for the fiscal year ending September 30, 1982. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $500,000,000 for the fiscal year ending September 30, 1979, $550,000,000 for the fiscal year ending September 30, 1980, $600,000,000 for the fiscal year ending September 30, 1981, and $400,000,000 for the fiscal year ending September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For the forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal

year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(12) For carrying out section 215(a) of title 23, United States Code— 23 USC 215 note.

(A) for the Virgin Islands, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code. 23 USC 101 *et seq.*

(13) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(14) For the Northeast corridor demonstration program under section 322 of title 23, United States Code, $45,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980.

(15) For the Great River Road $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(16) For control of outdoor advertising under section 131 of title 23, United States Code $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(17) For safer off-system roads under section 219 of title 23, United States Code, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate Sys- 23 USC 104 note.

tem in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

87 Stat. 278.

(2) In addition to funds otherwise authorized, $85,000,000, out of the Highway Trust Fund, is hereby authorized for the purpose of completing routes designated under the urban high density traffic program prior to May 5, 1976. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such $125,000,000 of each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for primary system routes, and available for obligation for the same periods as such apportionment.

(d)(1) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

Appropriation authorization.

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 per fiscal year for each of the fiscal years ending September 30, 1982 and September 30, 1983. Such sums shall be obli-

Excess funds, certification and transfer.

gated for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not on toll roads, except that where a State certifys to the Secretary that any part of such sums are excess to the needs of such State for resurfacing, restoring or rehabilitating Interstate System lanes and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1). Such sums may also be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.

Toll roads, agreement.

Federal assistance, repayment.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in section 101(a) of title 23 of the United States Code is amended by adding at the end thereof the following new sentence: "The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.".

(b)(1) The definition of "forest road or trail" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest or trail' means a road or trail wholly or partly within, or adjacent to, and serving the Natonal Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.".

(2) The definition of "forest development roads and trails" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service.".

(3) The definition of "forest highway" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.".

(4) Section 101(a) of title 23, United States Code, is amended by adding after the definition of the term "Federal-aid highways" the following new definition:

"The term 'highway safety improvement project' means a project which corrects or improves high hazard locations, eliminates roadside

obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.".

COMPLETION OF INTERSTATE SYSTEM

SEC. 107. (a)(1) The fourth and fifth sentences of paragraph (2) of subsection (e) of section 103, of title 23, United States Code, are amended to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

Federal share.

(2) The fourth sentence of section 103(e)(4) of title 23, United States Code, is amended to read as follows: "The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof.".

(b) Paragraph (4) of subsection (e) of section 103, title 23, United States Code, is amended by inserting immediately after the second sentence the following: "Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction", and by adding at the end of such paragraph the following new sentences: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law."

49 USC 1602.

Contracts and agreements, revisions.
23 USC 103 note.

(c) The amendment made by subsection (a) of this section shall apply to each route or portion thereof designated under section 103 (e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.

Environmental impact statement, requirement.
23 USC 103 note.

(d) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

42 USC 4321 note.

Contract requirement.
23 USC 103 note.

(e) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) and all Interstate substitute projects pursuant to subsection (e)(4) of section 103 of title 23, United States Code (for which the Secretary finds that sufficient Federal funds are available) must be under contract for con-

struction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection and in the case of a substitute project the Secretary shall withdraw approval and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code. Noncompliance.

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out "In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System so long as said sums were applied to a transportation project permissible under this title.".

(B) by redesignating paragraph (5) as paragraph (7); and

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection. 23 USC 103 note.

INTERSTATE COST ESTIMATES

SEC. 108. Section 104(b)(5)(A) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

TRANSFERABILITY

SEC. 109. (a) Paragraph (1) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "40" each place it appears and inserting in lieu thereof at each such place "50".

(b) Paragraph (2) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "20" each place it appears and inserting in lieu thereof at each such place "50".

REPORT OF OBLIGATIONS

Monthly submittals to Congress.

SEC. 110. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.".

PROGRAM REQUIREMENTS

Selection, consultation.

SEC. 111. Subsection (b) of section 105 of title 23, United States Code, is amended to read as follows:

"(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.".

PROGRAMS

SEC. 112. Subsection (g) of section 105 of title 23, United States Code, is amended by striking out "public airports and public ports for water transportation," and inserting in lieu thereof "public airports, public ports for water transportation, new town communities, and new town-intown communities,".

UTILITIES ON RIGHTS-OF-WAY

SEC. 113. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) (1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

"(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect any aspect of safety;

"(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

"(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

"(2) For the purpose of this subsection— Definitions.

"(A) the term 'utility facility' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

"(B) the term 'right-of-way' means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.".

ACCESS TO RIGHTS-OF-WAY

SEC. 114. Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

SEC. 115. (a) Section 118(b) of title 23, United States Code, is amended by striking the second and third sentences and inserting in lieu thereof the following sentences: "Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) in the case of construction work, begin work within ninety days of obligation. Sums made available under this subsection shall remain available until expended. Sums apportioned, availability.

Bond retirement, payment to States.

(b) Section 122 of title 23, United States Code, is amended by striking out "the retirement of the principal of such bonds", and by inserting in lieu thereof the following: "the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System"; and by striking out "This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds." and inserting in lieu thereof the following: "This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.".

23 USC 122 note.

(c) No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act, unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.

Certification.

INTERSTATE RESURFACING

SEC. 116. (a) Chapter 1 of title 23 of the United States Code is amended by inserting immediately after section 118 the following new section:

23 USC 119.

"§ 119. Interstate System resurfacing

Project approval.

"(a) Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(a) of this title.

Ante, p. 2692.

Post, p. 2699.
23 USC 120.

Program, certification and compliance.

"(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on October 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the

Post, p. 2699.

Apportionment reduction, determination.

Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the funds apportioned to such State for that fiscal year for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.".

(b) The material following the colon in section 104(b)(5)(B) of title 23, United States Code, is amended to read as follows:

"Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.". *Ante*, p. 2692.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"119. Repealed."

and inserting in lieu thereof:

"119. Interstate System resurfacing.".

(d) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following subsection: Interstate System maintenance, guidelines.

"(m) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.".

TRAFFIC CONTROL SIGNALIZATION

SEC. 117. Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization,".

ADVANCES TO STATES

SEC. 118. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary Determination. 23 USC 129.

shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

23 USC 129.

Federal share excess, repayment.

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.".

Interest rate.

23 USC 103.

EMERGENCY RELIEF

SEC. 119. The second sentence of subsection 125(a) of title 23, United States Code, is amended by—

(1) inserting the words "prior to the fiscal year ending September 30, 1978," immediately after "(2)"; and

(2) inserting the following words before the period at the end of the sentence: ", and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund".

TOLL BRIDGES STUDY

Federal funding.

SEC. 120. Section 129 of title 23, United States Code, is amended by adding a new subsection (i) as follows:

23 USC 301.

"(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a state or political subdivision thereof."

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 121. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the Interstate

System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.". "Free coffee."

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (g) of section 131, title 23, United States Code, is amended by striking the period at the end of the first sentence and adding the following "and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.".

(b) Subsection (k) of section 131, title 23, United States Code, is amended by striking the first word and inserting in lieu thereof the following: "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing".

(c) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices," the following: "including those which may be changed at reasonable intervals by electronic process or by remote control,".

(d) Subsection (j) of section 131 of title 23, United States Code, is amended by inserting immediately after "agreement" at the end of the first sentence, the following: ": *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder.".

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 123. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereunder referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory. Inventory, consultation. 23 USC 141 note. Annual report.

(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory. Inventory, consultation. Annual report.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation. "Special permit."

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits Annual report and recommendations to Congress.

required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of requirements.

Certifications.

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

23 USC 154.
23 USC 106.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

23 USC 127.

State verification information, regulations.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

Funds, reduction and witholding.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

23 USC 104.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.".

23 USC 141 note.

(e) Section 141(c) (2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

SEC. 124. (a) Section 144 of title 23 of the United States Code is amended to read as follows:

"§ 144. Highway bridge replacement and rehabilitation program

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

"(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge. Inventory, consultation. Classification. Cost determination.

"(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge. Inventory, consultation. Classification. Cost determination.

"(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance. Inventory.

"(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing or rehabilitating such bridge with a comparable facility. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure. Assistance to States, approval. Eligibility determination.

"(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives. Funds, apportionment.

"(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof. Federal share.

"(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years Appropriation authorization.

ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal aid system when he determines that such State has inadequate needs to justify such expenditure.

Reduction, consultation.

"(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

33 USC 525.
33 USC 401.

Annual reports.

"(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

"(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

Review.

"(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

Report and legislative recommendations to Congress.

"(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for

assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

"(m) As used in this section the term 'rehabilitate' in any of its forms means major repairs necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.". "Rehabilitate."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"144. Special bridge replacement program."

and inserting in lieu thereof:

"144. Highway bridge replacement and rehabilitation program.".

(c) The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section. 23 USC 144 note.

(d) Subsection (d) of section 116 of title 23, United States Code, is amended (1) by striking out "on any of the Federal-aid highway system" at the end of the first sentence, and (2) by striking out "on the Federal-aid system" at the end of the last sentence.

SPUR HIGHWAYS—GREAT RIVER ROAD

SEC. 125. (a) Section 148 of title 23, United States Code, is amended by adding at the end thereof the following new subsection: Construction authorization.

"(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.".

(b) Section 148(a)(5) of title 23, United States Code, is amended to read as follows:

"(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.".

CARPOOLS AND VANPOOLS

SEC. 126. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 145 the following new section:

"§ 146. Carpool and vanpool projects 23 USC 146.

"(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing

23 USC 104.
"Carpool."

highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term 'carpool' includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

Repeals.
23 USC 101 note.
23 USC 101 note.
23 USC 101 note.

(b) Section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239), section 120 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643), and section 143 of the Federal-Aid Highway Act of 1976 (Public Law 94-280), are repealed.

49 USC 303.

(c) Section 203(b)(7a) of part II of the Interstate Commerce Act is amended by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

23 USC 146 note.
Assistance.

(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

Grants and loans.
Federal share.

(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

Appropriation authorization.

(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code, which will have an adverse effect on any mass transportation system.

(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980. Administration study and plan. Submittal to Congress.

PAVEMENT MARKING

SEC. 127. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.". Funds, allocation.

BRIDGES ON DAMS

SEC. 128. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$50,000,000" and inserting in lieu thereof "$65,000,000".

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years. 23 USC 320 note.

FEDERAL SHARE

SEC. 129. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "75 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(d) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(e) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(f) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "100 per centum".

(g) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not exceed 70 per centum" and inserting in lieu thereof "section shall not exceed 75 per centum".

23 USC 120 note.

(h) The amendments made by subsections (a) through (g) of this section shall take effect with respect to obligations incurred after the date of enactment of this section.

Federal share.

(i) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.".

BALTIMORE-WASHINGTON PARKWAY

84 Stat. 1739.

SEC. 130. Section 146(a) of the Federal-Aid Highway Act of 1970 is amended (1) by striking out "to six lanes" and (2) by striking out "for the National System of Interstate and Defense Highways" and inserting in lieu thereof a comma and "agreed upon by the Secretary of Transportation and the Secretary of Transportation of the State of Maryland, which preserve the Parkway characteristics".

MULTIMODAL CONCEPT

87 Stat. 272.

SEC. 131. Section 143 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the report submitted to Congress under subsection (b) of this section, the Secretary of Transportation is authorized to provide for the preparation of preliminary engineering and design plans and the construction of models in connection with the development of the multimodal concept along the route described in paragraph (1) of subsection (a) of this section. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $9,000,000 to carry out this subsection.".

Appropriation authorization.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

23 USC 142 note.

SEC. 132. Subsection (a) of section 147 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.".

FRANCONIA NOTCH, NEW HAMPSHIRE

Appropriation authorization.

SEC. 133. Section 158 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "Upon approval by the Secretary of such Franconia Notch parkway, there is authorized

to be appropriated to the State of New Hampshire, out of the Highway Trust Fund, an amount equal to 90 per centum of the difference between the cost of such parkway as established in the 1979 Interstate System cost estimate and the cost of constructing a four-lane Interstate System highway at that location as such cost would be established in such 1979 cost estimate if such Interstate System highway were to be constructed. The funds authorized by the preceding sentence shall be available only for expenditure on highways on any of the Federal-aid highway systems, other than the Interstate System, which serve as alternative routes around Franconia Notch. Such funds shall be available in the same manner and to the same extent as any of the funds authorized by section 104(b)(1) of the Federal-Aid Highway Act of 1978, shall be available until expended, and shall be subject to all other applicable provisions of chapter 1 of title 23, United States Code.". *Ante*, p. 2691.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 134. (a)(1) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by adding immediately after subsection (l) the following new subsection: 23 USC 130 note.

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.".

(2) Existing subsections (m), (n), (o), and (p) of such section 163 are relettered as (n), (o), (p), and (q), respectively, including any references thereto.

(b) Subsection (n) (as relettered by this section) of section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended to read as follows:

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.".

(c) Subsection (p) (relettered by this section) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: $51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, except that". Federal share.

(d) Title III of the National Mass Transportation Systems Act of 1974 (Public Law 93-503) is hereby repealed. Repeal. 49 USC 1605 note.

OVERSEAS HIGHWAY

SEC. 135. Section 118(b) of the Federal-Aid Highway Amendments of 1974 (88 Stat. 2288, Public Law 93-643), as amended, is amended by striking "$109,200,000" and inserting in lieu thereof "$118,000,000".

ACCELERATION OF PROJECTS

SEC. 136. Section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444-445) is amended by adding at the end thereof the following new sentence: "Not later than six months after the completion of Report to Congress. 23 USC 124 note.

such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.".

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SEC. 137. (a) Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979,".

23 USC 101 note.

Expenses.

(b)(1) Subsection (h)(1) of section 154 of the Federal Aid Highway Act of 1976 is amended by inserting after the second sentence thereof the following new sentence: "The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on May 5, 1976.

APPALACHIAN DEVELOPMENT HIGHWAYS

Federal share.

40 USC app. 201.

SEC. 138. (a) Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"(f) Federal assistance to any construction project under this section shall not exceed 80 per centum of the costs of such project.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking out "two thousand nine hundred miles." and inserting in lieu thereof "three thousand and twenty-five miles.".

40 USC app. 201 note.

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially zoned area containing not less than seventy commercial and industrial establishments which is authorized under section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway.

33 USC 701s.

Federal share.

USE OF TOLL RECEIPTS

SEC. 139. The second sentence of subsection (b) of section 2 of the Act entitled "An Act granting the consent of Congress to the State of

California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and new approaches to the San Mateo Bridge in the San Francisco Bay Area.". 46 Stat. 1192.

ROUTE DESIGNATION

SEC. 140. Notwithstanding the amendments made by section 107(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of enactment of this Act, designate as routes on the National System of Interstate and Defense Highways 20.5 miles of existing State Route 11 in the city of Los Angeles, California, between FAI Route 10 and State Route 47 /Community of San Pedro, 4.2 miles of the proposed Lockport Expressway in the town of Amherst, Erie County, New York, and 5.1 miles of proposed Interstate Route I-481, connecting Exit 34-A of I-90 to the Bear Road Interchange of I-81 in Onondaga County, New York.

BICYCLE PROGRAM

SEC. 141. (a) For the purposes of this section, the term— Definitions. 23 USC 217 note.

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a new or improved lane, path, or shoulder, a traffic control device, lighting, or a shelter or parking facility for bicycles;

(3) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(b) The Secretary shall, by regulation, establish design and construction standards for bikeway construction projects for which grants are authorized in subsection (c) and section 217 of title 23, United States Code. Such regulations shall contain criteria for pavements, adequate widths, sight distances and lighting: appropriate design speeds and grades; and such other requirements as the Secretary may deem necessary. Bikeway design and construction standards, regulations.

(c) The Secretary is authorized to make grants to States and to political subdivisions thereof for (1) the construction of bikeways which (A) comply with regulations promulgated pursuant to subsection (b), or (B) prior to promulgation of such regulations, reflect current state of the Art design standards, or (2) nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles. Projects in urban areas financed with grants under this subsection shall be in accordance with the continuing, comprehensive planning process in section 134 of title 23, United States Code. Grants.

(d) The Federal share of any project or program for which a grant is made under subsection (c) shall not exceed 75 per cent. Federal share.

(e) Grants made under this section shall be in addition to any sums available for bicycle projects under section 217 of title 23, United States Code.

(f) Section 109(f) of title 23, United States Code, is amended by adding after the words "median strips,", the following: "bikeways,".

(g) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.".

Construction.

(h) Section 217(a) of title 23, United States Code, is amended to read as follows:

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles; and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.".

23 USC 104.

Appropriation authorization.
23 USC 217 note.

(i) There is authorized to be appropriated to the Secretary to carry out subsection (c), for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, out of the Highway Trust Fund $10,000,000, and $10,000,000 out of any other money in the Treasury not otherwise appropriated.

RAIL OPERATION PROJECTS IN NONHIGHWAY AREAS

Federal financial assistance, approval.

SEC. 142. (a) The Secretary may approve for Federal financial assistance from funds apportioned for the Federal-aid primary system under section 104(b)(1) of title 23, United States Code, projects to provide such assistance for the operation of those portions of the Alaska Railroad from Whittier to Portage, Alaska, for the purpose of linking up highways or other transportation modes receiving Federal financial assistance from funds apportioned under such section. Not more than 5 per centum of the funds apportioned for the Federal-aid primary system under section 104(b)(1) of title 23, United States Code shall be expended in any fiscal year under this section. Any such approval shall be subject to the conditions that—

Conditions.

(1) fares or other charges made in such operations shall be under the control of a Federal or State agency or official; and

(2) all revenues derived from operation of such portions shall be used to pay for the cost of construction or acquisition of the railroad (including equipment) involved in such operation, debt service thereon, and actual and necessary costs of operation, maintenance, repair, and replacement.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of title 23, United States Code, except those provisions which the Secretary determines are inconsistent with this section.

INTERSTATE ROUTE I-90

SEC. 143. (a) Notwithstanding section 129 of title 23, United States Code, or any regulation or agreement to the contrary, the Secretary of Transportation is authorized to approve projects on the Interstate

System for the construction of approaches and interchanges connecting route I-88 to route I-90 if all lanes on I-90 between exits 25 and 26 are free of tolls and connecting route I-87 to route I-90 if all lanes on I-90 between exits 24 and 26 are free of tolls, in New York State although such projects have no use other than as approaches to route I-90, if such projects are otherwise eligible for such approval.

(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I-90 connecting route I-88 to such route I-90 between exits 25 and 26 on condition that all lanes on I-90 between exits 24 and 26 are free of tolls.

METRIC SYSTEM SIGNING

SEC. 144. (a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act specifically authorizes such expenditure. 23 USC 109 note.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act specifically authorizes such expenditure.

(c) For purposes of subsections (a) and (b)— Definitions.

(1) the term "highway" means a highway as defined in section 101 of title 23, United States Code; and

(2) the term "metric system" means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

THE MAINE TURNPIKE

SEC. 145. (a) Upon satisfaction by the State of Maine or the Maine Turnpike Authority of the following conditions and subject to the requirements of subsection (b), the State of Maine and the Maine Turnpike Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:

(1) repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of $3,055,000 which is the amount of Federal-aid highway funds received for the construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, and at York, York County, Maine; and Repayment.

(2) destruction and removal of any existing toll plaza and toll collection facility within three years after repayment of bonds outstanding with respect to the Maine Turnpike on Interstate 295 at a location known as Exit 6A to the Maine Turnpike.

The amount to be repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State

of Maine. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

(b) The State of Maine and the Maine Turnpike Authority are deemed to be in compliance with section 129(c) of title 23, United States Code: *Provided*, That the conditions of subsection (a) are satisfied and that no toll shall be imposed or collected three years after repayment of bonds outstanding with respect to the Maine Turnpike by the State of Maine or the Maine Turnpike Authority for the use of the following interchange or connection with the Maine Turnpike: The segment of the National System of Interstate and Defense Highways in South Portland, Cumberland County, Maine, and Scarborough, Cumberland County, Maine, and identified as Interstate 295, connecting Interstate 295 and the Maine Turnpike.

FOREIGN BUILT HOVERCRAFT IN ALASKA

46 USC 883 note.

SEC. 146. (a) Effective during the five-year period beginning on the date of enactment of this Act, nothing in section 27 of the Merchant Marine Act, 1920, or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft.

46 USC 883.

"Hovercraft."

(b) For the purpose of this section the term "hovercraft" means a vehicle which travels over land or water in a cushion of air generated by such vehicle.

ACCELERATION OF BRIDGE PROJECTS

23 USC 144 note.

SEC. 147. The Secretary of Transportation shall carry out two projects to construct or replace high traffic volume bridges located on the Federal-aid system and which traverse major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges. One project shall demonstrate the feasibility of reducing the time required from the time of a request for project approval through completion of construction. The other project shall demonstrate the feasibility of reducing the time to complete construction of bridge projects on which all Federal environmental and navigational reviews and assessments have been completed. Not to exceed $54,000,000 of the amount authorized for the fiscal year ending September 30, 1979, by section 202(6) of the Highway Safety Act of 1978 to be apportioned under section 144(e) of title 23, United States Code, shall be set aside before any such apportionment and shall be available for obligation to carry out this section in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended. The Federal share of the projects authorized by this section shall be that provided in section 120(c) of title 23, United States Code. Not later than six months after completion of each such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such bridge project, recommendations for applying such methods to other bridge projects, and any changes which may be necessary to existing laws to permit further reductions in the time necessary to complete bridge projects.

Apportionment set aside.

Post, p. 2728.

23 USC 101 *et seq.*

Federal share.

Report to Congress.

THOUSAND ISLANDS BRIDGE AUTHORITY

SEC. 148. The facility owned by the Thousand Islands Bridge Authority located in part on the right-of-way of Interstate Route I-81 in New York State six hundred feet from the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on such rights-of-way. Such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for export and for consumption outside the United States. Exemption.

BLOOMINGTON FERRY BRIDGE

SEC. 149. There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, $200,000 for expenditure through the State of Minnesota in preparing environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minnesota. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code. Appropriation authorization. 23 USC 101 *et seq.*

ACCESS CONTROL DEMONSTRATION PROJECTS

SEC. 150. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are on the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of three States. 23 USC 307 note.

(b) On or before September 30, 1983, the Secretary shall report to Congress the results of the projects carried out under this section. Report to Congress.

(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980. Appropriation authorization.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

CONNECTOR PRIMARY DEMONSTRATION

SEC. 151. (a) The Secretary of Transportation, in cooperation with the States of New Mexico and Texas, shall conduct a demonstration project to upgrade routes on the Federal-aid primary system between Las Cruces, New Mexico, and Amarillo, Texas, and between Lubbock, Texas, and Interstate Route 10. The project shall demonstrate means by which the service provided by the Interstate System can efficiently and effectively be supplemented by such improvement.

(b) Funds to carry out the project authorized by subsection (a) shall come either (1) from funds apportioned to the States of New Mexico and Texas under section 104(b)(1) of title 23, United States Code with the Federal share of the project cost at 90 per centum, or (2) from funds available for obligation at the discretion of the Secretary of Transportation for priority primary routes with the Federal share of the project cost that applicable to such priority primary routes, without regard to whether such routes are in fact designated as priority primary routes.

DEMONSTRATION PROJECT—BYPASS HIGHWAY

SEC. 152. The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County, California, for the purpose of determining the extent such bypass highway will divert motor vehicle traffic around such park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system, except that the Federal share of the cost of such project shall not exceed 90 per centum. The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary. There is authorized to be appropriated, out of the Highway Trust Fund, $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $20,000,000 for fiscal year 1981, to carry out this section. Such sums shall remain available until expended.

Federal share.
23 USC 10 *et seq.*
Report to Congress.
Appropriation authorization.

DEMONSTRATION PROJECT—VENDING MACHINES

23 USC 111 note.

SEC. 153. The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section together with any recommendations he deems necessary.

Report to Congress.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

23 USC 135 note.

SEC. 154. (a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall

coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $1,500,000 for the fiscal year ending September 30, 1979, not to exceed $2,500,000 for the fiscal year ending September 30, 1980, and not to exceed $26,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization.

(c) The Federal share payable on account of any project authorized under this section shall not exceed 90 per centum of the total cost thereof. Federal share.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 90 per centum. 23 USC 101 *et seq.*

DEMONSTRATION PROJECT—RESTRICTED ACCESS

SEC. 155. (a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area. 23 USC 134 note.

(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act. Reports.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section. Appropriation authorization.

ALASKA AND PUERTO RICO INTERSTATE STUDY

SEC. 156. The Secretary of Transportation shall study and report to the Congress by July 1, 1979, on the feasibility and desirability of designating routes in the State of Alaska and Commonwealth of Puerto Rico as part of the National System of Interstate and Defense Highways. The study shall consider the transportation needs in such areas and shall include, but not be limited to, necessity for intercity routes of a standard greater than the primary system, expected traffic volume, requirements for movement of goods, and need for connectivity. The Secretary shall also report on appropriate design standards required for Interstate routes in the State of Alaska. Report to Congress. 23 USC 307 note.

EAST-WEST TOLL ROAD—INDIANA STUDY

SEC. 157. The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds and report the results of such study to the Congress by November 15, 1978. Such study shall be limited to the following: Report to Congress.

(1) Additional Indiana East-West Toll Road entrances and exits in locations designated as metropolitan areas by the United States Census Bureau, 1970 census or cities of twenty-five thousand or more population, and the approximate cost and course of funding of each interchange.

(2) Methods of economical toll collections assuring fair and equitable payment from the individual user and ascertainment of urban toll free areas.

(3) Improvements necessary to insure compliance of the Indiana East-West Toll Road with Interstate Highway Standards and the approximate cost and source of payment for such improvements.

(4) Projection of maintenance costs and revenues of the Indiana East-West Toll Road until 1994 under various toll systems and charges.

(5) Formula of toll distribution by which Indiana communities directly affected by ingress to or egress from the Indiana East-West Toll Road (limited to Indiana communities within fifteen miles of the Indiana East-West Toll Road) may be reimbursed for costs incurred due to the toll road from revenues remaining after expenditures are made for the upgrading of the Indiana East-West Toll Road to Federal highway standards, the maintenance of the toll road, the construction of new interchanges and bond obligations, specifically including reserves.

(6) The total cost to the State highway commission if tolls are removed.

(7) An estimate of the time frame for the earliest construction of whatever improvements are recommended, based upon each of the following alternative methods of financing: by proceeds from the sale of toll supported bonds, by funds provided solely by the State of Indiana, and by funds principally provided by the Federal Government.

COLUMBIA RIVER BRIDGE STUDY

SEC. 158. The Secretary of Transportation, in cooperation with the States of Washington and Oregon, shall conduct a feasibility study of an additional bridge across the Columbia River between Vancouver, Washington, and Portland, Oregon. The Secretary shall report the results of such study, together with his recommendations, not later than January 1, 1979.

Report.

STUDY CONCERNING URBAN BLIGHT

23 USC 134 note.

SEC. 159. The Secretary shall conduct a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

(a) a catalogue and evaluation of adverse impacts on adjacent land use;

(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway

improvements and related measures needed to reduce adverse impacts;

(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

(f) such other matters as the Secretary shall deem appropriate.

Such study shall be conducted in cooperation with appropriate State and local governments and shall be submitted to Congress two years after the date of enactment. Submittal to Congress.

INTERDEPARTMENTAL COORDINATION STUDY

SEC. 160. (a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of— 49 USC 1653 note.

(1) all those factors affecting the integration of the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws; 42 USC 1857 note, 6201 note. 49 USC 1601 note.

(2) the parallel among all rules, regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of this subsection;

(3) all those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency;

(4) the degree to which urban growth, development, and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards;

(5) the feasibility of permitting tolls and other user charges on roads and highways on the Federal-aid systems as part of a State implementation plan under the Clean Air Act.

(b) The results of the investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws.

VEHICLE WEIGHTS—INTERSTATE

SEC. 161. (a)(1) The Secretary of Transportation is hereby authorized and directed, in cooperation with other Federal officers and Study and investigation. 23 USC 307 note.

agencies, the State departments of transportation or highway departments, and other affected parties, to make a study and investigation of—

(A) the need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States;

(B) the effect upon the construction, reconstruction and maintenance of roads, upon the economy of a State or region upon energy consumption, and upon carriers of reducing to limits set forth in section 127, title 23, United States Code, those maximum size and weight limits currently higher than limits in such section;

(C) the relation of highway and bridge design, construction practices, and maintenance costs in those States with weights above the Federal maximum, including an analysis of the adequacy of such design practices for these weights, as compared to the same factors in States adhering to the weight limits set forth in section 127 of title 23, United States Code; and

(D) the adequacy of current highway and bridge design standards with respect to the present and future transportation needs, considering costs, economy of transportation and fuel efficiency.

Report to Congress.

(2) The Secretary shall report to the Congress the findings and recommendations of this study no later than January 15, 1981. Such report shall include recommendations on the desirability of uniform maximum truck weights and, if desirable, appropriate means to bring about such uniformity, and the appropriateness of current maximum vehicle weights.

IMPACT OF INCREASED UNIT TRAIN TRAFFIC

Investigation and study.
23 USC 130 note.

SEC. 162. (a) The Secretary of Transportation, in cooperation with the State highway departments, and appropriate officials of local government, is authorized and directed to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic. Such study and investigation shall include, but not be limited to, the following:

(1) identification of specific adverse impacts on affected communities;

(2) examination of specific techniques to alleviate such impacts, including but not limited to low cost systems management methods, grade crossing separation, and rail line relocation, together with an assessment of the cost and benefits of each such technique;

(3) delineation of criteria to determine whether grade crossing separation or rail line relocation is appropriate for a given location;

(4) determination of the proper share of the cost of implementation for each such technique to be borne by the railroad or railroads based on the net benefit derived; and

(5) determination of various costs for different types of separation construction based on such factors as number of rail lines and number of highway lanes intersecting at the crossing.

(b) In the conduct of the investigation and study authorized by subsection (a) of this section, the Secretary shall specifically consider the following rail corridors:

(1) the Burlington Northern mainline from Beach, North Dakota to Staples, Minnesota, from Staples, Minnesota to Minneapolis/St. Paul, Minnesota and from Staples, Minnesota to Duluth, Minnesota/Superior, Wisconsin;

(2) the Burlington Northern line from Joder, Nebraska to Rulo, Nebraska;

(3) the Chicago Northwestern line from Harrison, Nebraska to Blair, Nebraska; and

(4) the Union Pacific line from Scottsbluff, Nebraska to Steele City, Nebraska.

(c) The Secretary shall report to the Congress on the results of the investigation and study authorized by subsection (a) of this section not later than March 31, 1979. Such report shall include the information required by subsection (a) together with the Secretary's conclusions and recommendations for appropriate legislation. Report and legislative recommendations to Congress.

(d) There is hereby authorized to be appropriated not to exceed $350,000 to carry out this section. Appropriation authorization.

BRIDGE DIVERSION STUDY

SEC. 163. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation. Report and legislative recommendations to Congress.

BONDED INDEBTEDNESS STUDY

SEC. 164. The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of toll roads or portion thereof incorporated into the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and portions which remain free to public travel. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommended alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than July 1, 1980. 23 USC 129 note. Report to Congress.

DULLES AIRPORT ACCESS HIGHWAY STUDY

SEC. 165. The Secretary of Transportation shall, not later than ninety days after the date of enactment of this section, complete the ongoing study of commuter access to the Dulles Airport Access Highway and report the findings and recommendations to Congress. Report to Congress.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

23 USC 307 note.

SEC. 166. The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors.

OBLIGATION LIMITATION

SEC. 167. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1979 shall not exceed $8,500,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) Notwithstanding the limitation contained in subsection (a) of this section, the Secretary shall not in any way control—

(1) the rate of obligation of such limitation by allocation of such limitation or in any other manner; and

(2) by priority or otherwise, programs or projects eligible for Federal financial assistance from those funds for such programs and projects which are subject to such limitation, if such programs or projects are otherwise eligible for such assistance under title 23, United States Code, or any other applicable provision of law.

HAZARD ELIMINATION PROGRAM

SEC. 168. (a) Section 152 of title 23, United States Code, is amended to read as follows:

"§ 152. Hazard elimination program.

Survey and improvement schedule.

"(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

"(b) The Secretary may approve as a project under this section any highway safety improvement project.

"(c) Funds authorized to carry out this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

Federal share.

"(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

23 USC 402.
Waiver.
23 USC 104.

Evaluation process.

"(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway

safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

"(g) Each State shall report to the Secretary of Transportation not later than September 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1 of each year on the progress being made by the States in implementing the hazard elimination program. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

State progress reports.

Report to Congress.

"(h) For the purposes of this section the term 'State' shall have the meaning given it in section 401 of this title."

"State."

(b) Section 153 of title 23, United States Code, is repealed.

Repeal.

(c) The analysis of chapter I of title 23 is amended by striking out: "Projects for high-hazard locations." and inserting in lieu thereof "Hazard elimination program." and by striking out: "153. Program for the elimination of roadside obstacles." and inserting in lieu thereof: "153. Repealed.".

(d) Subsection (c) of section 219 of title 23, United States Code, is amended by adding at the end thereof the following: "Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety construction projects.".

PLANNING

SEC. 169. (a) Section 134(a) of title 23, United States Code, is amended to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and compre-

Cooperation.

hensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.".

23 USC 105.

23 USC 134.

(b) Section 134 is further amended by adding a new subsection (b) as follows and redesignating existing subsection (b) as subsection (c):

Redesignation, agreement.

"(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

"(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.".

NATIONAL ALCOHOL FUELS COMMISSION

Establishment.
42 USC 5904 note.

SEC. 170. (a)(1) There is hereby established a Commission to be known as the National Alcohol Fuels Commission hereinafter referred to as the "Commission".

Investigation and study.

(2) The Commission shall make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including, but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs. It shall take into consideration the technical, economic, legal, environmental, and social factors associated with the production, manufacture, distribution, and use of such fuels. It will evaluate the costs and benefits of alternative feedstocks, and their possible end uses, and analyze the feasibility and desirability of converting these resources to alcohol fuels. Based on such study it shall recommend those policies, and their attendant costs and benefits, most likely to minimize our dependence on petroleum, insure adequate energy supplies, and contribute to the economic health of the Nation.

Membership.

(3) Members of the Commission shall be appointed by February 1, 1979. The Commission shall be established within sixty days of being provided with funds. The Commission shall be comprised of nineteen members as follows:

(A) a Chairman and five members appointed by the President pro tempore of the Senate from the membership of the Committee

on Energy and Natural Resources, the Committee on Appropriations, and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate;

(B) a Vice Chairman and five members appointed by the Speaker of the House of Representatives from the membership of the Committee on Appropriations, the Committee on Science and Technology, and the Committee on Agriculture of the United States House of Representatives; and

(C) seven members of the public appointed by the President, including a broad representation from industrial, labor, agricultural, small business, and consumer groups.

Final report to President and Congress. Termination. Records and papers, deposition.

(b) The Commission shall not later than one year after being established submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(c) Such report shall include the Commission's findings and recommendations with respect to—

(1) the long- and short-term potential of alcohol fuels contributing to domestic energy supply;

(2) the relative costs and benefits of developing alcohol fuels from alternative feedstocks, taking into account technical, economic, legal, competitive, environmental, and social factors associated with their production, distribution, and use; their most appropriate end uses; and a recommended time frame for their introduction into the Nation's energy mix;

(3) the existing policies and programs of the Federal Government which affect the development of such alternative fuels; and

(4) new policies and programs required to develop alcohol fuels from coal and alcohol and other fuels from the biomass to meet the Nation's projected short-term and long-term energy needs.

Federal agencies, liaison.

(d)(1) The Chairman of the Commission shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national alcohol fuels policy to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agencies shall include, but not be limited to, the Department of Energy, the Department of Agriculture, the Department of Transportation, the Environmental Protection Agency, the Department of the Interior, the Department of Justice, the Department of the Treasury, and the Small Business Administration.

(2) In carrying out its duties the Commission shall seek the advice of various groups interested in a national alcohol fuel policy including, but not limited to, State and local governments, public and private organizations working in the fields of alternative fuel development, industry, labor, and the environment.

Hearings and meetings.

(e)(1) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) the Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

Compensation and expenses.

(f)(1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission, except Members of Congress, shall each receive compensation for such periods of time as they are engaged in the business of the Commission at a rate not in excess of the maximum rate of pay for GS–18 as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the rules of the Senate, or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission member.

5 USC 5332 note.

(g)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

5 USC 5101 *et seq.*, 5331.

Experts and consultants.

(2) The staff director shall be compensated at level II of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

5 USC 5311.

(3) The Director and Commission personnel shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in performance of duties while serving the Commission staff.

Contracts or agreements.

(h) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations or consultants, and, if necessary, to transfer funds to and accept funds from Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

(i) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(j) Subject to the provisions of the Federal Advisory Committee Act, the Chairman may appoint advisory committees to aid in the work of the Commission. Advisory committees.

(k) The Commission is exempt from the requirements of sections 4301 through 4308 of title 5, United States Code. Performance rating, exemption.

(l) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to the Commission not to exceed $1,500,000 to carry out the purposes of this section. Appropriation authorization.

LIMITATIONS

SEC. 171. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts.

TITLE II

Highway Safety Act of 1978.

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1978". 23 USC 401 note.

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated: Appropriation authorization.

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out in accordance with section 402(c) of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), other than subsection (i), out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. For carrying out section 154(i) of such title, out of the Highway Trust Fund, $17,500,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of Highway Trust Fund, $900,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 30, 1980, $1,300,000,000 for the fiscal year ending September 30, 1981, and $900,000,000 for the fiscal year ending September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $65,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(8) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $2,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

RAIL-HIGHWAY CROSSINGS

Appropriation authorization.
23 USC 130 note.

SEC. 203. (a) Subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87), as amended by the Highway Safety Act of 1976 (Public Law 94-280), is amended to read as follows:

"(b) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated, out of the Highway Trust Fund, for projects for the elimination of hazards of railway-highway crossings on any public road, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, $125,000,000 for the fiscal year ending September 30, 1978, $190,000,000 for the fiscal year ending September 30, 1979, and $190,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code.".

Repeal.

(b) Subsection (c) of section 203 of the Highway Safety Act of 1973 is hereby repealed.

(c) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended to read as follows: 23 USC 130 note.

"(d) 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of title 23, United States Code, 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of title 23, United States Code, and 50 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project shall be 90 percent of the cost thereof.". Federal share.

NATIONAL DRIVER REGISTER STUDY

SEC. 204. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals. Such investigation and study shall include, but not be limited to, the information to be placed in the register, the accessibility of such information (including privacy safeguards), the necessary computer-electronic equipment, and means of keeping such register current. The Secretary shall issue a final report to Congress on the results of such investigation and study, together with the recommendations of the Secretary, not later than one year after the date of enactment of this section. 23 USC 403 note. Report to Congress.

NATIONAL MAXIMUM SPEED LIMIT

SEC. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles. State data, submittal. 23 USC 141.

"(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981. Apportionment reductions. 23 USC 104.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the

23 USC 104.

State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

Incentive grants.

"(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

"(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.". 23 USC 402.

ACCIDENT DATA

SEC. 206. There is authorized to be appropriated, out of the Highway Trust Fund, to the Secretary of Transportation not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for the acquisition, storage, and retrieval of highway accident data and for establishing procedures for reporting accidents on a nationwide basis. Appropriation authorization.

HIGHWAY SAFETY PROGRAMS

SEC. 207. (a) The last sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "one or more States," the following: "including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures,".

(b)(1) Subparagraph (A) of paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by striking out "State agency" and inserting in lieu thereof "State highway safety agency".

(2) The amendment made by paragraph (1) of this subsection shall take effect January 1, 1979. Effective date. 23 USC 402 note.

(c) Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

(d) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting immediately after "State highway safety program" the following: "(other than planning and administration)" and by inserting immediately after "non-Federal share of the cost of any project under this section" the following: "(other than one for planning or administration)".

INNOVATIVE PROJECT GRANTS

SEC. 208. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

23 USC 407.

"§ 407. Innovative project grants

"(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

Application selection procedure, consultation.

"(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

Applications.

"(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

"(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

Annual report to Congress.

"(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"407. Innovative project grants.".

HIGHWAY SAFETY EDUCATION AND INFORMATION

Pilot projects. 23 USC 401 note.

SEC. 209. (a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date

of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period. Report to Congress.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended. Appropriation authorization.

(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (b) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents. National campaign.

(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such campaign.

(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programing for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public. Evaluation.

(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation. Annual report to Congress.

(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10.000,000, to remain available until expended. Appropriation authorization.

MOTORCYCLE HELMET STUDY

SEC. 210. The Secretary of Transportation shall make a full and complete study of the effect of the provision contained in the eighth sentence of subsection (c) of section 402 of title 23 of the United 23 USC 402 note.

States Code relating to requirements, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles. Such investigation and study shall include, but not be limited to, deaths, accidents, severity of injuries, length of time of recuperation, and permanent disabilities. The Secretary shall report the results of such study, together with his recommendations, to Congress not later than one year after the date of enactment of this section.

Report to Congress.

STUDY OF OUTSIZED VEHICLES

23 USC 307 note.

SEC. 211. The Secretary of Transportation shall make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations. The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this section.

Report to Congress.

MARIJUANA AND OTHER DRUG REPORT

Submittal to Congress.
23 USC 403 note.

SEC. 212. The Secretary shall report to Congress not later than December 31, 1979, concerning the progress of efforts to detect and prevent marijuana and other drug use by operators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana and other drug use by motor vehicle operators. For the purpose of this section the term "drug" means a controlled substance within the meaning of section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

Legislative recommendations.

"Drug."

SAFETY BELT PROGRAM

SEC. 213. Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by section 202(1) of this title, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

23 USC 202.

SAFETY BELT STUDY

Arrangements
23 USC 402 note.

SEC. 214. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles, including, but not limited to, the use of various types of financial incentives and financial disincentives to encourage such use. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than one year after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such

Report to Secretary and Congress.

Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

PROHIBITION

SEC. 215. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program. Passive restraint system.

TITLE III

Federal Public Transportation Act of 1978.

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1978". 49 USC 1601 note.

DISCRETIONARY GRANT OR LOAN PROGRAM

SEC. 302. (a) Section 3(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows: 49 USC 1602.

"(a)(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as the Secretary may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing—

"(A) the construction of new fixed guideway systems and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock needed for such systems, and the detailed alternative analyses relating to the development of such systems;

"(B) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service and the coordination of such service with highway and other transportation. Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real property and improvements (but not public highways other than fixed guideway facilities) needed for an efficient and coordinated public transportation system. No project for the replacement or purchase of buses and related equipment or the construction of bus-related facilities shall be approved unless the Secretary finds that such project cannot be reasonably funded out of the apportionments under section 5(a)(4) of this Act; *Post*, p. 2741.

"(C) the introduction into public transportation service of new technology in the form of innovative and improved products;

"(D) transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development or incorporate private investment including commercial and residential development. The term "Eligible costs."

"eligible costs" includes property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the construction of commercial revenue-producing facilities, whether publicly or privately owned, or of those portions of public facilities not related to mass transportation. The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

Fair share payment.

The Secretary shall require in all grants and loans under this subparagraph that any person or entity that contracts to occupy space in facilities funded under this subparagraph shall pay a fair share of the cost of such facilities, through rental payments and other means;

(E) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

45 USC 851.
Federal share.
49 USC 1603.

Determinations.

"(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(i) the legal, financial, and technical capacity to carry out the proposed project; and

"(ii) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

"(B) The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the determination required by subparagraph (A), that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period.

"(C) No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

"(3) The Secretary shall not approve a grant or loan for a project under this section unless the Secretary finds that such project is part of an approved program of projects required by section 8 of this Act.

Post, p. 2743.

Obligative letter of intent, issuance.

"(4) The Secretary is authorized to announce an intention to obligate for a project under this section through the issuance of a letter of intent to the applicant. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative commitment. The letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this section. The amount stipulated in the letter, when issued for a fixed guideway

project, shall be sufficient to complete an operable segment. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in appropriations Acts. The total estimated amount of future Federal obligations covered by all outstanding letters of intent shall not exceed the amount authorized in section 4(c) of this Act, less an amount reasonably estimated by the Secretary to be necessary for grants under this section which are not covered by a letter of intent. The total amount covered by new letters issued shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph shall affect the validity of letters of intent issued prior to the enactment of the Federal Public Transportation Act of 1978.". *Infra.*

Ante, p. 2735.

(b) Section 3(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "including the net cost of property management" and inserting in lieu thereof the following: "including reconstruction, renovation, and the net cost of property management". 49 USC 1602.

(c) Section 3(e)(1) of the Urban Mass Transportation Act of 1964 is amended by striking out "the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area" and inserting in lieu thereof "the Secretary finds that such assistance is essential to the program of projects required by section 8 of this Act". *Post*, p. 2743.

(d) Section 3(h) of the Urban Mass Transportation Act of 1964 is amended to read as follows: Buses and related facilities, expenditures.

"(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(4).". 49 USC 1604.

AUTHORIZATIONS

SEC. 303. (a) The caption of section 4 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "NET PROJECT COST, FEDERAL SHARE, AND AUTHORIZATIONS". 49 USC 1603.

(b) Section 4(a) of the Urban Mass Transportation Act of 1964 is amended by striking out the first three sentences.

(c) Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)"; by inserting after the word "Act" the second time it appears in the first sentence the words "as it read prior to enactment of the Federal Public Transportation Act of 1978"; by striking out the last sentence; and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, the unobligated balance of contract authority established pursuant to paragraph (1) shall not be available for administrative commitment after September 30, 1978, and shall lapse on September 30, 1980.

"(3)(A) To finance additional grants and loans under section 3 of this Act and to finance grants and contracts under subsection (i) Appropriation authorization.

Post, p. 2743.

of this section and section 8 of this Act, there are authorized to be appropriated not to exceed $1,375,000,000 for the fiscal year ending September 30, 1979; $1,410,000,000 for the year ending September 30, 1980; $1,515,000,000 for the year ending September 30, 1981; $1,600,000,000 for the fiscal year ending September 30, 1982; and $1,580,000,000 for the fiscal year ending September 30, 1983. In any fiscal year not more than five and one-half per centum of such fiscal years appropriation pursuant to this subparagraph shall be used for the purposes of subsection (i) of this section and section 8 of this Act. Appropriations pursuant to the authority of this paragraph and subsection (g) of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available for three years following the close of the fiscal year for which such appropriation is made.

"(B) In each fiscal year, not more than $200,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants and loans approved under section 3(a)(1)(D) of this Act.

Ante, p. 2735.

"(C) Not more than $45,000,000 of the total sums appropriated pursuant to subparagraph (A) shall be available for grants approved under section 3(a)(1)(E) of this Act.

"(D) In each fiscal year, at least $350,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants for the reconstruction and improvement of existing public mass transportation systems.".

49 USC 1603.

(d) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated $10,000,000 in each fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, to carry out the functions of section 11(b) of this Act. Sums appropriated pursuant to this subsection shall remain available until expended.".

Post, p. 2745.

(e) Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsections:

Post, p. 2748.

"(e) To finance grants under section 18 of this Act, there are authorized to be appropriated not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1981; $120,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection shall remain available until expended.

"(f) There are authorized to be appropriated to carry out the functions of this Act, other than sections 3, 5, 8, 11(b), 16(b), 18, 21, and 22, not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $95,000,000 for the fiscal year ending September 30, 1980; $100,000,000 for the fiscal year ending September 30, 1981; and $105,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

Ante, p. 2735, Post, pp. 2739, 2748, 2754, 2755.

49 USC 1605.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out public transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23, United States Code.

Reports to Congress.

"(h)(1) On or before the twentieth day of each calendar quarter the Secretary shall submit to Congress a report on (1) obligations, commitments, and reservations by State, designated recipient, and

applicant, made under authority of this Act; (2) the balance as of the last day of each quarter of the unobligated, uncommitted, and unreserved apportionments made under this Act; (3) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act as of the end of such quarter; (4) a listing of letters of intent issued; and (5) a status report on all outstanding letters of intent.

"(2) On or before October 1, 1979, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1981 through 1984. On or before October 1, 1981, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1983 through 1986. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.

Ante, p. 2735, *infra*.

"(i) The Secretary is authorized to make grants to States and local public bodies, using sums available pursuant to section 4(c)(3)(A) of this section, for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. In each fiscal year grants for any one State shall not exceed twelve and one-half per centum of the funds available for the purposes of this subsection."

Grants.

URBAN MASS TRANSIT PROGRAM

SEC. 304. (a) Subsections (a) and (b) of section 5 of the Urban Mass Transportation Act of 1964 are amended to read as follows:

Funds, apportionment. 49 USC 1604.

"(a)(1)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c)(1) of this section and appropriated pursuant to subsection (c)(2) of this section. For subsequent fiscal years, the Secretary shall apportion the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

"(ii) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

"Density."

"(B) There are authorized to be appropriated for the purposes of this paragraph, $900,000,000 in each fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982.

Appropriation authorization.

"(2)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (C) of this paragraph.

"(i) Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with

a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"Density." As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(ii) Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"Density." As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

Appropriation authorization. "(C) There are authorized to be appropriated for the purposes of this paragraph $250,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $250,000,000 for the fiscal year ending September 30, 1981; and $250,000,000 for the fiscal year ending September 30, 1982.

"(3)(A) To make grants for construction and operating assistance projects under this subsection involving commuter rail or other fixed guideway systems, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) two-thirds of the total amount to be apportioned as follows: one-half multiplied by a ratio which the number of commuter rail train miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail train miles operated in or serving all urbanized areas in the prior fiscal year, and one-half multiplied by a ratio which the number of commuter rail route miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail route miles operated in or serving all urbanized areas in the prior fiscal year. No single eligible State's portion of an urbanized area shall receive in any fiscal year less than one-half per centum

or more than thirty per centum of the sums appropriated for such fiscal years pursuant to this clause;

"(ii) one-third of the total amount to be apportioned multiplied by the ratio that the number of fixed guideway system route miles (excluding commuter rail route miles) in the urbanized area in the prior fiscal year bears to the total number of such fixed guideway system route miles (excluding commuter rail route miles) in all urbanized areas in the prior fiscal year. For the purposes of the calculation to be made under this subparagraph, no single State's portion of an urbanized area shall receive more than 30 per centum of the sums appropriated for such fiscal year pursuant to this clause.

Sums apportioned under this paragraph shall be available for expenditure only for capital or operating assistance projects involving commuter rail or other fixed guideway systems.

"(B) There are authorized to be appropriated for the purposes of this paragraph, $115,000,000 for the fiscal year ending September 30, 1979; $130,000,000 for the fiscal year ending September 30, 1980; $145,000,000 for the fiscal year ending September 30, 1981; and $160,000,000 for the fiscal year ending September 30, 1982. Appropriation authorization.

"(4) (A) To make grants under this subsection for the purchase of buses and related equipment, or the construction of bus related facilities, the Secretary shall apportion in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. In fiscal years 1979 and 1980, the apportionments shall be made in accordance with the population density formula set out in subsection (a) (1) (A) of this section. Sums apportioned under this paragraph shall be available only for projects for the purchase of buses and related equipment, in the construction of bus related facilities, except that projects assisted pursuant to section 3(h) of this Act may utilize funds apportioned under this section for any eligible construction project. *Ante*, p. 2737.

"(B) There are authorized to be appropriated for the purposes of this paragraph $300,000,000 for the fiscal year ending September 30, 1979; $300,000,000 for the fiscal year ending September 30, 1980; $370,000,000 for the fiscal year ending September 30, 1981; and $455,000,000 for the fiscal year ending September 30, 1982. Appropriation authorization.

"(b) (1) The Governor, responsible local officials, and publicly owned operators of mass transportation services, in accordance with the planning process required under section 8 of this Act, with the concurrence of the Secretary, shall designate a recipient or recipients to receive and dispense the funds apportioned under subsection (a) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipient' as used in this section shall refer to the recipient selected according to the procedures required by this paragraph. Recipient designation. *Post*, p. 2743. "Designated recipient."

"(2) Sums apportioned under subsection (a) not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) of this subsection shall be made available to the Governor for expenditures in urbanized areas or parts thereof in accordance with the planning process required under section 8 of this Act and shall be fairly and equitably distributed. The Governor shall

submit annually a report to the Secretary concerning the allocation of funds made available under this paragraph.".

Appropriation authorization. 49 USC 1604.

(b) Section 5(c)(2) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section.".

(c) Section 5(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraphs:

"(3) Appropriations pursuant to this section shall be available until expended.

"(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year, except that any funds authorized by section 5(a)(3) and (4) which are so reapportioned shall remain subject to the limitations applicable to the original apportionment of such funds.".

(d) Section 5(f) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending prior to October 1, 1981, shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available: *Provided, however*, That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure. Nothing in the preceding sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project. Where the Secretary finds that a recipient has reduced operating costs without reducing service levels the recipient shall be entitled to make a proportionate reduction in the amount of transit revenues required to be expended under this subsection.".

(e) Section 5(g) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(g) The Secretary shall not approve a grant or loan for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act, and that the applicant or responsible agency has or will have—

Post, p. 2743.

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control, through operation or lease or otherwise, over the use of project facilities and equipment.".

(f) Section 5(i) of the Urban Mass Transportation Act of 1964 is amended by striking out "and (2)" and inserting in lieu thereof

"(2)"; by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.".

Notice and hearings.

PLANNING AND TECHNICAL STUDIES

SEC. 305. (a) Sections 8 and 9 of the Urban Mass Transportation Act are repealed.

Repeals. 49 USC 1607, 1607a.

(b) The Urban Mass Transportation Act is amended by inserting after section 7 the following new section:

"PLANNING AND TECHNICAL STUDIES

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

49 USC 1607.

Cooperation.

"(b)(1) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

Metropolitan planning organizations, designations.

"(2) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

"(3) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

Program, approval.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve for an urbanized area any such program of projects in whole or in part unless (1) the Secretary finds that the planning process on which such program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

Contracts and grants.

"(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.".

FELLOWSHIP ASSISTANCE

SEC. 306. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

49 USC 1607b.

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry.

Selections.

The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which the recipient can be reasonably expected to make to an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $24,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grantee, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grantee).".

TRANSPORTATION CENTERS

SEC. 307. Subsection (b) of section 11 of the Urban Mass Transportation Act of 1964 is amended to read as follows: Grants. 49 USC 1607c.

"(b)(1) In addition to grants authorized by subsection (a) of this sect on, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

"(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems.

"(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems. Duties.

"(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable). Projects program, approval.

"(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant. State matching grants.

"(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

"(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.". Report. Annual report to Congress.

DEFINITIONS AND GENERAL PROVISIONS

SEC. 308. Section 12 of the Urban Mass Transportation Act of 1964 is amended as follows: 49 USC 1608.

(a) Subsection (b) is amended—

(1) by inserting "(1)" after "(b)";

(2) by adding at the end thereof the following:

"(2) After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this Act, may be awarded based on Evaluations.

consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.".

Definitions.

(b) Subsection (c) is amended to read as follows:

"(c) As used in this Act—

"(1) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in public transportation, including designing, engineering, location surveying, mapping, acquisition of rights-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

"(2) the term 'fixed guideway' means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles;

"(3) the term 'Governor' means the ranking executive officer or his designate for each of the jurisdictions included in the definition of 'State';

"(4) the term 'handicapped person' means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively. The Secretary may, by regulation, adopt modifications of this definition for purposes of section 5(m) of this Act;

49 USC 1604.

"(5) the term 'local public bodies' includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States; Indian tribes; and public corporations, boards, and commissions established under the laws of any State;

"(6) the term 'mass transportation' means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis;

"(7) the term 'public transportation' means mass transportation;

"(8) the term 'Secretary' means the Secretary of Transportation;

"(9) The term 'States' means the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands;

"(10) the term 'urban area' means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth; and

"(11) the term 'urbanized area' means an area so designated by the Bureau of Census, within boundaries which shall be fixed by

responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.".

Repeals. 49 USC 1608.

(c) Subsections (d) and (f) of section 12 of the Urban Mass transportation Act of 1964 are repealed and section 12(e) is redesignated as section 12(d).

(d) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) None of the provisions of this Act shall be construed to authorize Federal financial assistance for the purpose of financing the acquisition by one public body of land, facilities, or equipment used in mass transportation from another public body in the same geographic area.

Exemption, petition. 49 USC 301. Notice and hearing.

"(f)(1) A State or local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State or local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.

Bus seat specifications.

"(g) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local body which is acquiring such buses to provide in advertising for bids for passenger seats functional specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978."

Ante, p. 2735.

PROCUREMENT STUDY

Evaluation.
49 USC 1604 note.

SEC. 309. The Secretary of Transportation shall make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964, and from whom purchased. Such evaluation shall consider the benefits of more widespread utilization of negotiated procurements. The Secretary shall, not later than July 1, 1979, report to Congress the results of such evaluation together with his recommendations for necessary legislation.

49 USC 1601 note.

Report to Congress.

REPORTING SYSTEM

Legislative recommendations to Congress.
49 USC 1611.

SEC. 310. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, not later than July 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recommendations for any further legislation, if any, he deems necessary in connection with such systems.".

SET ASIDE FOR ELDERLY AND HANDICAPPED

49 USC 1612.

SEC. 311. (a) The last sentence of subsection (b) of section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "Of the total amount authorized to be appropriated pursuant to section 4(c)(3) of this Act, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).".

Repeal.

(b) Section 16(d) of the Urban Mass Transportation Act of 1964 is repealed.

COMMUTER RAIL OPERATING ASSISTANCE

Emergency financial assistance.
49 USC 1613.

SEC. 312. (a) Section 17(d) of the Urban Mass Transportation Act of 1964 is amended by inserting the word "and" immediately after the semicolon in paragraph (3); by striking out "180-day period succeeding the period specified in subparagraph (3) of this subsection" and inserting "period ending September 30, 1978." in paragraph (4); and by striking out paragraph (5).

Appropriation authorization.

(b) Section 17(f) of the Urban Mass Transportation Act of 1964 is amended by striking out "$185,000,000" in the first sentence and inserting in lieu thereof "$125,000,000" and by amending the second sentence to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977 and $125,000,000 by September 30, 1978, such sums to remain available until expended.".

Repeal.
49 USC 1614.

(c) Section 18 of the Urban Mass Transportation Act of 1964 is repealed.

FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS

SEC. 313. (a) The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

Apportionment.
49 USC 1614.
Ante, p. 2738.

"SEC. 18. (a) The Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to section 4(e) of this Act. Such sums shall be made available for expenditure for public trans-

portation projects in areas other than urbanized areas on the basis of a formula under which the Governor of each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State, as designated by the Bureau of the Census, bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census. Appropriations pursuant to the authority of this section may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

"(b) Funds made available under this section may be used for public transportation projects which are included in a State program of projects for public transportation services in areas other than urbanized areas. Such program shall be submitted annually to the Secretary for his approval. The Secretary shall not approve the program unless he finds that it provides for a fair and equitable distribution of funds within the State, including Indian reservations within the State, and provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.

Annual program approval.

"(c) Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for any projects eligible under this Act which are appropriate for areas other than urbanized areas, including purchase of service agreements with private providers of public transportation service, to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services.

Eligible recipients.

"(d) The Secretary may permit an amount, not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

Technical assistance.

"(e) The Federal share under this Act for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. The Federal share under this Act for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project. At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement, or depreciation funds or reserves available in cash or new capital.

Federal share.

Terms and conditions.

"(f) Grants under this section shall be subject to such terms and conditions (which are appropriate to the special needs of public transportation in areas other than urbanized areas) as the Secretary may prescribe. The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section. For the purposes of this section, the Secretary of Labor may waive any provisions of section 13(c) of this Act. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

49 USC 1602, 1609.
Waiver.

Evaluation, cooperation.

"(g) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation of insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later than January 1, 1980, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

Report and legislative recommendations to Congress.

NONDISCRIMINATION

SEC. 314. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION

49 USC 1615.

"SEC. 19. (a)(1) GENERAL.—No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act. The provisions of this section shall apply to employment and business opportunities and shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

42 USC 2000d.

"(2) AFFIRMATIVE ACTION.—The Secretary shall take affirmative action to assure compliance with subsection (a)(1) of this section.

"(3) COMPLIANCE.—(A) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this Act, has failed to comply with subsection (a)(1) of this section, with any Federal civil rights statute, or with any order or regulation issued under such statute, the Secretary shall give notice of such determination and shall require necessary action to be taken to assure compliance with such subsection.

"(B) If, within a reasonable period of time after receiving notification pursuant to paragraph (a) of this subsection, such person fails or refuses to comply with subsection (a)(1) of this section, the Secretary shall—

"(i) direct that no further Federal financial assistance under this Act be provided to such person;

"(ii) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(iii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

"(iv) take such other actions as may be provided by law.

"(4) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (a)(3)(B)(ii) of this section, or whenever the Attorney General has reason to believe that any person

is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"(5) DEFINITION.—For purposes of this section, the term 'person' includes one or more governmental agencies, political subdivisions, authorities, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.". "Person."

HUMAN RESOURCE PROGRAMS

SEC. 315. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"HUMAN RESOURCE PROGRAMS

"SEC. 20. The Secretary is authorized to undertake, or provide financial assistance by grant or contract for, national and local programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and training and assistance for minority business opportunities. Such assistance may include assistance in seeking venture capital, obtaining surety bonding, obtaining management and technical services, and contracting with public agencies organized for such purposes.". Assistance, grant or contract. 49 USC 1616.

LOAN FORGIVENESS

SEC. 316. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 14924), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) of the Urban Mass Transportation Act of 1964 may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan. Conversion to grants, conditions. 49 USC 1602-1. *Ante*, p. 2735. 42 USC 1491. Terms and conditions.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

RETREAD TIRE MANUFACTURERS EXEMPTION FROM RECORDKEEPING

SEC. 317. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting "except the manufacturer of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.

BASIC TRANSPORTATION SYSTEM STUDY

49 USC 1607 note.

SEC. 318. The Secretary of Transportation shall make a full and complete investigation and study of establishing and operating a mass transportation system, in whole or in part, which would provide basic services with a minimum of amenities, at low costs. The Secretary shall report to the Congress the results of such investigation and study not later than one year after the date of enactment of this section.

Report to Congress.

STUDIES OF DISTRIBUTION OF FUNDS

49 USC 1604 note.

SEC. 319. (a) The Secretary of Transportation shall conduct a study of the alternative methods of distributing, by formula, funds apportioned for capital purposes under section 5(a)(4) of the Urban Transportation Act of 1964. The study shall include an evaluation of the appropriate goals of a formula program for the distribution of such capital assistance and an analysis of the various factors which may be used to measure transit usage or need, including vehicle miles, seat miles, fleet or vehicle age, fleet size, population and population density, and such other factors as the Secretary considers necessary or appropriate to achieve such goals. The Secretary shall report to Congress the results of this study not later than January 1, 1980, together with his recommendations for legislation.

Ante, p. 2741.

Report to Congress.

Report and legislative recommendations to congressional committees.

(b) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, on or before January 1, 1980, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his findings with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including, but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including, but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meteorological, and other variations so that

air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including, but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964; *Ante*, p. 2735, 2739.

(5) the relative weight which such an air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 320. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed water-borne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. The Secretary shall report to Congress the results of such project no later than September 30, 1981, together with his recommendations. 49 USC 1605 note. Report to Congress.

(b) There is authorized to be appropriated to carry out the provisions of subsection (a) not to exceed $25,000,000. Appropriation authorization.

RAIL RETROFIT EVALUATION

SEC. 321. (a)(1) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 8 of the Urban Mass Transportation Act of 1964 to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates. Federal financial assistance. 49 USC 1612 note. *Ante*, p. 2743. Report and legislative recommendations to Congress.

(2) In developing detailed estimates of the cost of improvements needed to make existing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary. Cost estimates and comments.

(3) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973. 29 USC 794.

(b) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than January 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes.

Report and legislative recommendations to Congress.

TERMINAL DEVELOPMENT PROGRAM

SEC. 322. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"TERMINAL DEVELOPMENT PROGRAM

"SEC. 21. (a) The Secretary is authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities.

Grants, terms and conditions.
49 USC 1617.

"(b) No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, construction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

"(c) A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordance with section 4(a) of this Act. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

49 USC 1603.

"(d) There is authorized to be appropriated to carry out subsection (a) of this section $40,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Appropriation authorization.

"(e) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

49 USC 1602, 1609.

INTERCITY BUS SERVICE

SEC. 323. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"INTERCITY BUS SERVICE

"SEC. 22. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 12 of this Act. As used in this subsection and subsection (b) of this section, the term 'intercity bus service' means transportation provided to the public as a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service. Grants. 49 USC 1618. Definition.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. To the maximum extent feasible assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Appropriation authorization.

"(d) The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation. Evaluation. Report and legislative recommendations to Congress.

"(e) The provisions of section 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.". 49 USC 1602, 1609.

TITLE IV

BUY AMERICA

49 USC 1602 note.

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

Exceptions.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

(1) their application would be inconsistent with the public interest;

(2) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

(3) supplies of the class or kind to be used in the manufacture of articles, materials, supplies that are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

TITLE V—HIGHWAY REVENUE ACT OF 1978

23 USC 101 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1978".

SEC. 502. 5-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1984":

26 USC 4041. (1) Section 4041(e) (relating to rate reduction).

26 USC 4061. (2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

26 USC 4071. (4) Section 4071(d) (relating to imposition of tax on tires and tubes).

26 USC 4081. (5) Section 4081(b) (relating to imposition of tax on gasoline).

26 USC 4481. (6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

26 USC 4482. (8) Section 4482(c)(4) (defining taxable period).

26 USC 6156. (9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

26 USC 6421. (10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) AMENDMENT OF SECTION 4041(c)(3).—Paragraph (3) of section 4041(c) of such Code (relating to rate of tax) is amended to read as follows: 26 USC 4041.

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(c) AMENDMENT OF SECTION 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended— 26 USC 6412.

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) HIGHWAY TRUST FUND.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended. 16 USC 460*l*-11.

(1) by striking out "1979" and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 504. BYRD AMENDMENT MADE APPLICABLE TO ALL APPORTIONMENTS.

(a) GENERAL RULE.—Subsection (g) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows: 23 USC 120 note.

'(g) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURE.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund. Consultation.

"(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and Advisement.

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount

referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

23 USC 120 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1978.

SEC. 505. CREDIT OR REFUND FOR CERTAIN TAXICABS OF EXCISE TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) GENERAL RULE.—Section 6427 of the Internal Revenue Code 26 USC 6427. of 1954 (relating to fuels not used for taxable purposes) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) USE IN CERTAIN TAXICABS.—

Payment. "(1) IN GENERAL.—Except as provided in subsection (h), if—

"(A) any gasoline on which tax is imposed by section 26 USC 4081. 4081, or

"(B) any fuel on the sale of which tax is imposed by section 26 USC 4041. 4041,

is used in a qualified taxicab while engaged exclusively in furnishing qualified taxicab services, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TAXICAB SERVICES.—The term 'qualified taxicab services' means the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who—

"(i) is licensed to engage in the trade or business of furnishing such transportation by a Federal, State, or local authority having jurisdiction over a substantial portion of such transportation furnished by such person, and

"(ii) is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and is not prohibited by company policy, from furnishing (with consent of the passengers) shared transportation.

"(B) QUALIFIED TAXICAB.—Except as provided by subparagraph (C), the term 'qualified taxicab' means any land vehicle the passenger capacity of which is less than 10 adults, including the driver.

"(C) CERTAIN GAS-GUZZLING TAXICABS EXCLUDED.—The term 'qualified taxicab' does not include any vehicle if—

"(i) such vehicle was acquired by the person operating such vehicle after 1978,

"(ii) the model year of such vehicle is 1978 or later, and

"(iii) the fuel economy of the model type of such vehicle is less than or equal to the average fuel economy standard applicable under section 502(a) of the Motor Vehicle Information and Cost Savings Act to the model year of such vehicle. 15 USC 2002.

The preceding sentence shall not apply to any vehicle manufactured by a manufacturer to which an exemption under section 502(c) of the Motor Vehicle Information and Cost Savings Act was granted (or on application could have been granted) for the model year of such vehicle. Terms used in this subparagraph shall have the same meaning as when used in title V of the Motor Vehicle Information and Cost Savings Act. 15 USC 2001.

"(3) TERMINATION.—This subsection shall not apply after December 31, 1980."

(b) REFUND ALLOWED WHERE $50 OR MORE PAYABLE FOR CALENDAR QUARTER.—Subsection (f)(2) of section 6427 of such Code (as redesignated by subsection (a)) is amended to read as follows: 26 USC 6427.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If—

"(i) $1,000 or more is payable under subsections (a), (b), (d), and (e), or

"(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used during such quarter.

"(B) SPECIAL RULE.—If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under

subparagraph (A) for such quarter only with respect to amounts payable under subsection (e).

"(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(c) TECHNICAL AMENDMENTS.—

26 USC 39.

(1) Subsections (a)(4) and (b) of section 39 of such Code are each amended by striking out "6427(g)" and inserting in lieu thereof "6427(h)".

26 USC 6427.

(2) Subsections (a), (b)(1), (c), and (d) of section 6427 of such Code are each amended by striking out "(g)" and inserting in lieu thereof "(h)".

(3) Subsection (f)(1) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(a), (b), (c), or (d)" and inserting in lieu thereof "(a), (b), (c), (d), or (e)".

(4) Subsection (h)(2) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(e)(2)" and inserting in lieu thereof "(f)(2)".

26 USC 7210, 7603, 7604, 7605.

(5) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out "6427(f)(2)" each place it appears and inserting in lieu thereof "6427(g)(2)".

26 USC 7609, 7610.

(6) Sections 7604(c)(2), 7609(e)(1), and 7610(c) of such Code are each amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(g)(2)".

26 USC 6427 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

23 USC 307 note.

SEC. 506. REQUIREMENT FOR A COST ALLOCATION STUDY.

(a) STUDY DIRECTED.—The Secretary of Transportation is hereby authorized and directed, in cooperation with the State highway departments, to undertake a full and complete investigation and study of—

(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congressional Budget Office is hereby authorized and directed to make an evaluation of—

(1) the procedures to be employed in determining the equitable allocation of highway costs;

(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

(4) the procedures to be employed to ensure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within ninety days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

Report to Congress and Transportation Secretary.

(c) REPORTS.—

Submittals to Congress.

(1) Within one hundred and eighty days after the date of the enactment of this section, the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

(2) On or before January 15, 1980, and January 15, 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of such structures on affected industries and other users.

SEC. 507. STUDY OF EXISTING HIGHWAY EXCISE TAX STRUCTURE AND OF POSSIBLE ALTERNATIVES TO SUCH EXISTING STRUCTURE.

23 USC 120 note.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

Consultation.

(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

Report to congressional committees.

(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

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The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 of the equitable distribution of the highway excise taxes.

Consultation and filing with congressional committees.

(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1485 (Comm. on Public Works and Transportation) and No. 95-1797 (Comm. of Conference).

SENATE REPORT: No. 95-833 accompanying S. 3073 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 18, 21, 28, S. 3073 considered in Senate.

Sept. 15, 21, 22, 27, 28, considered and passed House.

Oct. 3, considered and passed Senate, amended, in lieu of S. 3073.

Oct. 15, Senate and House agreed to conference report.

Public Law 95-600
95th Congress

An Act

To amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

Nov. 6, 1978
[H.R. 13511]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Revenue Act of 1978.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1978".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.
Sec. 3. Policy with respect to additional tax reductions.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

Sec. 101. Widening of brackets; rate cuts in certain brackets; increase in zero bracket amounts.
Sec. 102. Personal exemptions increased to $1,000.
Sec. 103. Earned income credit made permanent.
Sec. 104. Increase in and simplification of the earned income tax credit.
Sec. 105. Advance payment of earned income credit.
Sec. 106. Application of certain changes in the case of fiscal year taxpayers.

Subtitle B—Itemized Deductions

Sec. 111. Repeal of nonbusiness deduction for State and local taxes on gasoline and other motor fuels.
Sec. 112. Unemployment compensation.

Subtitle C—Credits

Sec. 121. Payments to related individuals under child care credit.

Subtitle D—Deferred Compensation

PART I—DEFERRED COMPENSATION PROVISIONS

Sec. 131. Deferred compensation plans with respect to service for State and local governments.
Sec. 132. Certain private deferred compensation plans.
Sec. 133. Clarification of deductibility of payments of deferred compensation, etc., to independent contractors.
Sec. 134. Tax treatment of cafeteria plans.
Sec. 135. Certain cash or deferred arrangements.

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

Sec. 141. ESOPS.
Sec. 142. Certain lump sum distributions excluded from gross estate where recipient elects not to apply 10-year averaging.
Sec. 143. Qualified plans required to pass through voting rights on employer securities.

Subtitle E—Retirement Plans

Sec. 152. Simplified employee pensions.
Sec. 153. Defined benefit plan limits.
Sec. 154. Custodial accounts for regulated investment company stock.
Sec. 155. Pension plan reserves.
Sec. 156. Rollover of section 403(b) annuities permitted.
Sec. 157 Individual retirement account technical changes.

Subtitle F—Other Individual Items

Sec. 161. Certain Government scholarship and award programs.
Sec. 162. Cancellation of student loans.
Sec. 163. Tax counseling for the elderly.
Sec. 164. Exclusion of value of certain educational assistance programs.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related to At Risk Rules

Sec. 201. Extension of section 465 at risk rules to all activities other than real estate.
Sec. 202. Extension of at risk provisions to closely held corporations.
Sec. 203. Recapture of losses where amount at risk is less than zero.
Sec. 204. Effective dates.

Subtitle B—Partnership Provisions

Sec. 211. Penalty for failure to file partnership return.
Sec. 212. Extension of statute of limitations in the case of partnership items.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

Sec. 301. Corporate rate reductions.

Subtitle B—Credits

Sec. 311. 10-percent investment tax credit and $100,000 limitation on used property made permanent.
Sec. 312. Increase in limitation on investment credit to 90 percent of tax liability.
Sec. 313. Investment credit for pollution control facilities.
Sec. 314. Investment credit for certain single purpose agricultural or horticultural structures.
Sec. 315. Investment credit allowed for certain rehabilitated buildings.
Sec. 316. Tax treatment of the investment credit in the case of cooperative organizations.
Sec. 317. Transfers to ConRail not treated as dispositions for purposes of the investment credit.

Subtitle C—Targeted Jobs Credit; WIN Credit

Sec. 321. Targeted jobs credit.
Sec. 322. Work incentive program credit changes.

Subtitle D—Tax Exempt Bonds

PART I—INDUSTRIAL DEVELOPMENT BONDS

Sec. 331. Increase in limit on small issues of industrial development bonds.
Sec. 332. Local furnishing of electric energy.
Sec. 333. Industrial development bonds for water facilities.
Sec. 334. Advance refunding of industrial development bonds for qualified public facilities.

PART II—OTHER TAX-EXEMPT BOND PROVISIONS

Sec. 336. Declaratory judgment procedure for judicial review of determinations relating to governmental obligations.
Sec. 337. Disposition of amounts generated by advance refunding of certain governmental obligations.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

Sec. 341. Subchapter S corporations allowed 15 shareholders.
Sec. 342. Permitted shareholders of subchapter S corporations.
Sec. 343. Extension of period for making subchapter S elections.
Sec. 344. Effective date.

PART II—OTHER PROVISIONS

Sec. 345. Small business corporation stock.

Subtitle F—Accounting Provisions

Sec. 351. Treatment of certain closely held farm corporations for purposes of rule requiring accrual accounting.
Sec. 352. Accounting for growing crops.
Sec. 353. Treatment of certain farms for purposes of rule requiring accrual accounting.

Subtitle G—Other Business Provisions

Sec. 361. Disallowance of certain deductions for yachts, hunting lodges, etc.
Sec. 362. Deficiency dividend procedure for regulated investment companies.
Sec. 363. Real estate investment trust provisions.
Sec. 364. Contributions in aid of construction.
Sec. 365. Liabilities of controlled corporations.
Sec. 366. Medical expense reimbursement plans.
Sec. 367. Three-year extension of provision for 60-month depreciation of expenditures to rehabilitate low-income rental housing.
Sec. 368. Delay in application of new net operating loss rules.
Sec. 369. Use of certain expired net operating loss carryovers.
Sec. 370. Income from certain railroad rolling stock treated as income from sources within the United States.
Sec. 371. Net operating losses attributable to product liability losses.
Sec. 372. Exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year.
Sec. 373. Qualified discount coupons redeemed after close of taxable year.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

Sec. 401. Repeal of alternative tax on capital gains of individuals.
Sec. 402. Increased capital gains deductions for individuals.
Sec. 403. Reduction of alternative capital gains tax for corporations.
Sec. 404. One-time exclusion of gain from sale of principal residence by individual who has attained age 55.
Sec. 405. Waiver of certain 18-month rules of section 1034 when sale of residence is connected with commencing work at new place.

Subtitle B—Minimum Tax Provisions

Sec. 421. Alternative minimum tax for taxpayers other than corporations.
Sec. 422. Treatment of intangible drilling cost for purposes of the minimum tax.

Subtitle C—Maximum Tax Provisions

Sec. 441. Treatment of capital gains for purposes of the maximum tax.
Sec. 442. Determination of personal service income from nonsalaried trade or business activities.

TITLE V—OTHER TAX PROVISIONS

Subtitle A—Administrative Provisions

Sec. 501. Reporting requirements with respect to charged tips.
Sec. 502. Extension of optional small tax case procedures and expansion of authority of commissioners of Tax Court.
Sec. 503. Disclosure of return information to certain Federal officers and employees for purposes of tax administration, etc.
Sec. 504. Refund adjustments for amounts held under claim of right.

Subtitle B—Estate and Gift Tax Provisions

Sec. 511. Reduction of value taken into account for estate tax purposes where spouse of decedent materially participated in farm or other business.
Sec. 512. Treatment of certain interests held by decedent's family for purposes of the extension of time for payment of estate tax provided by section 6166.
Sec. 513. Subordination of special liens for additional estate tax attributable to farm, etc., valuation.
Sec. 514. Amendment of governing instruments to meet requirements for gifts of split interest to charity.
Sec. 515. Deferral of carryover basis rules.

Subtitle C—Other Excise Tax Provisions

Sec. 520. Reduction of administration tax on private foundations.
Sec. 521. Excise tax on certain gaming devices.
Sec. 522. Treatment of certain private foundations for purposes of section 4942.

Subtitle D—Income Tax Provisions

Sec. 530. Controversies involving whether individuals are employees for purposes of the employment taxes.
Sec. 531. Certain original stockholders of cooperative housing corporations.

Subtitle E—Other Income Tax Provisions

Sec. 540. Deposits in certain branches of Puerto Rican savings and loan associations.
Sec. 541. Taxation of Alaska Native Claims Settlement Act corporations.
Sec. 542. Replacement of livestock with other farm property where there has been environmental contamination.
Sec. 543. Certain payments not included in gross income.

Subtitle F—Studies

Sec. 551. Study of simplification of tax returns.
Sec. 552. Study of tax incentives for expenditures required by Occupational Safety and Health Administration and Mining Health and Safety Administration.
Sec. 553. Study of taxation of nonresident alien real estate transactions in the United States.
Sec. 554. Report on effectiveness of jobs credit.
Sec. 555. Study of effects of changes in the tax treatment of capital gains on stimulating investment and economic growth.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

Sec. 601. Establishment and taxation of general stock ownership corporations and their shareholders.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

Sec. 701. Technical amendments to income tax provisions and administrative provisions.
Sec. 702. Technical, clerical, and conforming amendment to estate and gift tax provisions.
Sec. 703. Corrections of punctuation, spelling, incorrect cross references, etc.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

Sec. 801. Grants to States for social services.
Sec. 802. Change in public assistance matching formula, and increase in amount of public assistance dollar limitations, for Puerto Rico, the Virgin Islands, and Guam in fiscal year 1979.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

SEC. 3. POLICY WITH RESPECT TO ADDITIONAL TAX REDUCTIONS.

As a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed 1 percent per year between fiscal year 1979 and fiscal year 1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the Federal budget should be balanced in fiscal years 1982 and 1983. If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these tax reductions are justified in the light of prevailing and expected economic conditions. 26 USC 1 note.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

SEC. 101. WIDENING OF BRACKETS; RATE CUTS IN CERTAIN BRACKETS; INCREASE IN ZERO BRACKET AMOUNTS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows: 26 USC 1.

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,400	No Tax.
Over $3,400 but not over $5,500	14% of excess over $3,400.
Over $5,500 but not over $7,600	$294, plus 16% of excess over $5,500.
Over $7,600 but not over $11,900	$630, plus 18% of excess over $7,600.
Over $11,900 but not over $16,000	$1,404, plus 21% of excess over $11,900.
Over $16,000 but not over $20,200	$2,265, plus 24% of excess over $16,000.
Over $20,200 but not over $24,600	$3,273, plus 28% of excess over $20,200.
Over $24,600 but not over $29,900	$4,505, plus 32% of excess over $24,600.
Over $29,900 but not over $35,200	$6,201, plus 37% of excess over $29,900.
Over $35,200 but not over $45,800	$8,162, plus 43% of excess over $35,200.
Over $45,800 but not over $60,000	$12,720, plus 49% of excess over $45,800.

"If taxable income is:	The tax is:
Over $60,000 but not over $85,600	$19,678, plus 54% of excess over $60,000.
Over $85,600 but not over $109,400	$33,502, plus 59% of excess over $85,600.
Over $109,400 but not over $162,400	$47,544, plus 64% of excess over $109,400.
Over $162,400 but not over $215,400	$81,464, plus 68% of excess over $162,400.
Over $215,400	$117,504, plus 70% of excess over $215,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	14% of excess over $2,300.
Over $4,400 but not over $6,500	$294, plus 16% of excess over $4,400.
Over $6,500 but not over $8,700	$630, plus 18% of excess over $6,500.
Over $8,700 but not over $11,800	$1,026, plus 22% of excess over $8,700.
Over $11,800 but not over $15,000	$1,708, plus 24% of excess over $11,800.
Over $15,000 but not over $18,200	$2,476, plus 26% of excess over $15,000.
Over $18,200 but not over $23,500	$3,308, plus 31% of excess over $18,200.
Over $23,500 but not over $28,800	$4,951, plus 36% of excess over $23,500.
Over $28,800 but not over $34,100	$6,859, plus 42% of excess over $28,800.
Over $34,100 but not over $44,700	$9,085, plus 46% of excess over $34,100.
Over $44,700 but not over $60,600	$13,961, plus 54% of excess over $44,700.
Over $60,600 but not over $81,800	$22,547, plus 59% of excess over $60,600.
Over $81,800 but not over $108,300	$35,055, plus 63% of excess over $81,800
Over $108,300 but not over $161,300	$51,750, plus 68% of excess over $108,300.
Over $161,300	$87,790, plus 70% of excess over $161,300.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	14% of excess over $2,300.
Over $3,400 but not over $4,400	$154, plus 16% of excess over $3,400
Over $4,400 but not over $6,500	$314, plus 18% of excess over $4,400.
Over $6,500 but not over $8,500	$692, plus 19% of excess over $6,500.
Over $8,500 but not over $10,800	$1,072, plus 21% of excess over $8,500.
Over $10,800 but not over $12,900	$1,555, plus 24% of excess over $10,800.
Over $12,900 but not over $15,000	$2,059, plus 26% of excess over $12,900.
Over $15,000 but not over $18,200	$2,605, plus 30% of excess over $15,000.
Over $18,200 but not over $23,500	$3,565, plus 34% of excess over $18,200.
Over $23,500 but not over $28,800	$5,367, plus 39% of excess over $23,500.
Over $28,800 but not over $34,100	$7,434, plus 44% of excess over $28,800.
Over $34,100 but not over $41,500	$9,766, plus 49% of excess over $34,100.
Over $41,500 but not over $55,300	$13,392, plus 55% of excess over $41,500.
Over $55,300 but not over $81,800	$20,982, plus 63% of excess over $55,300.
Over $81,800 but not over $108,300	$37,677, plus 68% of excess over $81,800.

"If taxable income is:	The tax is:
Over $108,300	$55,697, plus 70% of excess over $108,300.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	14% of excess over $1,700.
Over $2,750 but not over $3,800	$147, plus 16% of excess over $2,750.
Over $3,800 but not over $5,950	$315, plus 18% of excess over $3,800.
Over $5,950 but not over $8,000	$702, plus 21% of excess over $5,950.
Over $8,000 but not over $10,100	$1,132.50, plus 24% of excess over $8,000.
Over $10,100 but not over $12,300	$1,636.50, plus 28% of excess over $10,100.
Over $12,300 but not over $14,950	$2,252.50, plus 32% of excess over $12,300.
Over $14,950 but not over $17,600	$3,100.50, plus 37% of excess over $14,950.
Over $17,600 but not over $22,900	$4,081, plus 43% of excess over $17,600.
Over $22,900 but not over $30,000	$6,360, plus 49% of excess over $22,900.
Over $30,000 but not over $42,800	$9,839, plus 54% of excess over $30,000.
Over $42,800 but not over $54,700	$16,751, plus 59% of excess over $42,800.
Over $54,700 but not over $81,200	$23,772, plus 64% of excess over $54,700.
Over $81,200 but not over $107,700	$40,732, plus 68% of excess over $81,200.
Over $107,700	$58,752, plus 70% of excess over $107,700.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,050	14% of taxable income.
Over $1,050 but not over $2,100	$147, plus 16% of excess over $1,050.
Over $2,100 but not over $4,250	$315, plus 18% of excess over $2,100.
Over $4,250 but not over $6,300	$702, plus 21% of excess over $4,250.
Over $6,300 but not over $8,400	$1,132.50 plus 24% of excess over $6,300.
Over $8,400 but not over $10,600	$1,636.50, plus 28% of excess over $8,400.
Over $10,600 but not over $13,250	$2,252.50, plus 32% of excess over $10,600.
Over $13,250 but not over $15,900	$3,100.50, plus 37% of excess over $13,250.
Over $15,900 but not over $21,200	$4,081, plus 43% of excess over $15,900.
Over $21,200 but not over $28,300	$6,360, plus 49% of excess over $21,200.
Over $28,300 but not over $41,100	$9,839, plus 54% of excess over $28,300.
Over $41,100 but not over $53,000	$16,751, plus 59% of excess over $41,100.
Over $53,000 but not over $79,500	$23,772, plus 64% of excess over $53,000.
Over $79,500 but not over $106,000	$40,732, plus 68% of excess over $79,500.
Over $106,000	$58,752, plus 70% of excess over $106,000.".

(b) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended— 26 USC 63.

(1) by striking out "$3,200" and inserting in lieu thereof "$3,400",

(2) by striking out "$2,200" and inserting in lieu thereof "$2,300", and

(3) by striking out "$1,600" and inserting in lieu thereof "$1,700".

26 USC 6012.

(c) FILING REQUIREMENTS.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,050",

(2) by striking out "$3,950" and inserting in lieu thereof "$4,150", and

(3) by striking out "$4,700" and inserting in lieu thereof "$4,900".

(d) TECHNICAL AMENDMENTS.—

26 USC 402.

(1) Subparagraph (C) of section 402(e)(1) (relating to tax on lump sum distributions) is amended by striking out "$2,200" and inserting in lieu thereof "$2,300".

26 USC 1302.

(2) Paragraph (3) of section 1302(b) (relating to transitional rule for determining base period income) is amended to read as follows:

"(3) TRANSITIONAL RULE FOR DETERMINING BASE PERIOD INCOME.—The base period income (determined under paragraph (2)) for any taxable year beginning before January 1, 1977, shall be increased by—

"(A) $3,200 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

26 USC 2.

"(B) $2,200 in the case of an individual who is not married (within the meaning of section 143) and is not a surviving spouse (as so defined), or

"(C) $1,600 in the case of a married individual (within the meaning of section 143) filing a separate return.

26 USC 143.

For purposes of this paragraph, filing status shall be determined as of the computation year."

(e) WITHHOLDING AMENDMENTS.—

26 USC 3402.

(1) WITHHOLDING TABLES.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 and the amendments made by section 101 of the Revenue Act of 1978.".

91 Stat. 127, 135.

Ante, p. 2767.

(2) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$3,200" and inserting in lieu thereof "$3,400", and

(B) by striking out "$2,200" and inserting in lieu thereof "$2,300".

(f) EFFECTIVE DATES.—

26 USC 1 note.

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (e) shall apply to remuneration paid after December 31, 1978. 26 USC 3402 note.

SEC. 102. PERSONAL EXEMPTIONS INCREASED TO $1,000.

(a) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$750" each place it appears and inserting in lieu thereof "$1,000". 26 USC 151.

(b) FILING REQUIREMENTS.—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as amended by section 101(c) of this Act, is amended by striking out "$750", "$3,050", "$4,150", and "$4,900" each place they appear and inserting in lieu thereof "$1,000", "$3,300", "$4,400", and "$5,400", respectively. 26 USC 6012.

(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" and "$1,500" each place they appear and inserting in lieu thereof "$1,000" and "$2,000", respectively. 26 USC 6013.

(c) WITHHOLDING REQUIREMENTS.—

(1) Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table and inserting in lieu thereof the following: 26 USC 3402.

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption
Weekly	$19.23
Biweekly	38.46
Semimonthly	41.66
Monthly	83.33
Quarterly	250.00
Semiannual	500.00
Annual	1,000.00
Daily or miscellaneous (per day of such period)	2.74".

(2) Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "$750" and inserting in lieu thereof "$1,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1978. 26 USC 151 note.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (c) shall apply with respect to remuneration paid after December 31, 1978. 26 USC 3402 note.

SEC. 103. EARNED INCOME CREDIT MADE PERMANENT.

(a) GENERAL RULE.—Subsection (b) of section 209 of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1979". 26 USC 43 note.

(b) TECHNICAL AMENDMENT.—The second sentence of section 401(e) of the Tax Reform Act of 1976 (as added by section 103 of the Tax Reduction and Simplification Act of 1977) is amended by striking out ", and shall cease to apply to taxable years beginning after December 31, 1978". 26 USC 42 note.

SEC. 104. INCREASE IN AND SIMPLIFICATION OF THE EARNED INCOME TAX CREDIT.

26 USC 43.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended—

(1) by striking out "chapter" and inserting in lieu thereof "subtitle", and

(2) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(b) REVISION OF THE LIMITATION.—Subsection (b) of section 43 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $500, over

"(2) 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $6,000.".

(c) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—Section 43 is amended by adding at the end thereof the following new subsection:

"(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between $0 and $10,000, and

"(B) for adjusted gross income between $6,000 and $10,000.".

(d) EXCLUDABLE EARNED INCOME TAKEN INTO ACCOUNT.—Subparagraph (B) of section 43(c)(2) (defining earned income) is amended by striking out clause (i) and by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(e) DEFINITION OF ELIGIBLE INDIVIDUAL.—Paragraph (1) of section 43(c) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who, for the taxable year—

26 USC 143. 26 USC 151.

"(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)),

26 USC 2.

"(ii) is a surviving spouse (as determined under section 2(a)), or

"(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

"(B) CHILD MUST RESIDE WITH TAXPAYER IN THE UNITED STATES.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual and such abode is in the United States. An individual shall be treated as satisfying clause (ii) or (iii) of subparagraph (A) only if the household in question is in the United States.

26 USC 911.

"(C) INDIVIDUAL ENTITLED TO EXCLUDE INCOME UNDER SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible indi-

vidual' does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).". 26 USC 911. 26 USC 931.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 43 note.

SEC. 105. ADVANCE PAYMENT OF EARNED INCOME CREDIT.

(a) COORDINATION OF CREDIT WITH ADVANCE PAYMENTS.—Section 43 (relating to earned income credit) is amended by adding at the end thereof the following new subsection: 26 USC 43.

"(h) COORDINATION WITH ADVANCE PAYMENTS OF EARNED INCOME CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made to the individual by an employer under section 3507 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments. *Infra.*

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.".

(b) ADVANCE PAYMENT OF EARNED INCOME CREDIT.—

(1) IN GENERAL.—Chapter 25 (general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3507. ADVANCE PAYMENT OF EARNED INCOME CREDIT. 26 USC 3507.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom an earned income eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's earned income advance amount.

"(b) EARNED INCOME ELIGIBILITY CERTIFICATE.—For purposes of this title, an earned income eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 43 for the taxable year,

"(2) certifies that the employee does not have an earned income eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

"(3) states whether or not the employee's spouse has an earned income eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) EARNED INCOME ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'earned income advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

26 USC 3402.

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

Ante, pp. 2772, 2773.

"(i) of not more than 10 percent of the first $5,000 of earned income, which

"(ii) phases out between $6,000 and $10,000 of earned income, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of not more than 10 percent of the first $2,500 of earned income, which

"(ii) phases out between $3,000 and $5,000 of earned income.

"(d) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(1) IN GENERAL.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

"(A) shall not be treated as the payment of compensation, and

"(B) shall be treated as made out of—

"(i) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding), and

26 USC 3401.

"(ii) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

26 USC 3102.

"(iii) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes),

26 USC 3111.

as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

"(2) ADVANCE PAYMENTS EXCEED TAXES DUE.—In the case of any employer, if for any payroll period the aggregate amount of earned income advance payments exceeds the sum of the amounts referred to in paragraph (1)(B), each such advance payment shall be reduced by an amount which bears the same ratio to such excess as such advance payment bears to the aggregate amount of all such advance payments.

"(3) EMPLOYER MAY MAKE FULL ADVANCE PAYMENTS.—The Secretary shall prescribe regulations under which an employer may elect (in lieu of any application of paragraph (2))—

"(A) to pay in full all earned income advance amounts, and

"(B) to have additional amounts paid by reason of this paragraph treated as the advance payment of taxes imposed by this title.

"(4) FAILURE TO MAKE ADVANCE PAYMENTS.—For purposes of this title (including penalties), failure to make any advance payment under this section at the time provided therefor shall be

treated as the failure at such time to deduct and withhold under chapter 24 an amount equal to the amount of such advance payment. 26 USC 3401 *et seq.*

"(e) FURNISHING AND TAKING EFFECT OF CERTIFICATES.—For purposes of this section—

"(1) WHEN CERTIFICATE TAKES EFFECT.—

"(A) FIRST CERTIFICATE FURNISHED.—An earned income eligibility certificate furnished the employer in cases in which no previous such certificate had been in effect for the calendar year shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished (or if later, the first day of the calendar year for which furnished).

"(B) LATER CERTIFICATE.—An earned income eligibility certificate furnished the employer in cases in which a previous such certificate had been in effect for the calendar year shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days after the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished. For purposes of this section, the term 'status determination date' means January 1, May 1, July 1, and October 1 of each year.

"(2) PERIOD DURING WHICH CERTIFICATE REMAINS IN EFFECT.—An earned income eligibility certificate which takes effect under this section for any calendar year shall continue in effect with respect to the employee during such calendar year until revoked by the employee or until another such certificate takes effect under this section.

"(3) CHANGE OF STATUS.—

"(A) REQUIREMENT TO REVOKE OR FURNISH NEW CERTIFICATE.—If, after an employee has furnished an earned income eligibility certificate under this section, there has been a change of circumstances which has the effect of—

"(i) making the employee ineligible for the credit provided by section 43 for the taxable year, or *Ante*, pp. 2772, 2773.

"(ii) causing an earned income eligibility certificate to be in effect with respect to the spouse of the employee,

the employee shall, within 10 days after such change in circumstances, furnish the employer with a revocation of such certificate or with a new certificate (as the case may be). Such a revocation (or such a new certificate) shall take effect under the rules provided by paragraph (1)(B) for a later certificate and shall be made in such form as the Secretary shall by regulations prescribe.

"(B) CERTIFICATE NO LONGER IN EFFECT.—If, after an employee has furnished an earned income eligibility certificate under this section which certifies that such a certificate is in effect with respect to the spouse of the employee, such a certificate is no longer in effect with respect to such spouse, then the employee may furnish the employer with a new earned income eligibility certificate.

"(4) FORM AND CONTENTS OF CERTIFICATE.—Earned income eligibility certificates shall be in such form and contain such other information as the Secretary may by regulations prescribe.

"(5) TAXABLE YEAR DEFINED.—The term 'taxable year' means the last taxable year of the employee under subtitle A beginning in the calendar year in which the wages are paid.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3507. Advance payment of earned income credit.".

(c) INFORMATION SHOWN ON W-2.—The first sentence of section 6051(a) (relating to receipts for employees) is amended— 26 USC 6051.

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new paragraph:

"(7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).".

(d) REQUIREMENT OF RETURN.—Subsection (a) of section 6012 (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph: 26 USC 6012.

"(8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit).". *Ante*, p. 2773.

(e) CROSS REFERENCE.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection: 26 USC 6302.

"(d) CROSS REFERENCE.—

"For treatment of payment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).".

(f) DISREGARD TO TERMINATE IN 1980.—Section 2(d) of the Revenue Adjustment Act of 1975 (relating to disregard of refund) is amended— 26 USC 43 note.

(1) by inserting before "shall not be taken into account" the following: ", and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit)", and 26 USC 3507.

(2) by inserting after "shall not be taken into account" the following: "in any year ending before 1980".

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a) and (d) shall apply to taxable years beginning after December 31, 1978. 26 USC 43 note.

(2) The amendments made by subsections (b), (c), and (e) shall apply to remuneration paid after June 30, 1978. 26 USC 3507 note.

(3) Subsection (f) shall take effect on the date of the enactment of this Act. 26 USC 43 note.

SEC. 106. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS.

Section 21 (relating to effects of changes in rate of tax) is amended by adding at the end thereof the following new subsection: 26 USC 21.

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year—

"(1) the amendments made by sections 101, 102, and 301 of the Revenue Act of 1978 (and no other amendments made by such Act), and *Ante*, pp. 2767, 2771; *Post*, p. 2820.

"(2) the expiration of section 42 (relating to general tax credit), shall be treated as a change in a rate of tax.". 26 USC 42.

Subtitle B—Itemized Deductions; Etc.

SEC. 111. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164(a) (relating to deduction for taxes) is hereby repealed. 26 USC 164.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 164 note.

SEC. 112. TAXATION OF UNEMPLOYMENT COMPENSATION BENEFITS AT CERTAIN INCOME LEVELS.

(a) INCLUSION IN GROSS INCOME.—Part II of subchapter B of chapter 1 (relating to amounts specifically included in gross income) is amended by adding at the end thereof the following new section: 26 USC 71.

"SEC. 85. UNEMPLOYMENT COMPENSATION. 26 USC 85.

"(a) IN GENERAL.—If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to this section and without regard to section 105(d)) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of— 26 USC 105.

"(1) one-half of the amount of the excess of such sum over the base amount, or

"(2) the amount of the unemployment compensation.

"(b) BASE AMOUNT DEFINED.—For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), $20,000,

"(2) $25,000, in the case of a joint return under section 6013, or 26 USC 6013.

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and 26 USC 143.

"(B) does not live apart from his spouse at all times during the taxable year.

"(c) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.".

(b) REPORTING OF UNEMPLOYMENT COMPENSATION PAYMENTS.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050B. RETURNS RELATING TO UNEMPLOYMENT COMPENSATION. 26 USC 6050B.

"(a) REQUIREMENT OF REPORTING.—Every person who makes payments of unemployment compensation aggregating $10 or more to any individual during any calendar year shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made. No statement shall be required to be furnished to any individual under this subsection if the aggregate amount of payments to such individual shown on the return made under subsection (a) is less than $10.

"(c) DEFINITIONS.—For purposes of this section—

"(1) UNEMPLOYMENT COMPENSATION.—The term 'unemployment compensation' has the meaning given to such term by section 85(c).

26 USC 85.

"(2) PERSON.—The term 'person' means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 85. Unemployment compensation."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050B. Returns relating to unemployment compensation.".

26 USC 85 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date.

SEC. 113. REPEAL OF DEDUCTION FOR POLITICAL CONTRIBUTIONS; INCREASE IN CREDIT.

(a) REPEAL OF DEDUCTION.—

26 USC 218.

(1) REPEAL.—Section 218 (relating to deduction for contributions to candidates for public office and newsletter funds) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by striking out the item relating to section 218.

26 USC 642.

(B) Section 642 (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

26 USC 41.

(c) INCREASE IN AMOUNT OF CREDIT.—Paragraph (1) of section 41(b) (relating to maximum credit) is amended by striking out "$25" and "$50" and inserting in lieu thereof "$50" and "$100", respectively.

26 USC 41 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions the payment of which is made after December 31, 1978, in taxable years beginning after such date.

Subtitle C—Credits

SEC. 121. PAYMENTS TO RELATED INDIVIDUALS UNDER CHILD CARE CREDIT.

(a) IN GENERAL.—Paragraph (6) of section 44A(f) (relating to payments to related individuals) is amended to read as follows: 26 USC 44A.

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or 26 USC 151.

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed." "Taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978. 26 USC 44A note.

Subtitle D—Deferred Compensation

PART I—DEFERRED COMPENSATION PROVISIONS

SEC. 131. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS. 26 USC 457.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable years for which gross income included) is amended by adding at the end thereof the following new section:

"SEC. 457. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

"(a) YEAR OF INCLUSION IN GROSS INCOME.—In the case of a participant in an eligible State deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

"(b) ELIGIBLE STATE DEFERRED COMPENSATION PLAN DEFINED.—For purposes of this section, the term 'eligible State deferred compensation plan' means a plan established and maintained by a State—

"(1) in which only individuals who perform service for the State may be participants,

"(2) which provides that (except as provided in paragraph (3)) the maximum that may be deferred under the plan for the taxable year shall not exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

"(4) which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

"(5) which does not provide that amounts payable under the plan will be made available to participants or other beneficiaries earlier than when the participant is separated from service with the State or is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary by regulation), and

"(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property and rights purchased with such amounts, and

"(C) all income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the State (without being restricted to the provision of benefits under the plan) subject only to the claims of the State's general creditors. A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the first plan year beginning more than 180 days after the date of notification by the Secretary of the inconsistency unless the State corrects the inconsistency before the first day of such plan year.

"(c) INDIVIDUALS WHO ARE PARTICIPANTS IN MORE THAN ONE PLAN.—

"(1) IN GENERAL.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

26 USC 403.

"(2) COORDINATION WITH SECTION 403(b).—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b), an amount excluded during a taxable year under section 403(b) shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATE.—The term 'State' means a State, a political subdivision of a State, and an agency or instrumentality of a State or political subdivision of a State.

"(2) PERFORMANCE OF SERVICE.—The performance of service includes performance of service as an independent contractor.

"(3) PARTICIPANT.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) BENEFICIARY.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' means compensation for service performed for the State which (taking into account the provisions of this section and section 403(b)) is currently includible in gross income.

"(6) COMPENSATION TAKEN INTO ACCOUNT AT PRESENT VALUE.—Compensation shall be taken into account at its present value.

"(7) COMMUNITY PROPERTY LAWS.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) INCOME ATTRIBUTABLE.—Gains from the disposition of property shall be treated as income attributable to such property.

"(9) SECTION TO APPLY TO RURAL ELECTRIC COOPERATIVES.—

"(A) IN GENERAL.—This section shall apply with respect to any participant in a plan of a rural electric cooperative in the same manner and to the same extent as if such plan were a plan of a State.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization described in section 501(c)(12) which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service, and 26 USC 501.

"(ii) any organization described in section 501(c)(6) which is exempt from tax under section 501(a) and all the members of which are organizations described in clause (i).

"(e) TAX TREATMENT OF PARTICIPANTS WHERE PLAN OR ARRANGEMENT OF STATE IS NOT ELIGIBLE.—

"(1) IN GENERAL.—In the case of a plan of a State providing for a deferral of compensation, if such plan is not an eligible State deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.). 26 USC 72.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), 26 USC 401. 26 USC 501.

"(B) an annuity plan or contract described in section 403, 26 USC 403.

"(C) a qualified bond purchase plan described in section 405(a), 26 USC 405.

"(D) that portion of any plan which consists of a transfer of property described in section 83, and 26 USC 83.

"(E) that portion of any plan which consists of a trust to which section 402(b) applies. 26 USC 402.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(B) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 457. Deferred compensation plans with respect to service for State and local governments.".

26 USC 457 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

(2) TRANSITIONAL RULES.—

(A) IN GENERAL.—In the case of any taxable year beginning after December 31, 1978, and before January 1, 1982—

(i) any amount of compensation deferred under a plan of a State providing for a deferral of compensation (other than a plan described in section 457(e)(2) of the Internal Revenue Code of 1954), and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary, but

Ante, p. 2779.

(ii) the maximum amount of the compensation of any one individual which may be excluded from gross income by reason of clause (i) and by reason of section 457(a) of such Code during any such taxable year shall not exceed the lesser of—

(I) $7,500, or

(II) 33⅓ percent of the participant's includible compensation.

(B) APPLICATION OF CATCH-UP PROVISIONS IN CERTAIN CASES.—If, in the case of any participant for any taxable year, all of the plans are eligible State deferred compensation plans, then clause (ii) of subparagraph (A) of this paragraph shall be applied with the modification provided by paragraph (3) of section 457(b) of such Code.

(C) APPLICATIONS OF CERTAIN COORDINATION PROVISIONS.—In applying clause (ii) of subparagraph (A) of this paragraph and section 403(b)(2)(A)(ii) of such Code, rules similar to the rules of section 457(c)(2) of such Code shall apply.

26 USC 403.

Ante, p. 2779.

(D) MEANING OF TERMS.—Except as otherwise provided in this paragraph, terms used in this paragraph shall have the same meaning as when used in section 457 of such Code.

SEC. 132. CERTAIN PRIVATE DEFERRED COMPENSATION PLANS.

26 USC 451 note.

(a) GENERAL RULE.—The taxable year of inclusion in gross income of any amount covered by a private deferred compensation plan shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

(b) PRIVATE DEFERRED COMPENSATION PLAN DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "private deferred compensation plan" means a plan, agreement, or arrangement—

(A) where the person for whom the service is performed is not a State (within the meaning of paragraph (1) of section

457(d) of the Internal Revenue Code of 1954) and not an organization which is exempt from tax under section 501 of such Code, and *Ante*, p. 2779. 26 USC 501.

(B) under which the payment or otherwise making available of compensation is deferred.

(2) CERTAIN PLANS EXCLUDED.—Paragraph (1) shall not apply to—

(A) a plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a) of such Code, 26 USC 401. 26 USC 501.

(B) an annuity plan or contract described in section 403 of such Code, 26 USC 403.

(C) a qualified bond purchase plan described in section 405(a) of such Code, 26 USC 405.

(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof) of such Code, and 26 USC 83.

(E) that portion of any plan which consists of a trust to which section 402(b) of such Code applies. 26 USC 402.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after February 1, 1978.

SEC. 133. CLARIFICATION OF DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by inserting after subsection (c) the following new subsection: 26 USC 404.

"(d) DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.—If a plan would be described in so much of subsection (a) as precedes paragraph (1) thereof (as modified by subsection (b)) but for the fact that there is no employer-employee relationship, the contributions or compensation—

"(1) shall not be deductible by the payor thereof under section 162 or 212, but 26 USC 162, 212.

"(2) shall (if they would be deductible under section 162 or 212 but for paragraph (1)) be deductible under this subsection for the taxable year in which an amount attributable to the contribution or compensation is includible in the gross income of the persons participating in the plan."

(b) CLARIFICATION OF SECTION 404(b).—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended by striking out "similar plan" and inserting in lieu thereof "other plan". 26 USC 404.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deductions for taxable years beginning after December 31, 1978. 26 USC 404 note.

SEC. 134. TAX TREATMENT OF CAFETERIA PLANS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 125 as section 126 and by inserting after section 124 the following new section: 26 USC 126.

"SEC. 125. CAFETERIA PLANS. 26 USC 125.

"(a) IN GENERAL.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria

plan solely because, under the plan, the participant may choose among the benefits of the plan.

"(b) EXCEPTION FOR HIGHLY COMPENSATED PARTICIPANTS WHERE PLAN IS DISCRIMINATORY.—

"(1) IN GENERAL.—In the case of a highly compensated participant, subsection (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

"(A) highly compensated individuals as to eligibility to participate, or

"(B) highly compensated participants as to contributions and benefits.

"(2) YEAR OF INCLUSION.—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

"(c) DISCRIMINATION AS TO BENEFITS OR CONTRIBUTIONS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

"(d) CAFETERIA PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'cafeteria plan' means a written plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among two or more benefits.

The benefits which may be chosen may be nontaxable benefits, or cash, property, or other taxable benefits.

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(e) HIGHLY COMPENSATED PARTICIPANT AND INDIVIDUAL DEFINED.—For purposes of this section—

"(1) HIGHLY COMPENSATED PARTICIPANT.—The term 'highly compensated participant' means a participant who is—

"(A) an officer,

"(B) a shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,

"(C) highly compensated, or

"(D) a spouse or dependent (within the meaning of section 152) of an individual described in subparagraph (A), (B), or (C).

26 USC 152.

"(2) HIGHLY COMPENSATED INDIVIDUAL.—The term 'highly compensated individual' means an individual who is described in subparagraphs (A), (B), (C), or (D) of paragraph (1).

"(f) NONTAXABLE BENEFIT DEFINED.—For purposes of this section, the term 'nontaxable benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee.

"(g) SPECIAL RULES.—

"(1) COLLECTIVELY BARGAINED PLAN NOT CONSIDERED DISCRIMINATORY.—For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

"(2) HEALTH BENEFITS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

"(A) contributions under the plan on behalf of each participant include an amount which—

"(i) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

"(ii) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

"(B) contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

"(3) CERTAIN PARTICIPATION ELIGIBILITY RULES NOT TREATED AS DISCRIMINATORY.—For purposes of subparagraph (A) of subsection (b)(1), a classification shall not be treated as discriminatory if the plan—

"(A) benefits a group of employees described in subparagraph (B) of section 410(b)(1), and 26 USC 410.

"(B) meets the requirements of clauses (i) and (ii):

"(i) No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the service requirement for each employee is the same.

"(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the service requirement was satisfied unless the employee was separated from service before the first day of that plan year.

"(4) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or (c) of section 414 shall be treated as employed by a single employer for purposes of this section. 26 USC 414.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 125. Cafeteria plans.
"Sec. 126. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 125 note.

SEC. 135. CERTAIN CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (k) as (l) and by inserting after subsection (j) the following new subsection: 26 USC 401.

"(k) CASH OR DEFERRED ARRANGEMENTS.—

"(1) GENERAL RULE.—A profit-sharing or stock bonus plan shall not be considered as not satisfying the requirements of subsec-

tion (a) merely because the plan includes a qualified cash or deferred arrangement.

"(2) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—A qualified cash or deferred arrangement is any arrangement which is part of a profit-sharing or stock bonus plan which meets the requirements of subsection (a)—

"(A) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash;

"(B) under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than upon retirement, death, disability, or separation from service, hardship or the attainment of age 59½, and will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and

"(C) which provides that an employee's right to his accrued benefit derived from employer contributions made to the trust pursuant to his election are nonforfeitable.

"(3) APPLICATION OF PARTICIPATION AND DISCRIMINATION STANDARDS.—

"(A) A qualified cash or deferred arrangement shall be considered to satisfy the requirements of subsection (a)(4), with respect to the amount of contributions, and of subparagraph (B) of section 410(b)(1) for a plan year if those employees eligible to benefit under the plan satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1) and if the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such plan year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

26 USC 410.

"(i) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(ii) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

"(B) For purposes of subparagraph (A), the actual deferral percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(i) the amount of employer contributions actually paid over to the trust on behalf of each such employee for such plan year, to

"(ii) the employee's compensation for such plan year.

For purposes of the preceding sentence, the compensation of any employee for a plan year shall be the amount of his compensation which is taken into account under the plan in calculating the contribution which may be made on his behalf for such plan year.

"(4) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' means any employee who is more highly compensated than two-thirds of all eligible employees, taking into account only compensation which is considered in applying paragraph (3)."

(b) TAXABILITY OF BENEFICIARIES.—Subsection (a) of section 402 is amended by adding at the end thereof the following new paragraph: 26 USC 402.

"(8) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash." 26 USC 401.

(c) EFFECTIVE DATE.— 26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1979.

(2) TRANSITIONAL RULE.—In the case of cash or deferred arrangements in existence on June 27, 1974—

(A) the qualification of the plan and the trust under section 401 of the Internal Revenue Code of 1954; 26 USC 401.

(B) the exemption of the trust under section 501(a) of such Code; 26 USC 501.

(C) the taxable year of inclusion in gross income of the employee of any amount so contributed by the employer to the trust; and

(D) the excludability of the interest of the employee in the trust under sections 2039 and 2517 of such Code, 26 USC 2039, 2517.

shall be determined for plan years beginning before January 1, 1980 in a manner consistent with Revenue Ruling 56-497 (1956-2 C.B. 284), Revenue Ruling 63-180 (1963-2 C.B. 189), and Revenue Ruling 68-89 (1968-1 C.B. 402).

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 141. ESOPS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to general rule for pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"SEC. 409A. QUALIFICATIONS FOR ESOPS. 26 USC 409A.

"(a) ESOP DEFINED.—Except as otherwise provided in this title, for purposes of this title, the term 'ESOP' means a defined contribution plan which—

"(1) meets the requirements of section 401(a), 26 USC 401.

"(2) is designed to invest primarily in employer securities, and

"(3) meets the requirements of subsections (b), (c), (d), (e), (f), (g), and (h) of this section.

"(b) REQUIRED ALLOCATION OF EMPLOYER SECURITIES.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan provides for the allocation for the plan year of all employer securities transferred to it or purchased by it (because of the requirements of section 48(n)(1)(A)) to the

accounts of all participants who are entitled to share in such allocation, and

"(B) for the plan year the allocation to each participant so entitled is an amount which bears substantially the same proportion to the amount of all such securities allocated to all such participants in the plan for that year as the amount of compensation paid to such participant during that year bears to the compensation paid to all such participants during that year.

"(2) COMPENSATION IN EXCESS OF $100,000 DISREGARDED.—For purposes of paragraph (1), compensation of any participant in excess of the first $100,000 per year shall be disregarded.

"(3) DETERMINATION OF COMPENSATION.—For purposes of this subsection, the amount of compensation paid to a participant for any period is the amount of such participant's compensation (within the meaning of section 415(c)(3)) for such period.

26 USC 415.

"(4) SUSPENSION OF ALLOCATION IN CERTAIN CASES.—Notwithstanding paragraph (1), the allocation to the account of any participant which is attributable to the basic ESOP credit may be extended over whatever period may be necessary to comply with the requirements of section 415.

"(c) PARTICIPANTS MUST HAVE NONFORFEITABLE RIGHTS.—A plan meets the requirements of this subsection only if it provides that each participant has a nonforfeitable right to any employer security allocated to his account.

"(d) EMPLOYER SECURITIES MUST STAY IN THE PLAN.—A plan meets the requirements of this subsection only if it provides that no employer security allocated to a participants's account under subsection (b) may be distributed from that account before the end of the 84th month beginning after the month in which the security is allocated to the account. To the extent provided in the plan, the preceding sentence shall not apply in the case of separation from service, death, or disability.

"(e) VOTING RIGHTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if it meets the requirements of paragraph (2) or (3), whichever is applicable.

"(2) REQUIREMENTS WHERE EMPLOYER HAS A REGISTRATION-TYPE CLASS OF SECURITIES.—If the employer has a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted.

"(3) REQUIREMENT FOR OTHER EMPLOYERS.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted.

"(4) REGISTRATION-TYPE CLASS OF SECURITIES DEFINED.—For purposes of this subsection, the term, 'registration-type class of securities' means—

"(A) a class of securities required to be registered under section 12 of the Securities Exchange Act of 1934, and 15 USC 78*l*.

"(B) a class of securities which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(H) of such section 12.

"(f) PLAN MUST BE ESTABLISHED BEFORE EMPLOYER'S DUE DATE.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection for a plan year only if it is established on or before the due date for the filing of the employer's tax return for the taxable year (including any extensions of such date) in which or with which the plan year ends.

"(2) SPECIAL RULE FOR FIRST YEAR.—A plan which otherwise meets the requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely because it was not established by the close of the first taxable year of the employer for which an ESOP credit is claimed by the employer. 26 USC 401.

"(g) TRANSFERRED AMOUNTS MUST STAY IN PLAN EVEN THOUGH INVESTMENT CREDIT IS REDETERMINED OR RECAPTURED.—A plan meets the requirement of this subsection only if it provides that amounts which are transferred to the plan (because of the requirements of section 48(n)(1)) shall remain in the plan (and, if allocated under the plan, shall remain so allocated) even though part or all of the ESOP credit is recaptured or redetermined. 26 USC 48.

"(h) RIGHT TO DEMAND EMPLOYER SECURITIES; PUT OPTION.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if a participant who is entitled to a distribution from the plan—

"(A) has a right to demand that his benefits be distributed in the form of employer securities, and

"(B) if the employer securities are not readily tradable on an established market, has a right to require that the employer repurchase employer securities under a fair valuation formula.

"(2) PLAN MAY DISTRIBUTE CASH IN CERTAIN CASES.—A plan which otherwise meets the requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely because under the plan the benefits may be distributed in cash or in the form of employer securities.

"(i) REIMBURSEMENT FOR EXPENSES OF ESTABLISHING AND ADMINISTERING PLAN.—A plan which otherwise meets the requirements of this section shall not be treated as failing to meet such requirements merely because it provides that—

"(1) EXPENSES OF ESTABLISHING PLAN.—As reimbursement for the expenses of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established (or the plan may pay) so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of—

"(A) 10 percent of the first $100,000 which the employer is required to transfer to the plan for that taxable year under section 48(n)(1), and

"(B) 5 percent of any amount so required to be transferred in excess of the first $100,000; and

"(2) ADMINISTRATIVE EXPENSES.—As reimbursement for the expenses of administering the plan, the employer may withhold from amounts due the plan (or the plan may pay) so much of the

amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the lesser of—

"(A) the sum of—

"(i) 10 percent of the first $100,000 of the dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, and

"(ii) 5 percent of the amount of such dividends in excess of $100,000 or

"(B) $100,000.

"(j) CONDITIONAL CONTRIBUTIONS TO THE PLAN.—A plan which otherwise meets the requirements of this section shall not be treated as failing to satisfy such requirements (or as failing to satisfy the requirements of section 401(a) of this title or of section 403(c)(1) of the Employee Retirement Income Security Act of 1974) merely because of the return of a contribution (or a provision permitting such a return) if—

26 USC 401.
29 USC 1103.

"(1) the contribution to the plan is conditioned on a determination by the Secretary that such plan meets the requirements of this section,

"(2) the application for a determination described in paragraph (1) is filed with the Secretary not later than 90 days after the date on which an ESOP credit is claimed, and

"(3) the contribution is returned within 1 year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this section.

"(k) REQUIREMENTS RELATING TO CERTAIN WITHDRAWALS.—Notwithstanding any other law or rule of law—

"(1) the withdrawal from a plan which otherwise meets the requirements of this section by the employer of an amount contributed for purposes of the matching ESOP credit shall not be considered to make the benefits forfeitable, and

"(2) the plan shall not, by reason of such withdrawal, fail to be for the exclusive benefit of participants or their beneficiaries,

if the withdrawn amounts were not matched by employee contributions or were in excess of the limitations of section 415. Any withdrawal described in the preceding sentence shall not be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974.

26 USC 415.

"(l) EMPLOYER SECURITIES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) which is readily tradable on an established securities market.

"(2) SPECIAL RULE WHERE THERE IS NO READILY TRADABLE COMMON STOCK.—If there is no common stock which meets the requirements of paragraph (1), the term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) having a combination of voting power and dividend rights equal to or in excess of—

"(A) that class of common stock of the employer (or of any other such corporation) having the greatest voting power, and

"(B) that class of stock of the employer (or of any other such corporation) having the greatest dividend rights.

"(3) PREFERRED STOCK MAY BE ISSUED IN CERTAIN CASES.—Noncallable preferred stock shall be treated as meeting the requirements of paragraph (1) if such stock is convertible at any time into stock which meets the requirements of paragraph (1) and if such conversion is at a conversion price which (as of the date of the acquisition by the ESOP) is reasonable.

"(4) CONTROLLED GROUP OF CORPORATIONS DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a) (determined without regard to subsections (a)(4) and (e)(3)(C) of section 1563). 26 USC 1563.

"(B) COMMON PARENT MAY OWN ONLY 50 PERCENT OF FIRST TIER SUBSIDIARY.—For purposes of subparagraph (A), if the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock and at least 50 percent of each class of nonvoting stock in a first tier subsidiary, such subsidiary (and all other corporations below it in the chain which would meet the 80 percent test of section 1563(a) if the first tier subsidiary were the common parent) shall be treated as includible corporations.

"(m) CONTRIBUTIONS OF STOCK OF CONTROLLING CORPORATION.—If the stock of a corporation which controls another corporation or which controls a corporation controlled by such other corporation is contributed to an ESOP of the controlled corporation, then no gain or loss shall be recognized, because of that contribution, to the controlled corporation. For purposes of this subsection, the term 'control' has the same meaning as that term has in section 368(c). 26 USC 368.

"(n) CROSS REFERENCES.—

"(1) For requirements for allowance of ESOP credit, see section 48(n).

"(2) For assessable penalties for failure to meet requirements of this section, or for failure to make contributions required with respect to the allowance of an ESOP credit, see section 6699."

(b) AMENDMENT OF INVESTMENT CREDIT RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (n) as subsection (p) and by inserting after subsection (m) the following new subsections: 26 USC 48.

"(n) REQUIREMENTS FOR ALLOWANCE OF ESOP PERCENTAGE.—

"(1) IN GENERAL.—

"(A) BASIC ESOP PERCENTAGE.—The basic ESOP percentage shall not apply to any taxpayer for any taxable year unless the taxpayer on his return for such taxable year agrees, as a condition for the allowance of such percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to 1 percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46) for the taxable year, and 26 USC 46.

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(B) MATCHING ESOP PERCENTAGE.—The matching ESOP percentage shall not apply to any taxpayer for any taxable year unless the basic ESOP percentage applies to such taxpayer for such taxable year, and the taxpayer on his return for such taxable year agrees, as a condition for the allowance of the matching ESOP percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to the sum of the qualified matching

employee contributions made to such ESOP for the taxable year, and

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(C) TIMES FOR MAKING TRANSFERS.—The aggregate of the transfers required under subparagraphs (A) and (B) shall be made—

"(i) to the extent allocable to that portion of the ESOP credit allowed for the taxable year or allowed as a carryback to a preceding taxable year, not later than 30 days after the due date (including extensions) for filing the return for the taxable year, or

"(ii) to the extent allocable to that portion of the ESOP credit which is allowed as a carryover in a succeeding taxable year, not later than 30 days after the due date (including extensions) for filing the return for such succeeding taxable year.

The Secretary may by regulations provide that transfers may be made later than the times prescribed in the preceding sentence where the amount of any credit or carryover or carryback for any taxable year exceeds the amount shown on the return for the taxable year.

"(D) ORDERING RULES.—For purposes of subparagraph (C), the portion of the ESOP credit allowed for the current year or as a carryover or carryback shall be determined—

"(i) first by treating the credit or carryover or carryback as attributable to the regular percentage,

"(ii) second by treating the portion (not allocated under clause (i)) of such credit or carryover or carryback as attributable to the basic ESOP percentage, and

"(iii) finally by treating the portion (not allocated under clause (i) or (ii) as attributable to the matching ESOP percentage.

"(2) QUALIFIED MATCHING EMPLOYEE CONTRIBUTION DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified matching employee contribution' means, with respect to any taxable year, any contribution made by an employee to an ESOP maintained by the taxpayer if—

"(i) each employee who is entitled to an allocation of employer securities transferred to the ESOP under paragraph (1)(A) is entitled to make such a contribution,

"(ii) the contribution is designated by the employee as a contribution intended to be taken into account under this subparagraph for the taxable year,

"(iii) the contribution is paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year, and is invested forthwith in employer securities, and

"(iv) the ESOP meets the requirements of subparagraph (B).

"(B) PLAN REQUIREMENTS.—For purposes of subparagraph (A), an ESOP meets the requirements of this subparagraph if—

"(i) participation in the ESOP is not required as a condition of employment and the ESOP does not require matching employee contributions as a condition of participation in the ESOP,

"(ii) employee contributions under the ESOP meet the requirements of section 401(a)(4), and 26 USC 401.

"(iii) the ESOP provides for allocation of all employer securities transferred to it or purchased by it (because of the requirements of paragraph (1)(B)) to the account of each participant in an amount equal to such participant's matching employee contributions for the year.

"(3) CERTAIN CONTRIBUTIONS OF CASH TREATED AS CONTRIBUTIONS OF EMPLOYER SECURITIES.—For purposes of this subsection, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the ESOP, used within 30 days to purchase employer securities.

"(4) ADJUSTMENTS IF ESOP CREDIT RECAPTURED.—If any portion of the ESOP credit is recaptured under section 47 or the ESOP credit is reduced by a final determination— 26 USC 47.

"(A) the employer may reduce the amount required to be transferred to the ESOP under paragraph (1) for the current taxable year or any succeeding taxable year by an amount equal to such portion (or reduction), or

"(B) notwithstanding the provisions of paragraph (5) and to the extent not taken into account under subparagraph (A), the employer may deduct an amount equal to such portion (or reduction), subject to the limitations of section 404. 26 USC 404.

"(5) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under section 162, 212, or 404 for amounts required to be transferred to an ESOP under this subsection. 26 USC 162, 212, 404.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409A(l).

"(B) VALUE.—The term 'value' means—

"(i) in the case of securities listed on a national exchange, the average of closing prices of such securities for the 20 consecutive trading days immediately preceding the due date for filing the return for the taxable year (determined with regard to extensions), or

"(ii) in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations prescribed by the Secretary.

"(o) CERTAIN CREDITS DEFINED.—For purposes of this title—

"(1) REGULAR INVESTMENT CREDIT.—The term 'regular investment credit' means that portion of the credit allowable by section 38 which is attributable to the regular percentage. 26 USC 38.

"(2) ENERGY INVESTMENT CREDIT.—The term 'energy investment credit' means that portion of the credit allowable by section 38 which is attributable to the energy percentage.

"(3) ESOP CREDIT.—The term 'ESOP credit' means the sum of—

"(A) the basic ESOP credit, and

"(B) the matching ESOP credit.

"(4) BASIC ESOP CREDIT.—The term 'basic ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the basic ESOP percentage.

"(5) MATCHING ESOP CREDIT.—The term 'matching ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the matching ESOP.

"(6) BASIC ESOP PERCENTAGE.—The term 'basic ESOP percentage' means the 1-percent ESOP percentage set forth in section 46(a)(2)(E)(i).

26 USC 46.

"(7) MATCHING ESOP PERCENTAGE.—The term 'matching ESOP percentage' means the additional ESOP percentage (not to exceed ½ of 1 percent) set forth in section 46(a)(2)(E)(ii)."

(c) ASSESSABLE PENALTIES.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6699.

"SEC. 6699. ASSESSABLE PENALTIES RELATING TO ESOP.

"(a) IN GENERAL.—If a taxpayer who has claimed an ESOP credit for any taxable year—

26 USC 409.

"(1) fails to satisfy any requirement provided by section 409A, or

"(2) fails to make any contribution which is required under section 48(n) within the period required for making such contribution,

26 USC 48.

the taxpayer shall pay a penalty in an amount equal to the amount involved in such failure.

"(b) NO PENALTY WHERE THERE IS TIMELY CORRECTION OF FAILURE.—Subsection (a) shall not apply with respect to any failure if the employer corrects such failure (as determined by the Secretary) within 90 days after the Secretary notifies him of such failure.

"(c) AMOUNT INVOLVED DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'amount involved' means an amount determined by the Secretary.

"(2) MAXIMUM AND MINIMUM AMOUNT.—The amount determined under paragraph (1)—

"(A) shall not exceed the amount determined by multiplying the qualified investment of the employer for the taxable year to which the failure relates by the ESOP percentage claimed by the employer for such year, and

"(B) shall not be less than the product of one-half of 1 percent of the amount referred to in subparagraph (A), multiplied by the number of months (or parts thereof) during which such failure continues."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6699. Assessable penalties relating to ESOP."

26 USC 56.

(d) REGULAR TAX DEDUCTION FOR PURPOSES OF THE MINIMUM TAX DETERMINED WITHOUT REGARD TO ESOP PERCENTAGE.—Subsection (c) of section 56 (defining regular tax deduction) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the amount of the credit allowable under section 38 shall be determined without regard to the ESOP percentage set forth in section 46(a)(2)(E)."

26 USC 46.

(e) ESOP CREDIT EXTENDED FOR 3 YEARS.—Subparagraph (E) of section 46(a)(2) (relating to amount of business investment credit for current taxable year) is amended by striking out "and ending on December 31, 1980," each place it appears and inserting in lieu thereof "December 31, 1983".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (d), (e), and (f) of section 301 of the Tax Reduction Act of 1975 are hereby repealed. Repeal. 26 USC 46 note.

(2) Subparagraph (E) of section 46(a)(2) is amended— 26 USC 46.

(A) by striking out "section 301(e) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 48(n)(1)(B)", and 26 USC 48.

(B) by striking out "section 301(d) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 409A".

(3) Paragraph (21) of section 401(a) is amended to read as follows: 26 USC 401.

"(21) A trust forming part of an ESOP shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in section 48(n)(1)." 26 USC 26. 26 USC 48.

(4) The last sentence of section 1504(a) (defining affiliated group) is amended to read as follows: 26 USC 1504.

"As used in this subsection, the term 'stock' does not include nonvoting stock which is limited and preferred as to dividends, employer securities (within the meaning for section 409A(l)) while such securities are held under an ESOP, or qualifying employer securities (within the meaning of section 4975(e)(8)) while such securities are held under a leveraged employee stock ownership plan which meets the requirements of section 4975(e)(7)." *Ante*, p. 2787. 26 USC 4975.

(5) Paragraph (7) of section 4975(e) (defining employee stock ownership plan) is amended— 26 USC 4975.

(A) by striking out "EMPLOYEE" in the paragraph heading and inserting in lieu thereof "LEVERAGED EMPLOYEE", and

(B) by striking out "employee" in the text and inserting in lieu thereof "leveraged employee", and

(C) by adding at the end thereof the following new sentence:

"A plan shall not be treated as as leveraged employee stock ownership plan unless it meets the requirements of subsections (e) and (h) of section 409A." *Ante*, p. 2787.

(6) Paragraph (3) of section 4975(d) is amended by striking out "employee" and inserting in lieu thereof "leveraged employee". 26 USC 4975.

(7) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: 26 USC 415.

"(i) the term 'employee stock ownership plan' means a leveraged employee stock ownership plan (within the meaning of section 4975(e)(7)) or an ESOP, 26 USC 4975.

"(ii) the term 'employer securities' has the meaning given to such term by section 409A,". *Ante*, p. 2787.

(8) The table of sections for part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 409 the following new item:

"Sec. 409A. Qualification for ESOPs."

(9) Section 404(a)(2) and section 805(d) are each amended by striking out "and (20)" and inserting in lieu thereof "(20), and (22)". 26 USC 404, 805.

(g) EFFECTIVE DATES.— 26 USC 409A note.

(1) IN GENERAL.—The amendments made by this section (other than by subsection (f)(3)) shall apply with respect to qualified investment for taxable years beginning after December 31, 1978.

The amendment made by subsection (f)(7) shall apply to years beginning after December 31, 1978.

26 USC 56 note.

(2) RETROACTIVE APPLICATION OF AMENDMENT MADE BY SUBSECTION (d).—In determining the regular tax deduction under section 6 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1979, the amount of the credit allowable under section 38 shall be determined without regard to section 46(a)(2)(B) of such Code (as in effect before the enactment of the Energy Tax Act of 1978).

26 USC 6.
26 USC 38.
26 USC 46.
92 Stat. 3174.
26 USC 1 note.

SEC. 142. CERTAIN LUMP SUM DISTRIBUTIONS EXCLUDED FROM GROSS ESTATE WHERE RECIPIENT ELECTS NOT TO APPLY 10-YEAR AVERAGING.

26 USC 2039.

(a) IN GENERAL.—Subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "(other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A))" and inserting in lieu thereof "(other than an amount described in subsection (f))"

26 USC 402.

26 USC 2039.

(b) DEFINITIONS.—Section 2039 is amended by adding at the end thereof the following new subsection:

"(f) LUMP SUM DISTRIBUTIONS.—

"(1) IN GENERAL.—An amount is described in this subsection if it is a lump sum distribution described in section 402(e)(4) (determined without regard to the next to the last sentence of section 402(e)(4)(A)).

26 USC 402.

"(2) EXCEPTION WHERE RECIPIENT ELECTS NOT TO TAKE 10-YEAR AVERAGING.—A lump sum distribution described in paragraph (1) shall be treated as not described in this subsection if the recipient elects irrevocably (at such time and in such manner as the Secretary may by regulations prescribe) to treat the distribution as taxable under section 402(a) without the application of paragraph (2) thereof."

26 USC 2039 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1978.

SEC. 143. QUALIFIED PLANS REQUIRED TO PASS THROUGH VOTING RIGHTS ON EMPLOYER SECURITIES.

26 USC 401.

(a) IN GENERAL.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (21) the following new paragraph:

"(22) If a defined contributions plan—

"(A) is established by an employer whose stock is not publicly traded, and

"(B) after acquiring securities of the employer, more than 10 percent of the total assets of the plan as securities of the employer,

any trust forming part of said plan shall not constitute a qualified trust under this section unless the plan meets the requirements of subsection (e) of section 409A."

Ante, p. 2787.

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acquisitions of securities after December 31, 1979.

Subtitle E—Retirement Plans

SEC. 152. SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN MAXIMUM LIMITATION UNDER SECTION 408 TO $7,500.—Section 408 (relating to individual retirement account) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsection: 26 USC 408.

"(j) INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.—In the case of a simplified employee pension, this section shall be applied by substituting '$7,500' for '$1,500' in the following provisions:

"(1) paragraph (1) of subsection (a),

"(2) paragraph (2) of subsection (b), and

"(3) paragraph (5) of subsection (b)."

(b) SIMPLIFIED EMPLOYEE PENSION DEFINED.—Section 408 is amended by inserting after subsection (j) the following new subsection:

"(k) SIMPLIFIED EMPLOYEE PENSION DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met.

"(2) PARTICIPATION REQUIREMENTS.—This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 25, and

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 calendar years.

"(3) CONTRIBUTIONS MAY NOT DISCRIMINATE IN FAVOR OF THE HIGHLY COMPENSATED, ETC.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

"(i) an officer,

"(ii) a shareholder,

"(iii) a self-employed individual, or

"(iv) highly compensated.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2), and 26 USC 410.

"(ii) an individual shall be considered a shareholder if he owns (with the application of section 318) more than 10 percent of the value of the stock of the employer. 26 USC 318.

"(C) CONTRIBUTIONS MUST BEAR A UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $100,000) of each employee maintaining a simplified employee pension.

"(D) TREATMENT OF CERTAIN CONTRIBUTIONS AND TAXES.—Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contribution Act), title II of the Social Security Act, or any other Federal or State law. Taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under chapter 2, and the taxes which would be payable under chapter 2 by such owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees.

26 USC 1401.
26 USC 3101.
42 USC 401.
26 USC 3111.
26 USC 1402.

"(4) WITHDRAWALS MUST BE PERMITTED.—A simplified employee pension meets the requirements of this paragraph only if—

"(A) employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

"(B) there is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

"(5) CONTRIBUTIONS MUST BE MADE UNDER WRITTEN ALLOCATION FORMULA.—The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

"(A) the requirements which an employee must satisfy to share in an allocation, and

"(B) the manner in which the amount allocated is computed.

"(6) DEFINITIONS.—For purposes of this subsection and subsection (l)—

"(A) EMPLOYEE, EMPLOYER, OR OWNER-EMPLOYEE.—The terms 'employee', 'employer', and 'owner-employee' shall have the respective meanings given such terms by section 401(c).

26 USC 401.

"(B) COMPENSATION.—The term 'compensation' means, in the case of an employee within the meaning of section 401(c)(1), earned income within the meaning of section 401(c)(2).

"(l) SIMPLIFIED EMPLOYER REPORTS.—An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Secretary may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations."

26 USC 219.

(c) MAXIMUM DEDUCTION UNDER SECTION 219.—Subsection (b) of section 219 (relating to maximum deduction in the case of retirement

savings) is amended by adding at the end thereof the following new paragraph:

"(7) SIMPLIFIED EMPLOYEE PENSIONS.—In the case of an employer contribution on behalf of the employee to a simplified employee pension, paragraph (2) shall not apply with respect to the employer contribution and the limitation under paragraph (1) shall be the lesser of—

"(A) 15 percent of compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(B) the sum of—

"(i) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(ii) $1,500, reduced (but not below zero) by the amount described in clause (i).

In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the amount referred to in subparagraph (B) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)." 26 USC 408.

(d) EMPLOYEES OF ENTERPRISES UNDER COMMON CONTROL.—Subsections (b) and (c) of section 414 are each amended by inserting "408(k)," after "401,". 26 USC 414.

(e) SIMPLIFIED EMPLOYEE PENSION MAY BE TAKEN INTO ACCOUNT IN DETERMINING WHETHER EMPLOYER MEETS CERTAIN OTHER NONDISCRIMINATION PROVISIONS.—Paragraph (5) of section 401(a) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of section 410(b), an employer may take into account all simplified employee pensions to which only the employer contributes." 26 USC 401. 26 USC 410.

(f) EMPLOYER DEDUCTIONS.—Section 404 (relating to deduction for contributions of an employer) is amended by adding the following new subsection at the end thereof: 26 USC 404.

"(h) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(1) IN GENERAL.—Employer contributions to a simplified employee pension shall be treated as if they are made to a plan subject to the requirements of this section. Employer contributions to a simplified employee pension are subject to the following limitations:

"(A) Contributions made for a calendar year are deductible for the taxable year with which or within which the calendar year ends.

"(B) Contributions made within 3½ months after the close of a calendar year are treated as if they were made on the last day of such calendar year if they are made on account of such calendar year.

"(C) The amount deductible in a taxable year for a simplified employee pension shall not exceed 15 percent of the compensation paid to the employees during the calendar year ending with or within the taxable year. The excess of the amount contributed over the amount deductible for a taxable year shall be deductible in the succeeding taxable years in order of time, subject to the 15 percent limit of the preceding sentence.

"(2) EFFECT ON STOCK BONUS AND PROFIT-SHARING TRUST.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable limitations in subsection (a)(3)(A) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(3) EFFECT ON LIMIT ON DEDUCTIONS.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable 25 percent limitations in subsection (a)(7) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(4) EFFECT ON SELF-EMPLOYED INDIVIDUALS.—The limitations described in paragraphs (1), (2)(A), and (4) of subsection (e) for any taxable year shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to an employee within the meaning of section 401(c)(1)."

26 USC 401.

26 USC 415.

(g) AMENDMENTS TO SECTION 415.—Section 415 (relating to limitations on benefits and contributions under certain plans) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(2) as subparagraphs (F) and (G) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a simplified employee pension,";

(2) by inserting "408(k)," after "408(b)," in the material immediately following subparagraph (G) of section 415(b)(2);

(3) by inserting "any simplified employee pension," after "section 408(b)," in section 415(e)(5); and

(4) by striking out "or" in section 415(k)(1)(F), by redesignating subparagraph (G) of section 415(k)(1) as subparagraph (H), and by inserting after section 415(k)(1)(F) the following new subparagraph:

"(G) a simplified employee pension, or".

26 USC 408 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 153. DEFINED BENEFIT PLAN LIMITS.

26 USC 415.

(a) IN GENERAL.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(7) BENEFITS UNDER CERTAIN COLLECTIVELY BARGAINED PLANS.—For a year, the limitation referred to in paragraph (1)(B) shall not apply to benefits with respect to a participant under a defined benefit plan—

"(A) which is maintained for such year pursuant to a collective bargaining agreement between employee representatives and one or more employers,

"(B) which, at all times during such year, has at least 100 participants,

"(C) benefits under which are determined by multiplying a specified amount (which is the same amount for each participant) by the number of the participant's years of service,

"(D) which provides that an employee who has at least 4 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions, and

"(E) which requires, as a condition of participation in the plan, that an employee complete a period of not more than

60 consecutive days of service with the employer or employers maintaining the plan.

This paragraph shall not apply to a participant whose compensation for any 3 years during the 10-year period immediately preceding the year in which he separates from service exceeded the average compensation for such 3 years of all participants in such plan. For any year for which the paragraph applies to benefits with respect to a participant, paragraph (1)(A) and subsection (d)(1)(A) shall be applied with respect to such participant by substituting '37,500' for '75,000'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1978. 26 USC 415 note.

SEC. 154. CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.

(a) AMENDMENT OF SECTION 403.—Subparagraph (A) of section 403(b)(7) (relating to custodial accounts for regulated investment company stock) is amended to read as follows: 26 USC 403.

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfied the requirements of section 401(f)(2) shall be treated as amounts contributed by him for an annuity contract for his employee if— 26 USC 401.

"(i) the amounts are to be invested in regulated investment company stock to be held in that custodial account, and

"(ii) under the custodial account no such amounts may be paid or made available to any distributee before the employee dies, attains age 59½, separates from service, becomes disabled (within the meaning of section 72(m)(7)), or encounters financial hardship." 26 USC 72.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 403 note.

SEC. 155. PENSION PLAN RESERVES.

(a) IN GENERAL.—Subsection (d) of section 805 (relating to pension plan reserves) is amended— 26 USC 805.

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or 26 USC 414.

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1978. 26 USC 805 note.

SEC. 156. ROLLOVER OF SECTION 403(b) ANNUITIES PERMITTED.

(a) GENERAL RULE.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph: 26 USC 403. 26 USC 501.

"(8) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee is paid to him in a qualifying distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an individual retirement plan or to an annuity contract described in paragraph (1), and

"(iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) QUALIFYING DISTRIBUTION DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualifying distribution' means 1 or more distributions from an annuity contract described in paragraph (1) which would constitute a lump sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a).

26 USC 402.

"(ii) AGGREGATION OF ANNUITY CONTRACTS.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B), (C), and (E)(i) of section 402(a)(5) and of paragraphs (6) and (7) of section 402(a) shall apply for purposes of subparagraph (A)."

26 USC 403.

(b) TREATMENT OF ROLLOVER CONTRIBUTIONS.—Section 403(b)(1) (relating to annuities purchased by certain exempt organizations and public schools) is amended by adding at the end thereof the following new sentence: "For purposes of applying the rules of this subsection to amounts contributed by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph (8) of this subsection or section 408(d)(3)(A)(iii) or 409(d)(3)(C) shall not be considered contributed by such employer."

26 USC 408, 409.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 408.

(1) Subparagraph (A) of section 408(d)(3) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii)(I) the entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

"(II) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an annuity contract described in section 403(b) and any earnings on such rollover, and

26 USC 403.

"(III) the entire amount thereof is paid into another annuity contract described in section 403(b) (for the

benefit of such individual) not later than the 60th day after he receives the payment or distribution."

(2) Subparagraph (C) of section 409(b)(3) is amended— 26 USC 409.

(A) by striking out "or an annuity plan described in section 403(a)" in the first sentence and inserting in lieu thereof "an annuity plan described in section 403(a), or an annuity contract described in section 403(b)", and 26 USC 403.

(B) by adding at the end thereof the following new sentence: "This subparagraph does not apply in the case of a transfer to an annuity contract described in section 403(b) unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an annuity contract."

(3) Sections 219(b)(4), 220(b)(5), 408(a)(1), 409(a)(4), and 4973(b)(1)(A) are each amended by inserting "403(b)(8)," after "403(a)(4)," each place it appears. 26 USC 219, 220, 408, 409, 4973.

(4) Section 2039(e) is amended by inserting after "403(a)(4)," the following: "section 403(b)(8) (but only to the extent such contribution is attributable to a distribution from a contract described in subsection (c)(3)),". 26 USC 2039.

(5) Section 4973(c)(1) is amended by inserting after "account" the following: "(other than a rollover contribution described in section 403(b)(8), 408(d)(3)(A)(iii), or 409(d)(3)(C))". 26 USC 4973.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions or transfers made after December 31, 1978, in taxable years beginning after such date. 26 USC 403 note.

SEC. 157. INDIVIDUAL RETIREMENT ACCOUNT TECHNICAL CHANGES.

(a) EXTENSION OF PERIOD FOR MAKING INDIVIDUAL RETIREMENT PLAN CONTRIBUTIONS.—

(1) AMENDMENT OF SECTION 219(c)(3).—Paragraph (3) of section 219(c) (relating to time when contributions deemed made in the case of retirement savings) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)". 26 USC 219.

(2) AMENDMENT OF SECTION 220(c)(4).—Paragraph (4) of section 220(c) (relating to time when contributions deemed made in the case of retirement savings for certain married individuals) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)". 26 USC 220.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1977. 26 USC 219 note.

(b) EXCESS CONTRIBUTIONS MAY BE DEDUCTED IN SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

(1) AMENDMENT OF SECTION 219.—Subsection (c) of section 219 (relating to definitions and special rules for retirement savings) is amended by adding at the end thereof the following new paragraph: 26 USC 219.

"(5) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated

as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

26 USC 4973.

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 220 for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

Infra.

26 USC 220.

(2) AMENDMENT OF SECTION 220.—Subsection (c) of section 220 (relating to definitions and special rules for retirement savings for certain married individuals) is amended by adding at the end thereof the following new paragraph:

"(6) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 219 for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

Ante, p. 2803.

26 USC 4973.

(3) AMENDMENT OF SECTION 4973.—Paragraph (2) of section 4973(b) (defining excess contributions) is amended to read as follows:

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

26 USC 408.

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed (determined without regard to sections 219(c)(5) and 220(c)(6)) to the accounts or for the annuities or bonds for the taxable year."

26 USC 408.

Ante, pp. 2803, 2804.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to the determination of deductions for taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—If, but for this subparagraph, an amount would be allowable as a deduction by reason of section 219(c)(5) or 220(c)(6) of the Internal Revenue Code of 1954 for a taxable year beginning before January 1, 1978, such amount shall be allowable only for the taxpayer's first taxable year beginning in 1978.

26 USC 219 note.

(c) ADDITIONAL PERIOD TO RECTIFY CERTAIN EXCESS CONTRIBUTIONS.—

(1) GENERAL RULE.—Subsection (d) of section 408 (relating to tax treatment of distributions) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

26 USC 408.

"(5) CERTAIN DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AFTER DUE DATE FOR TAXABLE YEAR.—

"(A) IN GENERAL.—In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed $1,750, paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount allowable as a deduction under section 219 or 220 for the taxable year for which the contribution was paid—

"(i) if such distribution is received after the date described in paragraph (4),

"(ii) but only to the extent that no deduction has been allowed under section 219 or 220 with respect to such excess contribution.

"(B) EXCESS ROLLOVER CONTRIBUTIONS ATTRIBUTABLE TO ERRONEOUS INFORMATION.—If—

"(i) the taxpayer reasonably relies on information supplied pursuant to subtitle F for determining the amount of a rollover contribution, but

"(ii) such information was erroneous, subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply to distributions in taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of contributions for taxable years beginning before January 1, 1978, paragraph (5) of section 408(d) of the Internal Revenue Code of 1954 shall be applied as if such paragraph did not contain any dollar limitation.

26 USC 408 note.

Supra.

(d) REQUIREMENT THAT ANNUITY CONTRACTS WILL QUALIFY AS INDIVIDUAL RETIREMENT ANNUITY ONLY IF THE PREMIUMS ARE FLEXIBLE.—

26 USC 408. (1) IN GENERAL.—Paragraph (2) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(2) Under the contract—

"(A) the premiums are not fixed,

"(B) the annual premium will not exceed $1,500, and

"(C) any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits."

26 USC 408 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts issued after the date of the enactment of this Act.

26 USC 408 note. (3) TAX RELIEF FOR FIXED PREMIUM CONTRACTS HERETOFORE ISSUED.—In the case of any annuity or endowment contract issued on or before the date of the enactment of this Act which would be an individual retirement annuity within the meaning of section 408(b) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) but for the fact that the premiums under the contract are fixed, at the election of the taxpayer an exchange before January 1, 1981, of that contract for an individual retirement annuity within the meaning of such section 408(b) (as amended by paragraph (1)) shall be treated as a nontaxable exchange which does not constitute a distribution.

(e) CLARIFICATION OF DOLLAR LIMIT IN THE CASE OF INDIVIDUAL RETIREMENT ANNUITIES AND RETIREMENT BONDS.—

(1) IN GENERAL.—

(A) AMENDMENT OF SECTION 408(b)(2).—Subparagraph (B) of section 408(b)(2) (as amended by paragraph (1) of subsection (d)) is amended by inserting "on behalf of any individual" after "annual premium".

26 USC 409. (B) AMENDMENT OF SECTION 409(a)(4).—Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by inserting "on behalf of any individual" after "May not contribute".

26 USC 408 note. (2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

26 USC 402. (f) ROLLOVER OF PROCEEDS FROM SALE OF PROPERTY PERMITTED.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUSTS AND ANNUITIES.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(D) SALES OF DISTRIBUTED PROPERTY.—For purposes of subparagraphs (5) and (7)—

"(i) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(ii) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(iii) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer many designate—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this clause for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(iv) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under clause (iii) within the time provided therein, then—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution

shall be determined on a ratable basis.

"(v) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in clause (i), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (5)(B) or (7)(B) (as the case by be), neither gain nor loss on such sale shall be recognized."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to qualifying rollover distributions (as defined in section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) completed after December 31, 1978, in taxable years ending after such date. 26 USC 402 note. *Ante*, p. 2806.

(g) DISTRIBUTION FROM EMPLOYEES' QUALIFIED PLAN OR ANNUITY TO SPOUSE MAY BE ROLLOVER CONTRIBUTION TO AN INDIVIDUAL RETIREMENT PLAN.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUST.—Subsection (a) of section 402 (relating to taxability of beneficiary of exempt trust) is amended by adding at the end thereof the following new paragraph: 26 USC 402.

"(7) ROLLOVER WHERE SPOUSE RECEIVES LUMP-SUM DISTRIBUTION AT DEATH OF EMPLOYEE.—

"(A) GENERAL RULE.—If—

"(i) any portion of a lump-sum distribution from a qualified trust is paid to the spouse of the employee on account of the employee's death,

"(ii) the spouse transfers any portion of the property which the spouse receives in such distribution to an individual retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of paragraph (5) and of paragraph (6) shall apply for purposes of this paragraph."

26 USC 403. (2) ROLLOVER FROM QUALIFIED ANNUITY PLANS.—Subparagraph (B) of section 403(a)(4), as amended by section 21(b), is amended by striking out "paragraph (6)" and inserting lieu thereof "paragraphs (6) and (7)".

26 USC 408. (3) NO ROLLOVER TO QUALIFIED PLAN OR ANNUITY FROM IRA TO WHICH SPOUSE MADE ROLLOVER CONTRIBUTION.—Subparagraph (B) of section 408(d)(3) is amended by adding at the end thereof the following: "Clause (ii) of subparagraph (A) shall not apply to any amount paid or distributed out of an individual retirement account or an individual retirement annuity to which an amount was contributed which was treated as a rollover contribution by section 402(a)(7) (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B))."

Ante, p. 2807.
26 USC 403.

26 USC 402 note. (4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to lump-sum distributions completed after December 31, 1978, in taxable years ending after such date.

Ante, p. 2806. (h) REMOVAL OF CERTAIN REQUIREMENTS.—

(1) DISREGARD OF 5-YEAR MINIMUM PARTICIPATION RULE FOR PURPOSES OF ROLLOVERS.—Subclause (II) of section 402(a)(5)(D)(i) is amended by striking out "subsection (e)(4)(B)" and inserting in lieu thereof "subparagraphs (B) and (H) of subsection (e)(4)".

26 USC 408. (2) REDUCTION OF REQUIRED PERIOD BETWEEN ROLLOVER CONTRIBUTIONS FROM 3 YEARS TO 1 YEAR.—The first sentence of subparagraph (B) of section 408(d)(3) is amended by striking out "3-year period" and inserting in lieu thereof "1-year period".

26 USC 402 note. (3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1977.

(B) TRANSITIONAL RULE.—In the case of any payment which is described in section 402(a)(5)(A) or 403(a)(4)(A) of the Internal Revenue Code of 1954 by reason of the amendments made by this section, the applicable period specified in section 402(a)(5)(C) of such Code (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B) of such Code) shall not expire before the close of December 31, 1978.

26 USC 402, 403.

(i) WAIVER OF EXCISE TAX ON CERTAIN ACCUMULATIONS IN INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—

26 USC 4974. (1) GENERAL RULE.—Section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by adding at the end thereof the following new subsection:

"(c) WAIVER OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall,

the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1975. 26 USC 4974 note.

(j) REMOVAL OF CERTAIN LIMITATIONS ON PROVISION ALLOWING CORRECTION OF EXCESS CONTRIBUTIONS.—

(1) GENERAL RULE.—The last sentence of section 4973(b) (defining excess contributions) is amended to read as follows: "For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed." 26 USC 4973. 26 USC 408.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made for taxable years beginning after December 31, 1977. 26 USC 4973 note.

(k) SIMPLIFICATION OF RETURN REQUIREMENTS WITH RESPECT TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—Section 6058 (relating to information required in connection with certain plans of deferred compensation) is amended by redesignating subsection (d) as subsection (f) and by striking out subsection (c) and inserting in lieu thereof the following new subsections. 26 USC 6058.

"(c) EMPLOYER.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan. 26 USC 401.

"(d) COORDINATION WITH INCOME TAX RETURNS, ETC.—An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

"(1) no special IRP tax, and

"(2) no plan activity other than—

"(A) the making of contributions (other than rollover contributions), and

"(B) the making of distributions.

"(e) SPECIAL IRP TAX DEFINED.—For purposes of this section, the term 'special IRP tax' means a tax imposed by—

"(1) section 408(f), 26 USC 408.

"(2) section 409(c), 26 USC 4090.

"(3) section 4973, or 26 USC 4973.

"(4) section 4974.". 26 USC 4974.

(2) INDIVIDUAL RETIREMENT PLAN DEFINED.—Subsection (a) of section 7701 (relating to definitions of general application throughout the Code) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(37) INDIVIDUAL RETIREMENT PLAN.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a), 26 USC 408.

"(B) an individual retirement annuity described in section 408(b), and

"(C) a retirement bond described in section 409." 26 USC 409.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) shall apply to taxable years beginning after December 31, 1974. 26 USC 6058 note.

Subtitle F—Other Individual Items

SEC. 161. CERTAIN GOVERNMENT SCHOLARSHIP AND AWARD PROGRAMS.

(a) GOVERNMENT HEALTH PROFESSION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes" (Public Law 93-483; 88 Stat. 1457) approved October 26, 1974, is amended—

26 USC 117 note.

(1) by striking out "1979" and inserting in lieu thereof "1980", and

(2) by striking out "1983" and inserting in lieu thereof "1984".

26 USC 117 note.

(b) NATIONAL RESEARCH SERVICE AWARDS.—

(1) GENERAL RULE.—Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under section 472 of the Public Health Service Act shall be treated as a scholarship or fellowship grant under section 117 of the Internal Revenue Code of 1954.

42 USC 289*l*-1.

26 USC 117.

(2) EFFECTIVE DATE.—The provisions of subsection (b) shall apply to awards made during calendar years 1974 through 1979.

SEC. 162. CANCELLATION OF STUDENT LOANS.

26 USC 61 note.

Subsection (c) of section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended by striking out "Janu- ary 1, 1979" and inserting in lieu thereof "January 1, 1983".

SEC. 163. TAX COUNSELING FOR THE ELDERLY.

26 USC 7803 note.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

(1) AGREEMENTS.—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

(2) OTHER ASSISTANCE.—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

(C) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—In carrying out his responsibilities under this section, the Secretary is authorized—

(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section. Rules and regulations.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) IN GENERAL.—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*, 3101 *et seq.*

(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1954. 26 USC 37, 121.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) The term "elderly individual" means an individual who has attained the age of 60 years as of the close of his taxable year.

(3) The term "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code. 26 USC 6001 *et seq.* 26 USC 1 *et seq.*

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section $2,500,000 for the fiscal year ending September 30, 1979, and $3,500,000 for the fiscal year ending September 30, 1980.

SEC. 164. EXCLUSION OF VALUE OF CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 127 as 128 and by inserting after section 126 the following new section: 26 USC 128.

"SEC. 127. EDUCATIONAL ASSISTANCE PROGRAMS. 26 USC 127.

"(a) GENERAL RULE.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

"(b) EDUCATIONAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subsection.

"(2) ELIGIBILITY.—The program shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are officers, owners, or highly compensated, or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) OTHER BENEFITS AS AN ALTERNATIVE.—A program must not provide eligible employees with a choice between educational assistance and other remuneration includible in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

"(5) NO FUNDING REQUIRED.—A program referred to in paragraph (1) is not required to be funded.

"(6) NOTIFICATION OF EMPLOYEES.—Reasonable notification of the availability and terms of the program must be provided to eligible employees.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) EDUCATIONAL ASSISTANCE.—The term 'educational assistance' means—

"(A) the payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

"(B) the provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

"(2) EMPLOYEE.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1)(relating to self-employed individuals).

"(3) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own

employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

"(4) ATTRIBUTION RULES.—

"(A) OWNERSHIP OF STOCK.—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)). 26 USC 1563.

"(B) INTEREST IN UNINCORPORATED TRADE OR BUSINESS.—The interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(5) CERTAIN TESTS NOT APPLICABLE.—An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

"(A) of utilization rates for the different types of educational assistance made available under the program; or

"(B) successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

"(6) RELATIONSHIP TO CURRENT LAW.—This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under section 117, 162 or 212. 26 USC 117, 162, 212.

"(7) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount excluded from income by reason of this section.

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1983."

(b) TREATMENT OF EMPLOYER EDUCATIONAL ASSISTANCE BENEFITS FOR PURPOSES OF WITHHOLDING, UNEMPLOYMENT TAXES, AND SOCIAL SECURITY TAXES.—

(1) Section 3401(a) (relating to the definition of wages for purposes of collection of income tax at the source) is amended— 26 USC 3401.

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of paragraph (17); and

(C) by adding at the end thereof the following new paragraph:

"(18) for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 124.". 26 USC 124.

(2) Section 3306(b) (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended— 26 USC 3306.

(A) by striking out "or" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(13) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be

Ante, p. 2811.

able to exclude such payment or benefit from income under section 127.".

26 USC 3121.

(3) Section 3121(a) (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended—

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of subparagraph (17) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(18) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.".

42 USC 409.

(4) Section 209 of the Social Security Act is amended—

(A) by striking out "or" at the end of subsection (o);

(B) by striking out the period at the end of subsection (p) and inserting in lieu thereof "; or"; and

(C) by inserting after subsection (p) and before the sentence beginning with "For purposes of this title, in the case of domestic service" the following new subsection:

"(q) Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the Internal Revenue Code of 1954."

(c) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Educational assistance programs.
"Sec. 125. Cross references to other Acts.".

26 USC 127 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related To At Risk Rules

SEC. 201. EXTENSION OF SECTION 465 AT RISK RULES TO ALL ACTIVITIES OTHER THAN REAL ESTATE.

26 USC 465.

(a) EXTENSION.—Subsection (c) of section 465 (relating to activities to which section applies) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO OTHER ACTIVITIES.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

"(i) engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

"(ii) which is not described in paragraph (1).

"(B) AGGREGATION OF ACTIVITIES WHERE TAXPAYER ACTIVELY PARTICIPATES IN MANAGEMENT OF TRADE OR BUSI-

NESS.—Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as one activity if—

"(i) the taxpayer actively participates in the management of such trade or business, or

"(ii) such trade or business is carried on by a partnership or electing small business corporation (as defined in section 1371(b)) and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business. 26 USC 1371.

"(C) AGGREGATION OR SEPARATION OF ACTIVITIES UNDER REGULATIONS.—The Secretary shall prescribe regulations under which activities described in subparagraph (A) shall be aggregated or treated as separate activities. Regulations.

"(D) EXCLUSIONS.—

"(i) REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.

"(ii) EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

"(I) In the case of a corporation described in subsection (a)(1)(C) actively engaged in leasing equipment which is section 1245 property, the activity of leasing such equipment shall be treated, for purposes of subsection (a), as a separate activity and subsection (a) shall not apply to losses from such activity. 26 USC 1245.

"(II) A corporation described in subsection (a)(1)(C) shall not be considered to be actively engaged in leasing such equipment unless 50 percent or more of the gross receipts of the corporation for the taxable year are attributable, under regulations prescribed by the Secretary, to leasing and selling such equipment.

"(III) For purposes of this paragraph, the leasing of master sound recordings, and other similar contractual arrangements with respect to tangible or intangible assets associated with literary, artistic, or musical properties shall not be treated as leasing equipment which is section 1245 property.

"(IV) In the case of a controlled group of corporations (within the meaning of section 1563(a)), this paragraph shall be applied by treating the controlled group as a single corporation. 26 USC 1563.

"(E) APPLICATION OF SUBSECTION (b)(3).—In the case of an activity described in subparagraph (A), subsection (b)(3) shall apply only to the extent provided in regulations prescribed by the Secretary."

(b) REPEAL OF SECTION 704(d) AT RISK RULES.—

26 USC 704.

(1) IN GENERAL.—Subsection (d) of section 704 is amended by striking out the last 2 sentences.

26 USC 704 note.

(2) TRANSITIONAL RULE.—In the case of a loss which was not allowed for any taxable year by reason of the last 2 sentences of section 704(d) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act), such loss shall be treated as a deduction (subject to section 465(a) of such Code) for the first taxable year beginning after December 31, 1978. Section 465(a) of such Code (as amended by this section) shall not apply with respect to partnership liabilities to which the last 2 sentences of section 704(d) of such Code (as in effect on the day before the date of enactment of this Act) did not apply because of the provisions of section 213(f)(2) of the Tax Reform Act of 1976.

Infra.

26 USC 709 note.

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 465 is amended to read as follows:

26 USC 465.

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK."

(2) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of certain activities" in the item relating to section 465.

26 USC 461 *et seq.*

SEC. 202. EXTENSION OF AT RISK PROVISIONS TO CLOSELY HELD CORPORATIONS.

26 USC 465.

Subsection (a) of section 465 (relating to deductions limited to amount at risk) is amended to read as follows:

"(a) LIMITATION TO AMOUNT AT RISK.—

"(1) IN GENERAL.—In the case of—

"(A) an individual,

"(B) an electing small business corporation (as defined in section 1371(b)), and

26 USC 1371.

"(C) a corporation with respect to which the stock ownership requirement of paragraph (2) of section 542(a) (determined by reference to the rules contained in section 318 rather than under section 544) is met,

26 USC 542.

26 USC 544.

engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year.

"(2) DEDUCTION IN SUCCEEDING YEAR.—Any loss from an activity to which this section applies not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year."

SEC. 203. RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.

26 USC 465.

Section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new subsection:

"(e) RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.—

"(1) IN GENERAL.— If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

"(A) the taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

"(B) an amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year.

"(2) LIMITATION.—The excess referred to in paragraph (1) shall not exceed—

"(A) the aggregate amount of the reductions required by subsection (b)(5) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

"(B) the amounts previously included in gross income with respect to such activity under this subsection."

SEC. 204. EFFECTIVE DATES. 26 USC 465 note.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1978.

(b) TRANSITIONAL RULES.—

(1) RECAPTURE PROVISIONS.—If the amount for which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, section 465(e)(1) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) shall be applied with respect to such activity of the taxpayer by substituting such negative amount for zero. *Ante*, p. 2816.

(2) SPECIAL TRANSITIONAL RULES FOR LEASING ACTIVITIES.—

(A) RULE FOR LEASES.—In the case of any activity described in section 465(c)(1)(C) of such Code in which a corporation described in section 465(a)(1)(C) of such Code is engaged, the amendments made by this section shall not apply with respect to—

(i) leases entered into before November 1, 1978, and

(ii) leases where the property was ordered by the lessor or lessee before November 1, 1978.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on October 31, 1978.

Subtitle B—Partnership Provisions

SEC. 211. PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURN.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6698. FAILURE TO FILE PARTNERSHIP RETURN. 26 USC 6698.

"(a) GENERAL RULE.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year— 26 USC 7203. 26 USC 6031.

"(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

"(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

"(b) AMOUNT PER MONTH.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

"(1) $50, multiplied by

"(2) the number of persons who were partners in the partnership during any part of the taxable year

"(c) ASSESSMENT OF PENALTY.—The penalty imposed by subsection (a) shall be assessed against the partnership.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6698. Failure to file partnership return."

26 USC 6698 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns for taxable years beginning after December 31, 1978.

SEC. 212. EXTENSION OF STATUTE OF LIMITATIONS IN THE CASE OF PARTNERSHIP ITEMS.

26 USC 6501.

(a) ASSESSMENT OF DEFICIENCIES.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULES FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or, later, if the date prescribed for filing the return), or

"(B) if the name or address of such person does not appear on the partnership return, the date which is 1 year after the date on which such information is furnished to the Secretary in such manner and at such place as he may prescribe by regulations.

"(2) PARTNERSHIP ITEM DEFINED.—For purposes of this subsection, the term 'partnership item' means—

"(A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provide that for purposes of this subtitle such item is more appropriately determined at the partnership level than at the partner level, and

"(B) any other item to the extent affected by an item described in subparagraph (A).

"(3) EXTENSION BY AGREEMENT.—The extensions referred to in subsection (c)(4), insofar as they relate to partnership items, may, with respect to any person, be consented to—

"(A) except to the extent the Secretary is otherwise notified by the partnership, by a general partner of the partnership, or

"(B) by any person authorized to do so by the partnership in writing.

"(4) FEDERALLY REGISTERED PARTNERSHIP.—For purposes of this subsection, the term 'federally registered partnership' means, with respect to any partnership taxable year, any partnership—

"(A) interests in which have been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

"(B) which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership."

(b) CREDITS AND REFUNDS.—

(1) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 6511.

"(g) SPECIAL RULE FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

"(B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item is made before the date specified in subparagraph (A), the date 6 months after the expiration of such extension.

In any case to which the preceding sentence applies, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'partnership item' and 'federally registered partnership' have the same meanings as such terms have when used in section 6501(q)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by striking out "(c), or (d)" each place it appears and inserting in lieu thereof "(c), (d), or (g)". 26 USC 6512.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978. 26 USC 6501 note.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

26 USC 11. (a) IN GENERAL.—Section 11 (relating to the tax imposed on corporations) is amended to read as follows:

"SEC. 11. TAX IMPOSED.

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 17 percent of so much of the taxable income as does not exceed $25,000;

"(2) 20 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000;

"(3) 30 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000;

"(4) 40 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000; plus

"(5) 46 percent of so much of the taxable income as exceeds $100,000.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to a corporation subject to a tax imposed by—

26 USC 594. "(1) section 594 (relating to mutual savings banks conducting life insurance business),

26 USC 801. "(2) subchapter L (sec. 801 and following, relating to insurance companies), or

26 USC 851. "(3) subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investment trusts).

"(d) FOREIGN CORPORATIONS.—In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by 26 USC 882. section 882."

(b) CONFORMING AMENDMENTS.—

26 USC 12. (1) CROSS REFERENCES RELATING TO CORPORATIONS.—Paragraph (7) of section 12 (relating to cross references relating to tax on corporations) is amended to read as follows:

"(7) For limitation on benefits of graduated rate schedule provided in section 11(b), see section 1551."

26 USC 57. (2) MINIMUM TAX.—Subparagraph (B) of section 57(a)(9) (relating to capital gains preference for corporations) is amended by striking out "the sum of the normal tax rate and the surtax rate under section 11" each place it appears and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

26 USC 244. (3) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK.—Subparagraph (B) of section 244(a)(2) (relating to dividends received on certain preferred stock) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

26 USC 247. (4) DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—Subparagraph (B) of section 247(a)(2) (relating to dividends paid on certain preferred stock of public utilities) is

amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(5) TAX ON UNRELATED BUSINESS INCOME OF CHARITABLE, ETC., ORGANIZATIONS.—

(A) IMPOSITION OF TAX.—Paragraph (1) of section 511(a) (relating to charitable, etc., organizations taxable at corporation rates) is amended by striking out "a normal tax and a surtax" and inserting in lieu thereof "a tax". 26 USC 511.

(B) ORGANIZATIONS SUBJECT TO TAX.—Paragraph (2) of section 511(a) is amended by striking out "taxes" each place it appears and inserting in lieu thereof "tax".

(6) POLITICAL ORGANIZATIONS.—Paragraph (1) of section 527(b) (relating to tax imposed) is amended to read as follows: 26 USC 527.

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b)." *Ante*, p. 2820.

(7) HOMEOWNERS ASSOCIATIONS.—Paragraph (1) of section 528(b) (relating to tax imposed) is amended to read as follows: 26 USC 528.

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)."

(8) LIFE INSURANCE COMPANIES.—Paragraph (1) of section 802(a) (relating to tax imposed) is amended by striking out "a normal tax and surtax" and inserting in lieu thereof "a tax". 26 USC 802.

(9) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows: 26 USC 821.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b). 26 USC 831.

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.—The tax imposed by paragraph (1) shall not exceed 34 percent of the amount by which the mutual insurance company taxable income exceeds $6,000."

(B) SMALL COMPANIES.—Paragraph (1) of section 821(c) (relating to alternative tax for certain small companies) is amended to read as follows: 26 USC 821.

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed for each taxable year on the income of every mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)). Such tax shall be computed by multiplying the taxable investment income by the rates provided in section 11(b).

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) shall not exceed 34 percent of the amount by which the taxable investment income exceeds $3,000."

26 USC 826. (10) ELECTION BY MUTUAL INSURANCE COMPANY WHICH IS A RECIPROCAL.—Paragraph (1) of section 826(c) (relating to exception) is amended to read as follows:

Ante, p. 2820. "(1) is subject to the tax imposed by section 11;".

26 USC 852. (11) REGULATED INVESTMENT COMPANIES.—Paragraph (1) of section 852(b) (relating to method of taxation of companies and shareholders) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REGULATED INVESTMENT COMPANIES.—There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a tax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11."

26 USC 857. (12) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 857(b) (relating to imposition of normal tax and surtax on real estate investment trusts) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a tax computed as provided in section 11, as though the real estate investment trust taxable income were the taxable income referred to in section 11."

(13) TAX ON INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.—The heading of subsection (a) of section 26 USC 882. 882 (relating to tax on income of foreign corporations connected with United States business) and the heading of paragraph (1) of such subsection are amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—".

26 USC 907. (14) FOREIGN TAX CREDIT.—Paragraph (2) of section 907(a) (relating to reduction in amount allowed as foreign tax under 26 USC 901. section 901) is amended to read as follows:

"(2) the percentage which is equal to the highest rate of tax specified in section 11(b)."

(15) SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPO- 26 USC 922. RATION.—Subparagraph (B) of section 922(a)(2) (relating to general rule) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)."

(16) ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPO- 26 USC 962. RATE RATES.—Subsection (c) of section 962 (relating to surtax exemption with respect to individuals subject to tax at corporate rates) is amended to read as follows:

"(c) PRO RATION OF EACH SECTION 11 BRACKET AMOUNT.—For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such bracket amount as the amount included in the gross income of the United States share- 26 USC 951. holder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to

which such shareholder includes any amount in gross income under section 951(a)." 26 USC 951.

(17) TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—Paragraph (4) of section 1351(d) (relating to adjustment for prior tax benefits) is amended to read as follows: 26 USC 1351.

"(4) SUBSTITUTION OF CURRENT TAX RATE.—For purposes of this subsection, the rates of tax specified in section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years." *Ante*, p. 2820.

(18) AMENDMENTS OF SECTION 1551.— 26 USC 1551.

(A) Subsection (a) of section 1551 (relating to disallowance of surtax exemption and accumulated earnings credit) is amended—

(i) by striking out "disallow the surtax exemption (as defined in section 11(d))" and inserting in lieu thereof "disallow the benefits of the rates contained in section 11(b) which are lower than the highest rate specified in such section", and

(ii) by striking out "such exemption or" and inserting in lieu thereof "such benefits or".

(B) The section heading of section 1551 is amended to read as follows:

"SEC. 1551. DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT." 26 USC 1551.

(C) The table of sections for part I of subchapter B of chapter 6 is amended by striking out the item relating to section 1551 and inserting in lieu thereof the following new item:

"Sec. 1551. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit."

(19) LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended— 26 USC 1561.

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,",

(ii) by striking out "amount" each place it appears in the second sentence and inserting in lieu thereof "amounts", and

(iii) by striking out the last sentence.

(B) CERTAIN SHORT TAXABLE YEARS.—Paragraph (1) of section 1561(b) (relating to certain short taxable years) is amended to read as follows:

"(1) the amount in each taxable income bracket in the tax table in section 11(b),".

(20) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(A) Subsection (c) of section 6154 (defining estimated tax) is amended to read as follows: 26 USC 6154.

"(c) ESTIMATED TAX DEFINED.—For purposes of this title, in the case of a corporation the term 'estimated tax' means the excess of—

"(1) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

26 USC 11, 1201.

"(2) the amount which the corporation estimates as the sum of the credits against tax provided by part IV of subchapter A of chapter 1."

26 USC 801. 26 USC 31.

(B) Subsection (e) of section 6655 (defining tax) is amended to read as follows:

26 USC 6655.

"(e) DEFINITION OF TAX.—For purposes of subsections (b) and (d), the term 'tax' means the excess of—

"(1) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

26 USC 11, 1201.

"(2) the credits against tax provided by part IV of subchapter A of chapter 1."

26 USC 801 *et seq.*

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

26 USC 31 *et seq.* 26 USC 11 note.

Subtitle B—Credits

SEC. 311. 10-PERCENT INVESTMENT TAX CREDIT AND $100,000 LIMITATION ON USED PROPERTY MADE PERMANENT.

(a) 10-PERCENT INVESTMENT CREDIT.—Subparagraph (B) of section 46(a)(2) (defining regular percentage) is amended to read as follows:

26 USC 46.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is 10 percent."

(b) $100,000 LIMITATION ON USED PROPERTY.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 (relating to effective date for increase of dollar limitation on used property) is amended by striking out ", and before January 1, 1981".

26 USC 48 note.

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended by striking out "For the period beginning on January 1, 1981" and inserting in lieu thereof "To the extent that the credit allowed by section 38 with respect to any public utility property is determined at the rate of 7 percent".

26 USC 46.

(2) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Energy Tax Act of 1978" and inserting in lieu thereof "the Energy Tax Act of 1978, and the Revenue Act of 1978".

26 USC 46. 92 Stat. 3174. 26 USC 1 note.

SEC. 312. INCREASE IN LIMITATION ON INVESTMENT CREDIT TO 90 PERCENT OF TAX LIABILITY

Ante, p. 2763.

(a) INCREASE IN GENERAL LIMITATION.—Paragraph (3) of section 46(a) (relating to amount of credit) is amended to read as follows:

26 USC 46.

"(3) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(B) the following percentage of so much of the liability for tax for the taxable year as exceeds $25,000:

"If the taxable year ends in:	The percentage is:
1979	60
1980	70
1981	80
1982 or thereafter	90."

(b) SPECIAL RULES FOR CERTAIN UTILITIES, RAILROADS, AND AIRLINES.—

(1) UTILITIES.—Paragraph (7) of section 46(a) (relating to alternative limitation in the case of certain utilities) is amended to read as follows: 26 USC 46.

"(7) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for the taxable year ending in 1979—

"(i) the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent,

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage for any taxpayer for any taxable year ending in 1979 is—

"(i) 50 percent, plus

"(ii) that portion of 20 percent which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 70 percent.

"(C) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(2) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—Subsection (a) of section 46 is amended by striking out paragraphs (8) and (9) and by inserting in lieu thereof the following new paragraph:

"(8) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—

"(A) IN GENERAL.—If, for a taxable year ending in 1979 or 1980—

"(i) the amount of the qualified investment of the taxpayer which is attributable to railroad property or to airline property, as the case may be, is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent (70 percent in the case of a taxable year ending in 1980),

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' ('70 percent' in the case of a taxable year ending in 1980) the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property or airline prop-

erty (as the case may be) bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the taxable year shall be 90 percent (80 percent in the case of a taxable year ending in 1980).

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1979	40
1980	30

"(D) RAILROAD PROPERTY DEFINED.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).

"(E) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration."

(c) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(1) Subsections (h), (i), and (j) of section 48 and sections 49 and 50 are hereby repealed. 26 USC 48, 49, 50.

(2) Paragraphs (1) and (2) of section 46(f) and subparagraph (B) of section 48(a)(7) are each amended by striking out "described in section 50". 26 USC 46. 26 USC 48. 26 USC 50. 26 USC 48.

(3) Subparagraph (A) of section 48(a)(7) is amended by striking out "(other than pre-termination property)". 26 USC 167.

(4) Subsection (i) of section 167 is hereby repealed.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the items relating to sections 49 and 50. 26 USC 46. 26 USC 49, 50.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1978. 26 USC 46 note.

SEC. 313. INVESTMENT CREDIT FOR POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Paragraph (5) of section 46(c) (relating to applicable percentage in the case of certain pollution control facilities) is amended to read as follows: 26 USC 46.

"(5) APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.—

(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of property—

"(i) with respect to which an election under section 169 applies, and 26 USC 169.

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years.

100 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

"(B) SPECIAL RULE WHERE PROPERTY IS FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—To the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, subparagraph (A) shall be applied by substituting '50 percent' for '100 percent'." 26 USC 103.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to— 26 USC 46 note.

(1) property acquired by the taxpayer after December 31, 1978, and

(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date).

SEC. 314. INVESTMENT CREDIT FOR CERTAIN SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) GENERAL RULE.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or" and by inserting after subparagraph (C) the following new subparagraph: 26 USC 48. 26 USC 38.

"(D) single purpose agricultural or horticultural structures."

(b) DEFINITION OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.—Section 48 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection: 26 USC 48.

"(p) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'single purpose agricultural or horticultural structure' means—

"(A) a single purpose livestock structure, and

"(B) a single purpose horticultural structure.

"(2) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term 'single purpose livestock structure' means any enclosure or structure specifically designed, constructed, and used—

"(A) for housing, raising, and feeding a particular type of livestock and their produce, and

"(B) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subparagraph (A).

"(3) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term 'single purpose horticultural structure' means—

"(A) a greenhouse specifically designed, constructed, and used for the commerical production of plants, and

"(B) a structure specifically designed, constructed and used for the commercial production of mushrooms.

"(4) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

"(A) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

"(B) the maintenance of the enclosure or structure, and

"(C) the maintenance or replacement of the equipment or stock enclosed or housed therein.

26 USC 47.

"(5) SPECIAL RULE FOR APPLYING SECTION 47.—For purposes of section 47, any single purpose agricultural or horticultural structure shall be treated as meeting the requirements of this subsection for any period during which such structure is held for the use under which it qualified under this subsection.

"(6) LIVESTOCK.—The term 'livestock' includes poultry."

26 USC 48 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after August 15, 1971.

SEC. 315. INVESTMENT CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS.

26 USC 48.
26 USC 38.

(a) IN GENERAL.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (D) and by inserting in lieu thereof "; or" and the following new subparagraph:

"(E) in the case of a qualified rehabilitated building, that portion of the basis which is attributable to qualified rehabilitation expenditures (within the meaning of subsection (g))."

(b) QUALIFIED REHABILITATED BUILDINGS DEFINED.—Section 48 is amended by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components)—

"(i) which has been rehabilitated,

"(ii) which was placed in service before the beginning of the rehabilitation, and

"(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

"(B) 20 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION OR PRIOR REHABILITATION.—A building shall not be a qualified rehabilitated building unless there is a period of at least 20 years between—

"(i) the date the physical work on this rehabilitation of the building began, and

"(ii) the later of—

"(I) the date such building was first placed in service, or

"(II) the date such building was placed in service in connection with a prior rehabilitation with respect to which a credit was allowed by reason of subsection (a)(1)(E).

"(C) MAJOR PORTION TREATED AS SEPARATE BUILDING IN CERTAIN CASES.—Where there is a separate rehabilitation of a major portion of a building, such major portion shall be treated as a separate building.

"(D) REHABILITATION INCLUDES RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account which is incurred after October 31, 1978—

"(i) for property (or additions or improvements to property) with a useful life of 5 years or more, and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) PROPERTY OTHERWISE SECTION 38 PROPERTY.—Any expenditure for property which constitutes section 38 property (determined without regard to subsection (a)(1)(E). 26 USC 38.

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or any interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of the existing building.

"(iv) CERTIFIED HISTORIC STRUCTURES.—Any expenditure attributable to the rehabilitation of a certified historic structure (within the meaning of section 191(d)(1)), unless the rehabilitation is a certified rehabilitation (within the meaning of section 191(d)(4)). 26 USC 191.

"(3) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) TECHNICAL AMENDMENT.—Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191". 26 USC 48.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 31, 1978; except that the amendment made by subsection (c) shall only apply with respect to property placed in service after such date. 26 USC 48 note.

SEC. 316. TAX TREATMENT OF THE INVESTMENT CREDIT IN THE CASE OF COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection: 26 USC 46.

"(h) SPECIAL RULES FOR COOPERATIVES.—In the case of a cooperative organization described in section 1381(a)— 26 USC 1381.

"(1) that portion of the credit allowable to the organization under section 38 which the organization cannot use for the taxable year to which the qualified investment is attributable because of the limitation contained in subsection (a)(3) shall be allocated to the patrons of the organization,

"(2) section 47 (relating to certain dispositions, etc., of section 38 property) shall be applied as if any allocated portion of the credit had been retained by the organization, and 26 USC 47.

"(3) the rules necessary to carry out the purposes of this subsection shall be determined under regulations prescribed by the Secretary."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 46(e) (relating to limitations in case of certain persons) is amended— 26 USC 46.

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "and" at the end of subparagraph (B), and

(C) by striking out subparagraph (C).

(2) Paragraph (2) of section 46(e) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

26 USC 1388.

(3) Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end thereof the following new subsection.

"(j) CROSS REFERENCE.—

"For provisions relating to the apportionment of the investment credit between cooperative organizations and their patrons, see section 46(h)."

26 USC 46 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 31, 1978.

SEC. 317. TRANSFERS TO CONRAIL NOT TREATED AS DISPOSITIONS FOR PURPOSES OF THE INVESTMENT CREDIT.

26 USC 47.
26 USC 38.

(a) IN GENERAL.—Subsection (b) of section 47 (relating to certain disposition, etc., of section 38 property) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by inserting after paragraph (2) the following new paragraph:

26 USC 374.

"(3) a transfer to which subsection (c) of section 374 (relating to exchanges under the final system plan for ConRail) applies."

26 USC 47 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after March 31, 1976.

Subtitle C—Targeted Jobs Credit; WIN Credit

SEC. 321. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Section 51 (relating to amount of credit) is amended to read as follows:

26 USC 51.

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

Post, p. 2834.

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.

"(b) QUALIFIED WAGES DEFINED.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

"(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

"(3) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(c) WAGES DEFINED.—For purposes of this subpart—

"(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (h)(2), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). 26 USC 3306.

"(2) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term 'wages' shall not include any amounts paid by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

"(3) INDIVIDUALS FOR WHOM WIN CREDIT CLAIMED.—The term 'wages' does not include any amount paid or incurred by the employer to an individual with respect to whom the employer claims credit under section 40. 26 USC 40.

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred after December 31, 1980.

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a vocational rehabilitation referral,

"(B) an economically disadvantaged youth,

"(C) an economically disadvantaged Vietnam-era veteran,

"(D) an SSI recipient,

"(E) a general assistance recipient, or

"(F) a youth participating in a cooperative education program, or

"(G) an economically disadvantaged ex-convict.

"(2) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or 29 USC 701 note.

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(3) ECONOMICALLY DISADVANTAGED YOUTH.—

"(A) IN GENERAL.—The term 'economically disadvantaged youth' means any individual who is certified by the designated local agency as—

"(i) meeting the age requirements of subparagraph (B), and

"(ii) being a member of an economically disadvantaged family (as determined under paragraph (9)).

"(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not age 25 on the hiring date.

"(4) VIETNAM VETERAN WHO IS A MEMBER OF AN ECONOMICALLY DISADVANTAGED FAMILY.—The term 'Vietnam veteran who is a member of an economically disadvantaged family' means any individual who is certified by the designated local agency as—

"(A)(i) having served on active day (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

"(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

"(B) not having any day during the premployment period which was a day of extended active duty in the Armed Forces of the United States,

"(C) being a member of an economically disadvantaged family (determined under paragraph (9)), and

"(D) not having attained the age of 35 on the hiring date.

For purposes of subparagraph (B), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(5) SSI RECIPIENTS.—The term 'SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending in the pre-employment period.

42 USC 1381.
42 USC 1382e.
87 Stat. 155.

"(6) GENERAL ASSISTANCE RECIPIENTS.—

"(A) IN GENERAL.—The term 'general assistance recipient' means any individual who is certified by the designated local agency as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the preemployment period.

"(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term 'qualified general assistance program' means any program of a State or a political subdivision of a State—

"(i) which provides general assistance or similar assistance which—

"(I) is based on need, and

"(II) consists of money payments, and

"(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare) as meeting the requirements of clause (i).

"(7) ECONOMICALLY DISADVANTAGED EX-CONVICT.—The term 'economically disadvantaged ex-convict' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as being a member of an economically disadvantaged family (as determined under paragraph (9)), and

"(C) as having a hiring date which is not more than 5 years after the last date on which such individual was so convicted or was released from prison.

"(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM.—

"(A) IN GENERAL.—The term 'youth participating in a qualified cooperative education program' means any individual who is certified by the school participating in the program as—

"(i) having attained age 16 and not having attained age 19,

"(ii) not having graduated from a high school or vocational school, and

"(iii) being enrolled in and actively pursuing a qualified cooperative education program.

"(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term 'qualified cooperative education program' means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

"(C) QUALIFIED SCHOOL DEFINED.—The term 'qualified school' means—

"(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market,

"(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

"(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a). 26 USC 501.

"(D) INDIVIDUAL MUST BE CURRENTLY PURSUING PROGRAM.—Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are attributable to services performed while the individual meets the requirements of subparagraph (A).

"(9) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had an income during the 6 months immediately preceding the month in which the hiring date occurs, which, on an annual basis would be less than 70 percent of the Bureau of Labor Statistics lower living standard.

"(10) PREEMPLOYMENT PERIOD.—The term 'preemployment period' means the 60-day period ending on the hiring date.

"(11) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(12) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means the agency for any locality designated jointly by the Secretary and the Secretary of Labor to perform certification of employees for employer in that locality.

"(e) QUALIFIED FIRST-YEAR WAGES CANNOT EXCEED 30 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified first-year wages which may be taken into account under subsection

(a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

26 USC 3306.

"(f) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (h)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52.

26 USC 52.

"(3) YEAR DEFINED.—For purposes of this subsection and subsection (h), the term 'year' means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (e), such term means the calendar year.

"(g) SECRETARY OF LABOR TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The Secretary of Labor, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the credit provided by section 44B.

Infra.

"(h) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—

"(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

26 USC 3121.

"(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

"(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term 'wages' means unemployment insurance wages (determined without regard to any dollar limitation)."

(b) JOBS CREDIT MADE ELECTIVE.—

26 USC 44B.

(1) Section 44B (relating to credit for employment of certain new employees) is amended—

(A) by striking out "There shall be allowed" in subsection (a) and inserting in lieu thereof "At the election at the taxpayer, there shall be allowed", and

(B) by adding at the end thereof the following new subsection:

"(c) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (a) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(2) MANNER OF MAKING ELECTION.—Any election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may be regulations prescribe."

(2) Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection: 26 USC 6501.

"(q) DEFICIENCY ATTRIBUTABLE TO ELECTION UNDER SECTION 44B.— The period for assessing a deficiency attributable to any election under section 44B (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)." 26 USC 44B.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 52.— 26 USC 52.

(A) Section 52 (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), (i), and (j), and

(ii) by redesignating subsections (d), (f), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(B) Subsections (a) and (b) of section 52 are each amended by striking out "proportionate contribution to the increase in unemployment insurance wages" and inserting in lieu thereof "proportionate share of the wages".

(C) Subsection (e) of section 52 (as redesignated by subparagraph (A)) is amended—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking out ", and" at the end of paragraph (2) and inserting a period; and

(iii) by striking out paragraph (3).

(2) AMENDMENTS OF SECTION 53.— 26 USC 53.

(A) Subsection (a) of section 53 is amended by striking out "the amount of the tax imposed by this chapter for the taxable year, reduced by" and inserting in lieu thereof "90 percent of the excess of the tax imposed by this chapter for the taxable year over the sum of".

(B) Section 53 (relating to limitation based on amount of tax is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(d) EFFECTIVE DATE.— 26 USC 51 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) SPECIAL RULES FOR NEWLY TARGETED GROUPS.—

(A) INDIVIDUAL MUST BE HIRED AFTER SEPTEMBER 26, 1978.— In the case of a member of a newly targeted group—

(i) such individual shall be taken into account for purposes of the credit allowable by section 44B of the Internal Revenue Code of 1954 only if such individual is first hired by the employer after September 26, 1978, and

(ii) such individual shall be treated for purposes of such credit as having first begun work for the employer not earlier than January 1, 1979.

Ante, p. 2834.

(B) MEMBER OF NEWLY TARGETED GROUP DEFINED.—For purposes of subparagraph (A), an individual is a member of a newly targeted group if—

(i) such individual meets the requirements of subparagraph (A), (C), (D), (E), (F), or (G) of section 51(d)(1) of such Code, and

Ante, p. 2830.

(ii) in the case of an individual meeting the requirements of subparagraph (A) of such section 51(d)(1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979.

(3) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

26 USC 53.

(A) the amount of the credit which would be so allowable without regard to the amendments made by this section, plus

(B) the amount which would be so allowable by reason of the amendments made by this section.

(4) SUBSECTION (c)(2).—The amendments made by subsection (u)(2) shall apply to taxable years beginning after December 31, 1978.

26 USC 53 note.

SEC. 322. WORK INCENTIVE PROGRAM CREDIT CHANGES.

(a) CHANGES IN AMOUNT OF CREDIT.—Section 50A(a) (relating to amount of credit) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

26 USC 50A.

"(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to the sum of—

26 USC 40.

"(A) 50 percent of the first-year work incentive program expenses, and

"(B) 25 percent of the second-year work incentive program expenses.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the amount of the credit allowed by section 40 for the taxable year shall not exceed the liability for tax for the taxable year.".

(b) CHANGES IN LIMITATIONS.—Subsection (a) of section 50A is amended by striking out paragraphs (4), (5), and (6) and by inserting immediately after paragraph (3) the following new paragraph:

26 USC 50A.

"(4) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—

"(A) IN GENERAL.—In the case of any work incentive program expenses paid or incurred by the taxpayer during the taxable year to eligible employees whose services are not performed in connection with a trade or business of the taxpayer—

"(i) paragraph (1)(A) shall be applied by substituting '35 percent' for '50 percent',

"(ii) subparagraph (B) of paragraph (1) shall not apply, and

"(iii) the aggregate amount of such work incentive program expenses which may be taken into account under paragraph (1) for such taxable year may not exceed $12,000.

"(B) DEPENDENT CARE CREDIT MAY NOT BE CLAIMED.—No credit shall be allowed under section 44A with respect to any amounts paid or incurred by the taxpayer with respect to which the taxpayer is allowed a credit under section 40. *Ante*, p. 2834. 26 USC 40.

"(C) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, subparagraph (A) shall be applied by substituting '$6,000' and '$12,000'. The preceding sentence shall not apply if the spouse of the taxpayer has no work incentive program expenses described in such subparagraph for the taxable year.".

(c) REPEAL OF PROVISIONS PERMITTING RECOVERY OF CREDIT.—Section 50A is amended by striking out subsections (c) and (d). 26 USC 50A.

(d) CHANGES IN DEFINITIONS AND SPECIAL RULES.—

(1) Subsection (a) of section 50B (relating to work incentive program expenses) is amended to read as follows: 26 USC 50B.

"(a) WORK INCENTIVE PROGRAM EXPENSES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'work incentive program expenses' means the amount of wages paid or incurred by the taxpayer for services rendered by eligible employees.

"(2) FIRST-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'first-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day the eligible employee begins work for the taxpayer.

"(3) SECOND-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'second-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day after the last day of the one-year period described in paragraph (2).

"(4) LIMITATION ON AMOUNT OF WORK INCENTIVE PROGRAM EXPENSES.—The amount of the work incentive program expenses taken into account with respect to any eligible employee for any one-year period described in paragraph (2) or (3) (as the case may be) shall not exceed $6,000."

(2) Subsection (c) of section 50B is amended by striking out paragraphs (1) and (4) and by redesignating paragraphs (2), (3), and (5) as paragraphs (1), (2), and (3), respectively.

(3) Subsection (e) of section 50B (relating to estates and trusts) is amended—

(A) by inserting "and" at the end of paragraph (1),

(B) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(4) Section 50B is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR CONTROLLED GROUPS.—

"(1) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 40 to each such member shall be its proportionate share of the work incentive program expenses giving rise to such credit. For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

26 USC 40.

26 USC 1563.

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(2) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—For purposes of this subpart, under regulations prescribed by the Secretary—

"(A) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

26 USC 40.

"(B) the credit (if any) allowable by section 40 with respect to each trade or business shall be its proportionate share of the work incentive program expenses giving to such credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of paragraph (1)."

(5) Paragraph (1) of subsection (h) (as redesignated by paragraph (4)) of section 50B (relating to eligible employee) is amended to read as follows:

26 USC 50B.

"(1) ELIGIBLE EMPLOYEE.—For purposes of this subpart the term 'eligible employee' means an individual—

"(A) who has been certified by the Secretary of Labor or by the appropriate agency of State or local government as—

"(i) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 9-day period which immediately precedes the date on which such individual is hired by the employer, or

42 USC 601.

"(ii) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act,

42 USC 632.

"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

"(C) who has not displaced any other individual from employment by the taxpayer, and

"(D) who is not a migrant worker.

The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.".

(d) DEDUCTION FOR WAGES REDUCED BY AMOUNT OF CREDIT.—

26 USC 280C.

(1) Section 280C (relating to portion of wages for which credit is claimed under section 44B) is amended—

Ante, p. 2834.

(A) by striking our "SECTION 44B" in the caption and inserting in lieu thereof "SECTION 40 OR 44B",

(B) by inserting "(b) RULE FOR SECTION 44B CREDIT.—" immediately before "No deduction",

(C) by striking out "this section shall be applied" and inserting in lieu thereof "this subsection shall be applied" in the second sentence, and

(D) by inserting immediately after the caption of such section the following new subsection:

"(a) RULE FOR SECTION 40 CREDIT.—No deduction shall be allowed for that portion of the work incentive program expenses paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 40 (relating to credit for expenses of work incentive programs) determined without regard to the provisions of section 50A(a)(2) (relating to limitation based on amount of tax). In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 50B(g)(1)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 50B(g)(2), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under paragraphs (1) and (2) of section 50B(g).". 26 USC 40. *Ante*, p. 2836. *Ante*, p. 2837.

(e) EFFECTIVE DATE.— 26 USC 50A note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to work incentive program expenses paid or incurred after December 31, 1978, in taxable years ending after such date; except that so much of the amendment made by subsection (a) as affects section 50A(a)(2) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1978.

(2) SPECIAL RULES FOR CERTAIN ELIGIBLE EMPLOYEES.—

(A) ELIGIBLE EMPLOYEES HIRED BEFORE SEPTEMBER 27, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired before September 27, 1978, no credit shall be allowed under section 40 with respect to second-year work incentive program expenses (as defined in section 50B(a)) attributable to service performed by such employee. *Ante*, p. 2837. *Ante*, p. 2837.

(B) ELIGIBLE EMPLOYEES HIRED AFTER SEPTEMBER 26, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired after September 27, 1978, such individual shall be treated for purposes of the credit allowed by section 40 as having first begun work for the taxpayer not earlier than January 1, 1979. 26 USC 40.

Subtitle D—Tax-Exempt Bonds

PART I—INDUSTRIAL DEVELOPMENT BONDS

SEC. 331. INCREASE IN LIMIT ON SMALL ISSUES OF INDUSTRIAL DEVELOPMENT BONDS.

(a) GENERAL RULE.—Subparagraph (D) of section 103(b)(6) (relating to $5,000,000 limit in certain cases) is amended by striking out "$5,000,000" in the heading and in the text and inserting in lieu thereof "$10,000,000". 26 USC 103.

(b) TREATMENT OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(I) AGGREGATE AMOUNT OF CAPITAL EXPENDITURES WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—In the case of any issue substantially all of the proceeds of which are to be

used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (D)(ii)."

42 USC 5301 note.

26 USC 103 note.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to—

(A) obligations issued after December 31, 1978, in taxable years ending after such date, and

(B) capital expenditures made after December 31, 1978, with respect to obligations issued before January 1, 1979.

(2) The amendment made by subsection (b) shall apply to—

(A) obligations issued after September 30, 1979, in taxable years ending after such date, and

(B) capital expenditures made after September 30, 1979, with respect to obligations issued after such date.

SEC. 332. LOCAL FURNISHING OF ELECTRIC ENERGY.

26 USC 103.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (E), the local furnishing of electric energy from a facility shall include furnishing solely within the area consisting of a city and 1 contiguous county."

26 USC 103 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after April 30, 1968, but only with respect to obligations issued after such date.

SEC. 333. INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES.

26 USC 103.

(a) IN GENERAL.—Subparagraph (G) of section 103(b)(4) (relating to industrial development bonds) is amended to read as follows:

"(G) facilities for the furnishing of water for any purpose if—

"(i) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

"(ii) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof."

26 USC 103 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

SEC. 334. ADVANCE REFUNDING OF INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN PUBLIC WORKS.

26 USC 103.

(a) IN GENERAL.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a refunding issue if substantially all the proceeds of the

refunded issue were used to provide a qualified public facility.

"(B) QUALIFIED PUBLIC FACILITY DEFINED.—For purposes of subparagraph (A), the term 'qualified public facility' means facilities described in subparagraph (C) or (D) of paragraph (4) which are generally available to the general public."

(b) OBLIGATION MAY NOT BE HELD BY SUBSTANTIAL USER.—Paragraph (8) of section 103(b) (as redesignated by subsection (a)) is amended by striking out "and (6)" and inserting in lieu thereof "(6), and (7)". 26 USC 103.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 103 note.

PART II—OTHER TAX-EXEMPT BOND PROVISIONS

SEC. 336. DECLARATORY JUDGMENT PROCEDURE FOR JUDICIAL REVIEW OF DETERMINATIONS RELATING TO GOVERNMENTAL OBLIGATIONS.

(a) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7478. DECLARATORY JUDGMENTS RELATING TO STATUS OF CERTAIN GOVERNMENTAL OBLIGATIONS. 26 USC 7478.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving—

"(1) a determination by the Secretary whether prospective obligations are described in section 103(a), or 26 USC 103.

"(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether such prospective obligations are described in section 103(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the prospective issuer.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(b) AUTHORITY OF TAX COURT TO ASSIGN PROCEEDINGS TO COMMISSIONERS.—

(1) IN GENERAL.—Subsection (c) of section 7456 (relating to commissioners of the Tax Court) is amended by adding at the end thereof the following new sentence: "The chief judge may assign 26 USC 7456.

26 USC 7428, 7476, 7477, 7478.

proceedings under sections 7428, 7476, 7477, and 7478 to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceedings, subject to such conditions and review as the court may by rule provide."

(2) TECHNICAL AMENDMENTS.—

26 USC 7476.

(A) Section 7476 is amended by striking out subsection (c) and by redesignating subsections (d) and (e) and subsections (c) and (d), respectively.

26 USC 7477.

(B) Section 7477 is amended by striking out subsection (c).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 7482.

(1) Paragraph (1) of section 7482(b) (relating to venue for appeal of decision of Tax Court) is amended—

(A) by striking out "provided in paragraph (2)" in paragraph (1) and inserting in lieu thereof "provided in paragraphs (2) and (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) DECLARATORY JUDGMENT ACTIONS RELATING TO STATUS OF CERTAIN GOVERNMENTAL OBLIGATIONS.—In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia."

26 USC 7478.

(2) The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

26 USC 7476.

"Sec. 7478. Declaratory judgments relating to status of certain governmental obligations."

26 USC 7478 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests for determinations made after December 31, 1978.

SEC. 337. DISPOSITION OF AMOUNTS GENERATED BY ADVANCE REFUNDING OF CERTAIN GOVERNMENTAL OBLIGATIONS.

26 USC 103 note.

(a) GENERAL RULE.—The payment to a charitable organization or a refund profit held in a trust fund or escrow arrangement, or held by an underwriter or other person under a qualified agreement in accordance with that agreement—

(1) shall not cause the refunding obligations out of which the refund profit arose to be treated as arbitrage bonds (within the meaning of section 103(c) of the Internal Revenue Code of 1954) and

26 USC 103.

(2) may be paid without penalty imposed on the issuer of such obligations.

(b) RULE FOR GOVERNMENTS WHICH HAVE ALREADY PAID ARBITRAGE PROFITS TO THE UNITED STATES.—In the case of a State or local government which, before January 1, 1977—

(1) requested in writing a rule by the Internal Revenue Service with respect to the tax consequences of paying refund profit to charitable organizations,

(2) failed to receive a favorable ruling and did not pay the refund profit to a charitable organization, and

which accounted to the United States for refund profit by direct payment to the United States, or by the purchase of low-interest United States obligations, the Secretary of the Treasury shall pay, out of any amounts in the Treasury not otherwise appropriated, an amount equal to the refund profit for which the State or local government has accounted to the United States. Amounts paid to a State or local government under this subsection shall be distributed

to such charitable organizations within 90 days after the date on which the payment is received by the State or local government in the same manner as if the refund profit had not been paid to the United States and met the requirements of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) REFUND PROFIT.—The term "refund profit" means interest, profit, or other amounts generated by, or arising out of, the advance refunding, before September 24, 1976, of an obligation of a State or local government described in section 103 of such Code. 26 USC 103.

(2) CHARITABLE ORGANIZATION.—The term "charitable organization" means an organization described in section 501(c)(3) of such Code and exempt from taxation under section 501(a) of such Code other than an organization described in section 509(a) of such Code. 26 USC 501. 26 USC 509.

(3) QUALIFIED AGREEMENT.—The term "qualified agreement" means an agreement (whether or not enforceable) which provides for, or contemplates, the payment of refund profit to one or more charitable organizations.

(4) LOW-INTEREST UNITED STATES OBLIGATIONS.—The term "low-interest United States obligations" means United States obligations which bear an interest rate lower than the highest rate of interest borne by public debt securities generally available for purchase at the time such obligations were purchased.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

SEC. 341. SUBCHAPTER S CORPORATIONS ALLOWED 15 SHAREHOLDERS.

(a) GENERAL RULE.—Paragraph (1) of section 1371(a) (defining small business corporation) is amended to read as follows: 26 USC 1371.

"(1) have more than 15 shareholders;".

(b) TECHNICAL AMENDMENTS.—

(1) Section 1371 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(2) Paragraph (2) of section 1371(a) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

SEC. 342. PERMITTED SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS.

(a) HUSBAND AND WIFE TREATED AS ONE INDIVIDUAL.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1), a husband and wife (and their estates) shall be treated as one shareholder."

(b) GRANTOR OF GRANTOR TRUST TREATED AS THE SHAREHOLDER.—Subsection (e) of section 1371 (as redesignated by section 331(b)(1) of this Act) is amended by inserting after the first sentence the following new sentence: "In the case of a trust described in paragraph (1), the grantor shall be treated as the shareholder."

SEC. 343. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

(a) GENERAL RULE.—Subsection (c) of section 1372 (relating to when and how subchapter S election may be made) is amended to read as follows: 26 USC 1372.

"(c) WHEN AND HOW MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be

made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) TREATMENT OF CERTAIN LATE ELECTIONS.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations."

(b) TECHNICAL AMENDMENTS.—

26 USC 1372.

(1) The second sentence of section 1372(a) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election."

(2) Subparagraph (A) of section 1372(e)(1) is amended to read as follows:

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation on the day on which the election is made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock."

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would otherwise have been effective)" after "in the corporation".

SEC. 344. EFFECTIVE DATE.

26 USC 1371 note.

The amendments made by this part shall apply to taxable years beginning after December 31, 1978.

PART II—OTHER PROVISIONS

SEC. 345. SMALL BUSINESS CORPORATION STOCK.

(a) INCREASE TO $1,000,000 AMOUNT OF STOCK POTENTIALLY SUBJECT TO ORDINARY LOSS TREATMENT; REMOVAL OF EQUITY CAPITAL TEST.—

26 USC 1244.

Subsection (c) of section 1244 (relating to losses on small business stock) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(3) SMALL BUSINESS CORPORATION DEFINED.—

"(A) IN GENERAL.—For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed $1,000,000. The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

"(B) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PROPERTY.—For purposes of subparagraph (A), the amount taken into account with respect to any property other than money

shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation."

(b) INCREASE IN MAXIMUM AMOUNT TREATED AS ORDINARY LOSS FOR ANY TAXABLE YEAR.—Subsection (b) of section 1244 is amended— 26 USC 1244.

(1) by striking out "$25,000" in paragraph (1) and inserting in lieu thereof "$50,000", and

(2) by striking out "$50,000" in paragraph (2) and inserting in lieu thereof "$100,000".

(c) REMOVAL OF REQUIREMENT THAT STOCK ISSUANCE BE PURSUANT TO PLAN.—Subsection (c) of section 1244 (defining section 1244 stock) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—For purposes of this section, the term 'section 1244 stock' means common stock in a domestic corporation if—

"(A) at the time such stock is issued, such corporation was a small business corporation,

"(B) such stock was issued by such corporation for money or other property (other than stock and securities), and

"(C) such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

"(2) RULES FOR APPLICATION OF PARAGRAPH (1)(C).—

"(A) PERIOD TAKEN INTO ACCOUNT WITH RESPECT TO NEW CORPORATIONS.—For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

"(i) the period of the corporation's taxable years ending before such date, or

"(ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

"(B) GROSS RECEIPTS FROM SALES OF SECURITIES.—For purposes of paragraph (1)(C), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.

"(C) NONAPPLICATION WHERE DEDUCTIONS EXCEED GROSS INCOME.—Paragraph (1)(C) shall not apply with respect to any corporation if, for the period taken into account for purposes of paragraph (1)(C), the amount of the deductions allowed by this chapter (other than by sections 172, 243, 244, and 245) exceeds the amount of gross income." 26 USC 172, 243, 244, 245.

(d) TECHNICAL AMENDMENTS.—Paragraph (2) of section 1244(d) (relating to special rules) is amended— 26 USC 1244.

(1) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (C)", and

(2) by striking out "paragraphs (1)(E) and (2)(A)" and inserting in lieu thereof "paragraphs (1)(C) and (3)(A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act. 26 USC 1244 note.

Subtitle F—Accounting Provisions

SEC. 351. TREATMENT OF CERTAIN CLOSELY HELD FARM CORPORATIONS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

26 USC 447.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end thereof the following new subsection:

"(h) EXCEPTION FOR CERTAIN CLOSELY HELD CORPORATIONS.—

"(1) IN GENERAL.—This section shall not apply to any corporation if, on October 4, 1976, and at all times thereafter—

"(A) members of 2 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 65 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 65 percent of the total number of shares of all other classes of stock of such corporation; or

"(B)(i) members of 3 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of such corporation; and

"(ii) substantially all of the stock of such corporation which is not so owned (directly or through the application of subsection (d)) by members of such 3 families is owned directly—

"(I) by employees of the corporation or members of their families (within the meaning of section 267(c)(4)), or

26 USC 267.

"(II) by a trust for the benefit of the employees of such corporation which is described in section 401(a) and which is exempt from taxation under section 501(a).

26 USC 401.
26 USC 501.

"(2) STOCK HELD BY EMPLOYEES, ETC.—For purposes of this subsection, stock which—

"(A) is owned directly by employes of the corporation or members of their families (within the meaning of section 267(c)(4)) or by a trust described in paragraph (1)(B)(ii)(II), and

26 USC 267.

"(B) was acquired on or after October 4, 1976, from the corporation or from a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1),

shall be treated as owned by a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1).

"(3) CORPORATION MUST BE ENGAGED IN FARMING.—This subsection shall apply only in the case of a corporation which was, on October 4, 1976, and at all times thereafter, engaged in the trade or business of farming."

26 USC 447 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

SEC. 352. ACCOUNTING FOR GROWING CROPS.

26 USC 447 note.

(a) APPLICATION OF SECTION.—This section shall apply to a taxpayer who—

(1) is a farmer, nurseryman, or florist,

(2) is on an accrual method of accounting, and

(3) is not required by section 447 of the Internal Revenue Code of 1954 to capitalize preproductive period expenses. 26 USC 447.

(b) TAXPAYER MAY NOT BE REQUIRED TO INVENTORY GROWING CROPS.—A taxpayer to whom this section applies may not be required to inventory growing crops for any taxable year beginning after December 31, 1977.

(c) TAXPAYER MAY ELECT TO CHANGE TO CASH METHOD.—A taxpayer to whom this section applies may, for any taxable year beginning after December 31, 1977 and before January 1, 1981, change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops.

(d) SECTION 481 OF CODE TO APPLY.—Any change in the way in which a taxpayer accounts for the costs of growing crops resulting from the application of subsection (b) or (c)— 26 USC 481.

(1) shall not require the consent of the Secretary of the Treasury or his delegate, and

(2) shall be treated, for purposes of section 481 of the Internal Revenue Code of 1954, as a change in the method of accounting initiated by the taxpayer.

(e) GROWING CROPS.—For purposes of this section, the term "growing crops" does not include trees grown for lumber, pulp, or other nonlife purposes.

SEC. 353. TREATMENT OF CERTAIN FARMS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out "nursery" in subsection (a) thereof and adding in lieu thereof "nursery or sod farm". 26 USC 447.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 447 note.

Subtitle G—Other Business Provisions

SEC. 361. DISALLOWANCE OF CERTAIN DEDUCTIONS FOR YACHTS, HUNTING LODGES, ETC.

(a) EXTENSION OF RULE DISALLOWING DEDUCTIONS FOR FACILITIES.—So much of paragraph (1) of section 274(a) (relating to disallowance of certain entertainment, etc., expenses) as follows subparagraph (A) is amended to read as follows: 26 USC 274.

"(B) FACILITY.—With respect to a facility used in connection with an activity referred to in subparagraph (A).

In the case of an item described in subparagraph (A), the deduction shall in no event exceed the portion of such item which meets the requirements of subparagraph (A).".

(b) COUNTRY CLUBS.—Paragraph (2) of section 274(2) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of a country club, paragraph (1)(B) shall apply unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items paid or incurred after December 31, 1978, in taxable years ending after such date. 26 USC 274 note.

SEC. 362. DEFICIENCY DIVIDEND PROCEDURE FOR REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subchapter M of chapter 1 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART III—PROVISIONS WHICH APPLY TO BOTH REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

"Sec. 860. Deduction for deficiency dividends.

26 USC 860. "SEC. 860. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) GENERAL RULE.—If a determination with respect to any qualified investment entity results in any adjustment for any taxable year, a deduction shall be allowed to such entity for the amount of deficiency dividends for purposes of determining the deduction for dividends paid (for purposes of section 852 or 857, whichever applies) for such year.

26 USC 852, 857.

"(b) QUALIFIED INVESTMENT ENTITY DEFINED.—For purposes of this section, the term 'qualified investment entity' means—

"(1) a regulated investment company, and

"(2) a real estate investment trust.

"(c) RULES FOR APPLICATION OF SECTION.—

"(1) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the qualified investment entity for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(b)) for the taxable year with respect to which the determination is made, and

26 USC 6601.

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(2) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(d) ADJUSTMENT.—For purposes of this section—

"(1) ADJUSTMENT IN THE CASE OF REGULATED INVESTMENT COMPANY.—In the case of any regulated investment company, the term 'adjustment' means—

"(A) any increase in the investment company taxable income of the regulated investment company (determined without regard to the deduction for dividends paid (as defined in section 561)),

26 USC 561.

"(B) any increase in the amount of the excess described in section 852(b)(3)(A) (relating to the excess of the net capital

26 USC 852.

gain over the deduction for capital gain dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends. 26 USC 561.

"(2) ADJUSTMENT IN THE CASE OF REAL ESTATE INVESTMENT TRUST.—In the case of any real estate investment trust, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A), 26 USC 857.

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends. 26 USC 561.

"(e) DETERMINATION.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or 26 USC 7121.

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the qualified investment entity relating to the liability of such entity for tax.

"(f) EFFICIENCY DIVIDENDS.—

"(1) DEFINITION.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the qualified investment entity on or after the date of the determination and before filing claim under subsection (g), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (g).

"(2) LIMITATIONS.—

"(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of paragraph (1) or (2) of subsection (d) (whichever applies) over the amount of any increase in the deduction for dividends paid computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decreased referred to in subparagraph (C) of paragraph (1) or (2) of subsection (d) (whichever applies).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of paragraph (1) or (2) of subsection (d) (whichever applies), exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 855(a) or 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

26 USC 855, 858.

"(g) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefore is filed within 120 days after the date of the determination.

"(h) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the qualified investment entity files a claim as provided in subsection (g), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

26 USC 6501.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (g), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(i) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination

contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willfull failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(j) PENALTY.—

"For assessable penalty with respect to liability for tax of a qualified investment entity which is allowed a deduction under subsection (a), see section 6697."

(b) ASSESSABLE PENALITIES.—Section 6697 (relating to assessable penalties with respect to liability for tax of real estate investment trusts) is amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF QUALIFIED INVESTMENT ENTITIES. 26 USC 6697.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase. 26 USC 860.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)." 26 USC 6211.

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.— 26 USC 852.
The first sentence of subparagraph (C) of section 852(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 860(e)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination". 26 USC 860.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 316(b) (relating to deficiency dividend distributions by a real estate investment trust) is amended— 26 USC 316.

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)", and

(B) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(2) Paragraph (25) of section 381(c) is amended— 26 USC 381.

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)",

(B) by striking out "section 859" and inserting in lieu thereof "section 860", and

(C) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(3) Subparagraph (C) of section 857(b)(3) is amended by striking out "section 859(c)" and inserting in lieu thereof "section 860(e)". 26 USC 857.

26 USC 6422, 6515.

(4) Sections 6422(14) and 6515(5) are each amended—

(A) by inserting "regulated investment company or" before "real estate investment trust", and

(B) by striking out "859" and inserting in lieu thereof "860",

26 USC 6503.

(5) Paragraph (5) of section 6503(i) is amended to read as follows:

"(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h)."

26 USC 859, 860.

(6) Part II of subchapter M of chapter 1 is amended by striking out section 859 and redesignating section 860 as section 859.

(7) The table of sections for part II of subchapter M of chapter 1 is amended by striking out the items relating to sections 859 and 860 and inserting in lieu thereof the following:

"Sec. 859. Adoption of annual accounting period."

(8) The table of parts for subchapter M of chapter 1 is amended by adding at the end thereof the following new item:

"Part III. Provisions which apply to both regulated investment companies and real estate investment trusts."

26 USC 6697.

(9) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of qualified investment entities."

26 USC 860 note. 26 USC 860.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations (as defined in section 860(d) of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

SEC. 363. REAL ESTATE INVESTMENT TRUST PROVISIONS.

(a) LIMITATIONS.—

26 USC 856.

(1) Section 856(c)(2) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

26 USC 857.

26 USC 856.

(2) Section 856(c)(3) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

26 USC 856.

(3) Subparagraph (B) of section 856(c)(4) (relating to limitations) is amended to read as follows:

"(B) property in a transaction which is a prohibited transaction; and".

26 USC 857.

(b) PROHIBITED TRANSACTIONS.—Paragraph (6) of section 857(b) (relating to income from prohibited transactions) is amended by adding the following subparagraphs at the end thereof:

"(C) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset as defined in section 856(c)(6)(B) if—

"(i) the trust has held the property for not less than 4 years;

"(ii) aggregate expenditures made by the trust, or any partner of the trust, during the 4-year period preceding the date of sale which are includible in the basis of the property do not exceed 20 percent of the net selling price of the property;

"(iii) during the taxable year the trust does not make more than 5 sales of property (other than foreclosure property); and

"(iv) in the case of property, which consists of land or improvements, not acquired through foreclosure (or deed in lieu of foreclosure), or lease termination, the trust has held the property for not less than 4 years for production of rental income.

"(D) SPECIAL RULES.—In applying subparagraph (C) the following special rules apply:

"(i) The holding period of property acquired through foreclosure (or deed in lieu of foreclosure), or termination of the lease, includes the period for which the trust held the loan which such property secured, or the lease of such property.

"(ii) In the case of a property acquired through foreclosure (or deed in lieu of foreclosure), or termination of a lease, expenditures made by, or for the account of, the mortgagor or lessee after default became imminent will be regarded as made by the trust.

"(iii) Expenditures (including expenditures regarded as made directly by the trust, or indirectly by any partner of the trust, under clause (ii)) will not be taken into account if they relate to foreclosure property and did not cause the property to lose its status as foreclosure property.

"(iv) Expenditures will not be taken into account if they are made solely to comply with standards or requirements of any government or governmental authority having relevant jurisdiction, or if they are made to restore the property as a result of losses arising from fire, storm or other casualty.

"(v) The term 'expenditures' does not include advances on a loan made by the trust.

"(vi) The sale of more than one property to one buyer as part of one transaction constitutes one sale.

"(vii) The term 'sale' does not include any transaction in which the net selling price is less than $10,000.

"(E) SALES NOT MEETING REQUIREMENTS.—In determining whether or not any sale constitutes a 'prohibited transaction' for purposes of subparagraph (A), the fact that such sale does not meet the requirements of subparagraph (C) of this paragraph shall not be taken into account; and such determination, in the case of a sale not meeting such requirements, shall be made as if subparagraphs (C) and (D) had not been enacted."

(c) EXTENSIONS.—Paragraph (3) of section 856(e) (relating to extensions) is amended to read as follows: 26 USC 856.

"(3) EXTENSIONS.—If the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period is necessary for the orderly liquidation of the trust's interests in such property, the Secretary may grant one or more extensions of the grace period for such property. Any such

extension shall not extend the grace period beyond the date which is 6 years after the date such trust acquired such property."

26 USC 856 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after the date of the enactment of this Act. The amendment made by subsection (c) shall apply to extensions granted after the date of the enactment of this Act with respect to periods beginning after December 31, 1977.

SEC. 364. CONTRIBUTIONS IN AID OF CONSTRUCTION.

26 USC 118.

(a) IN GENERAL.—Section 118(b) (relating to contributions in aid of construction) is amended—

(1) by striking out "water" in the portion of paragraph (1) preceding subparagraph (A) thereof and inserting in lieu thereof "electric energy, gas (through a local distribution system or transportation by pipeline), water,";

(2) by striking out "water" in paragraph (1)(B) and inserting in lieu thereof "electric energy, gas, steam, water,";

(3) by striking out "water" in paragraph (2)(A)(ii) and by inserting in lieu thereof "electric energy, gas, steam, water,";

(4) by striking out "property" in paragraph (3)(A) and by inserting in lieu thereof "line" and by striking out "a main water or sewer line" in paragraph (3)(A) and by inserting in lieu thereof "an electric line, a gas main, a steam line, or a main water or sewer line"; and

(5) by amending paragraph (3)(C) to read as follows:

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area."

26 USC 7701.

26 USC 118 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after January 31, 1976.

SEC. 365. LIABILITIES OF CONTROLLED CORPORATIONS.

26 USC 357.

(a) IN GENERAL.—Subsection (c) of section 357 (relating to assumption of liability) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN LIABILITIES EXCLUDED.—

"(A) IN GENERAL.—If—

"(i) the taxpayer's taxable income is computed under the cash receipts and disbursements method of accounting, and

"(ii) such taxpayer transfers, in an exchange to which section 351 applies, a liability which is either—

26 USC 351.

"(I) an account payable payment of which would give rise to a deduction, or

"(II) an amount payable which is described in section 736(a),

26 USC 736.

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property transferred is subject.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any liability to the extent that the incurrence of the liability

resulted in the creation of, or an increase in, the basis of any property."

(b) BASIS OF DISTRIBUTEES.—Subsection (d) of section 358 (relating to basis to distributees) is amended to read as follows: 26 USC 358.

"(d) ASSUMPTION OF LIABILITY.—

"(1) IN GENERAL.—Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for purposes of this section, be treated as money received by the taxpayer on the exchange.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the amount of any liability excluded under section 357(c)(3)." 26 USC 357.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers occurring on or after the date of the enactment of this Act. 26 USC 357 note.

SEC. 366. MEDICAL EXPENSE REIMBURSEMENT PLANS.

(a) GENERAL RULE.—Section 105 (relating to accident and health plans) is amended by adding at the end thereof the following: 26 USC 105.

"(h) AMOUNT PAID TO HIGHLY COMPENSATED INDIVIDUALS UNDER A DISCRIMINATORY SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLAN.—

"(1) IN GENERAL.—In the case of amounts paid to a highly compensated individual under a self-insured medical reimbursement plan which does not satisfy the requirements of paragraph (2) for a plan year, subsection (b) shall not apply to such amounts to the extent they constitute an excess reimbursement of such highly compensated individual.

"(2) PROHIBITION OF DISCRIMINATION.—A self-insured medical reimbursement plan satisfies the requirements of this paragraph only if—

"(A) the plan does not discriminate in favor of highly compensated individuals as to eligibility to participate; and

"(B) the benefits provided under the plan do not discriminate in favor of participants who are highly compensated individuals.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATIONS.—

"(A) IN GENERAL.—A self-insured medical reimbursement plan does not satisfy the requirements of subparagraph (A) of paragraph (2) unless such plan benefits—

"(i) 70 percent or more of all employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all employees are eligible to benefit under the plan; or

"(ii) such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated participants.

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) employees who have not attained age 25;

"(iii) part-time or seasonal employees;

"(iv) employees not included in the plan who are included in a unit of employees covered by an agreement

between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if accident and health benefits were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(v) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(b)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

26 USC 911.

26 USC 861.

"(4) NONDISCRIMINATORY BENEFITS.—A self-insured medical reimbursement plan does not meet the requirements of subparagraph (B) of paragraph (2) unless all benefits provided for participants who are highly compensated individuals are provided for all other participants.

"(5) HIGHLY COMPENSATED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'highly compensated individual' means an individual who is—

"(A) one of the 5 highest paid officers,

"(B) a shareholder who owns (with the application of section 318) more than 10 percent in value of the stock of the employer, or

26 USC 318.

"(C) among the highest paid 25 percent of all employees (other than employees described in paragraph (3)(B) who are not participants).

"(6) SELF-INSURED MEDICAL REIMBURSEMENT PLAN.—The term 'self-insured medical reimbursement plan' means a plan of an employer to reimburse employees for expenses referred to in subsection (b) for which reimbursement is not provided under a policy of accident and health insurance.

"(7) EXCESS REIMBURSEMENT OF HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this section, the excess reimbursement of a highly compensated individual which is attributable to a self-insured medical reimbursement plan is—

"(A) in the case of a benefit available to a highly compensated individual but not to a broad cross-section of employees, the amount reimbursed under the plan to the employee with respect to such benefit, and

"(B) in the case of benefits (other than benefits described in subparagraph (A) paid to a highly compensated individual by a plan which fails to satisfy the requirements of paragraph (2), the total amount reimbursed to the highly compensated individual for the plan year multiplied by a fraction—

"(i) the numerator of which is the total amount reimbursed to all participants who are highly compensated individuals under the plan for the plan year, and

"(ii) the denominator of which is the total amount reimbursed to all employees under the plan for such plan year.

In determining the fraction under subparagraph (B), there shall not be taken into account any reimbursement which is attributable to a benefit described in subparagraph (A).

"(8) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or

(c) of section 414 shall be treated as employed by a single employer for purposes of this section. 26 USC 414.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(10) TIME OF INCLUSION.—Any amount paid for a plan year that is included in income by reason of this subsection shall be treated as received or accrued in the taxable year of the participant in which the plan year ends."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979. 26 USC 105 note.

SEC. 367. THREE-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1979" each place it appears and inserting in lieu thereof "January 1, 1982". 26 USC 167.

SEC. 368. DELAY IN APPLICATION OF NEW NET OPERATING LOSS RULES.

(a) IN GENERAL.—Except as provided in subsection (b), paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980". 26 USC 382 note. 26 USC 382, 383.

(b) ELECTION OF PRIOR LAW.—

(1) A taxpayer may elect not to have the amendment made by subsection (a) apply with respect to any acquisition or reorganization occurring before the end of the taxpayer's first taxable year beginning after June 30, 1978, where such acquisition or reorganization occurs pursuant to a written binding contract or option to acquire stock or assets which was entered into before September 27, 1978.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year in which a reorganization or acquisition described in paragraph (1) occurs, or, if later, within 90 days after the date of enactment of this Act. Such election shall apply to all acquisitions and reorganizations to which, but for such election, subsection (a) would apply.

SEC. 369. USE OF CERTAIN EXPIRED NET OPERATING LOSS CARRYOVERS.

(a) IN GENERAL.—Clause (iv) of section 374(e)(1)(A) (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended to read as follows: 26 USC 374.

"(iv) a redemption of a certificate of value of the United States Railway Association issued under section 306 of such Act to such corporation (or issued to another member of the same affiliated group (within the meaning of section 1504) as such corporation for their taxable years which included March 31, 1967),". 26 USC 306. 26 USC 1504.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after March 31, 1976. 26 USC 374 note.

SEC. 370. INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

26 USC 861. (a) GENERAL RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(f) INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

"(1) GENERAL RULE.—For purposes of subsection (a) and section 826(a), if—

26 USC 826.

"(A) a taxpayer leases railroad rolling stock which is section 38 property (or would be section 38 property but for section 48(a)(5)) to a domestic common carrier by railroad or a corporation which is controlled, directly or indirectly, by one or more such common carriers, and

26 USC 38.
26 USC 48.

"(B) the use under such lease is expected to be use within the United States,

all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.

"(2) PARAGRAPH (1) NOT TO APPLY WHERE LESSOR IS A MEMBER OF CONTROLLED GROUP WHICH INCLUDES A RAILROAD.—Paragraph (1) shall not apply to a lease between two members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company referred to in subparagraph (B) of section 184(d)(1).

26 USC 1563.
26 USC 184.

"(3) DENIAL OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1).".

26 USC 901.

26 USC 861 note. (b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all railroad rolling stock placed in service with respect to the taxpayer after the date of the enactment of this Act.

Supra. (2) ELECTION TO EXTEND SECTION 861(f) TO RAILROAD ROLLING STOCK PLACED IN SERVICE BEFORE DATE OF ENACTMENT.

(A) IN GENERAL.—At the election of the taxpayer, the amendment made by subsection (a) shall also apply, for taxable years beginning after the date of the enactment of this Act, to all railroad rolling stock placed in service with respect to the taxpayer on or before such date of enactment. Such an election may not be revoked except with the consent of the Secretary of the Treasury or his delegate.

(B) MANNER AND TIME OF ELECTION AND REVOCATION.—An election under subparagraph (A), and any revocation of such an election, shall be made in such manner and at such time as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 371. NET OPERATING LOSSES ATTRIBUTABLE TO PRODUCT LIABILITY LOSSES.

(a) 10-YEAR CARRYBACK.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph: 26 USC 172.

"(H) PRODUCT LIABILITY LOSSES.—In the case of a taxpayer which has a product liability loss (as defined in subsection (i)) for a taxable year beginning after September 30, 1979 (referred to in this subparagraph as the 'loss year'), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year."

(2) CONFORMING AMENDMENT.—Clause (i) of section 172(b)(1)(A) is amended by striking out "and (G)" and inserting in lieu thereof "(G), and (H)".

(b) RULES RELATING TO PRODUCT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) RULES RELATING TO PRODUCT LIABILITY LOSSES.—For purposes of subsection (b)—

"(1) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such year reduced by any portion thereof which is attributable to a foreign expropriation loss, or

"(B) the sum of the amounts allowable as deductions under sections 162 and 165 which are attributable to— 26 USC 162, 165.

"(i) product liability, or

"(ii) expenses incurred in the investigation or settlement of, or opposition to, claims against the taxpayer on account of product liability.

"(2) PRODUCT LIABILITY.—The term 'product liability' means—

"(A) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer, but only if

"(B) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(3) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(c) APPLICATION OF ACCUMULATED EARNINGS TAX TO PRODUCT LIABILITY LOSS RESERVES.—Subsection (b) of section 537 (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph: 26 USC 537.

"(4) PRODUCT LIABILITY LOSS RESERVES.—The accumulation of reasonable amounts for the payment of reasonably anticipated product liability losses (as defined in section 172(i)), as deter- *Supra.*

mined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

26 USC 172 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after September 30, 1979.

SEC. 372. EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which items of gross income included) is amended by adding at the end thereof the following new section:

26 USC 458.

"SEC. 458. MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

"(a) EXCLUSION FROM GROSS INCOME.—A taxpayer who is on an accrual method of accounting may elect not to include in the gross income for the taxable year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MAGAZINE.—The term 'magazine' includes any other periodical.

"(2) PAPERBACK.—The term 'paperback' means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine.

"(3) RECORD.—The term 'record' means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded.

"(4) SEPARATE APPLICATION WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS.—If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and records shall each be treated as a separate category of merchandise.

"(5) QUALIFIED SALE.—A sale of a magazine, paperback, or record is a qualified sale if—

"(A) at the time of sale, the taxpayer has a legal obligation to adjust the sales price of such magazine, paperback, or record if it is not resold, and

"(B) the sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

"(6) AMOUNT EXCLUDED.—The amount excluded under this section with respect to any qualified sale shall be the lesser of—

"(A) the amount covered by the legal obligation described in paragraph (5)(A), or

"(B) the amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

"(7) MERCHANDISE RETURN PERIOD.—

"(A) Except as provided in subparagraph (B), the term 'merchandise return period' means, with respect to any taxable year—

"(i) in the case of magazines, the period of 2 months and 15 days first occurring after the close of taxable year, or

"(ii) in the case of paperbacks and records, the period of 4 months and 15 days first occurring after the close of the taxable year.

"(B) The taxpayer may select a shorter period than the applicable period set forth in subparagraph (A).

"(C) Any change in the merchandise return period shall be treated as a change in the method of accounting.

"(8) CERTAIN EVIDENCE MAY BE SUBSTITUTED FOR PHYSICAL RETURN OF MERCHANDISE.—Under regulations prescribed by the Secretary, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subsection (a), certification or other evidence that the magazine, paperback, or record has not been resold and will not be resold if such evidence—

"(A) is in the possession of the taxpayer at the close of the merchandise return period, and

"(B) is satisfactory to the Secretary.

"(9) REPURCHASED BY THE TAXPAYER NOT TREATED AS RESALE.—A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale.

"(c) QUALIFIED SALES TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribed and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall be effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(d) 5-YEAR SPREAD OF TRANSITIONAL ADJUSTMENTS FOR MAGAZINES.—In applying section 481(c) with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of section 481(a)(2) shall be the taxable year for which the election is made and the 4 succeeding taxable years. 26 USC 481.

"(e) SUSPENSE ACCOUNT FOR PAPERBACKS AND RECORDS.—

"(1) IN GENERAL.—In the case of any election under this section which applies to paperbacks or records, in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

26 USC 481.

"(2) INITIAL OPENING BALANCE.—The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the 3 immediately preceding taxable years if this section had applied to such preceding 3 taxable years. This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year the suspense account shall be—

"(A) reduced the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount excluded from gross income for the taxable year under subsection (a), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount excluded from gross income for the taxable year under subsection (a), over

"(ii) the opening balance of the account for the taxable year.

"(4) GROSS INCOME ADJUSTMENTS.—

"(A) REDUCTIONS EXCLUDED FROM GROSS INCOME.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(b) CLERICAL AMENDMENTS.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 458. Magazines, paperbacks, and records returned after the close of the taxable year."

26 USC 458 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 1979.

SEC. 373. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 466. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR. 26 USC 466.

"(a) ALLOWANCE OF DEDUCTION.—At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this chapter for the redemption costs of qualified discount coupons shall be an amount equal to the sum of—

"(1) such costs incurred by the taxpayer with respect to coupons—

"(A) which were outstanding at the close of the taxable year, and

"(B) which were received by the taxpayer before the close of the redemption period for the taxable year, plus

"(2) such costs (other than costs properly taken into account under paragraph (1) for a prior taxable year) incurred by the taxpayer during the taxable year.

"(b) QUALIFIED DISCOUNT COUPONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified discount coupon' means a discount coupon which—

"(A) was issued by the taxpayer,

"(B) is redeemable by the taxpayer, and

"(C) allows a discount on the purchase price of merchandise or other tangible personal property.

"(2) METHOD OF ISSUANCE NOT TAKEN INTO ACCOUNT.—The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise.

"(3) DISCOUNT ON ITEM CANNOT EXCEED $5.—A coupon shall not be a qualified discount coupon if—

"(A) the face amount of such coupon is more than $5, or

"(B) such coupon may be used with other coupons to bring about a price discount of more than $5 with respect to any item.

"(4) THERE MUST BE REDEMPTION CHAIN.—A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount. For purposes of the preceding sentence, corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a) as the issuer shall be treated as the issuer. 26 USC 1563.

"(5) REDEEMABLE BY TAXPAYER.—A coupon is redeemable by the taxpayer if the terms of the coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms.

"(c) REDEMPTION COSTS; REDEMPTION PERIOD.—For purposes of this section—

"(1) REDEMPTION COSTS.—The term 'redemption cost' means, with respect to any coupon—

"(A) the lesser of—

"(i) the amount of the discount provided by the terms of the coupon, or

"(ii) the amount incurred by the taxpayer for paying such discount, plus

"(B) the amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

"(2) REDEMPTION PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the redemption period for any taxable year is the 6-month period immediately following the close of the taxable year.

"(B) TAXPAYER MAY SELECT SHORTER PERIOD.—The taxpayer may select a redemption period which is shorter than 6 months.

"(C) CHANGE IN REDEMPTION PERIOD.—Any change in the redemption period shall be treated as a change in the method of accounting.

"(d) QUALIFIED DISCOUNT COUPONS TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such coupons are issued. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(e) SUSPENSE ACCOUNT.—

"(1) IN GENERAL.—In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under section 481(a)(2), in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

26 USC 481.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the amount by which—

"(A) the largest dollar amount which would have been taken into account under subsection (a)(1) for any of the 3 immediately preceding taxable years if this section had applied to such 3 preceding taxable years, exceeds

"(B) the sum of the increases in income (and the decreases in deductions) which (but for this subsection) would result under section 481(a)(2) for such first taxable years. 26 USC 481.

This subsection shall be applied by taking into account only amounts attributal to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year, the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount deducted for the taxable year under subsection (a)(1), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount deducted for the taxable year under subsection (a)(1), over

"(ii) the opening balance of the suspense account for the taxable year.

"(4) INCOME ADJUSTMENTS.—

"(A) REDUCTIONS ALLOWED AS DEDUCTION.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the amount described in paragraph (2)(A) exceeds the dollar amount which would have been taken into account under subsection (a)(1) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary.

"(f) 10-YEAR SPREAD OF ANY NET INCREASE IN TAXABLE INCOME UNDER SECTION 481(a)(2).—In the case of any election under this section which results in a net increase in taxable income under section 481(a)(2), under regulations prescribed by the Secretary, such net increase shall (except as otherwise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 taxable years beginning with the year for which the election is made."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 466. Qualified discount coupons redeemed after close of taxable year."

(C) EFFECTIVE DATE.— 26 USC 466 note.

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978.

(2) APPLICATION TO CERTAIN PRIOR TAXABLE YEARS.—

(A) IN GENERAL.—If—

Ante, p. 2863.

(i) the taxpayer makes an election under section 466 of the Internal Revenue Code of 1954 for his first taxable year ending after December 31, 1978, and

(ii) for a continuous period of 1 or more taxable years each of which ends on or before December 31, 1978, the taxpayer used the method of accounting with respect to any type of discount coupons which was reasonably similar to the method of accounting provided by section 1.451-4 of the Income Tax Regulations,

26 CFR 1.451-4.

then the taxpayer may make an election under this paragraph to have the method of accounting which he used for such continuous period treated as a valid method of accounting with respect to each such type of discount coupons for such period for purposes of the Internal Revenue Code of 1954. A taxpayer may make an election under this paragraph with respect to only one such continuous period.

26 USC 1.

(B) CERTAIN AMOUNTS TO WHICH METHOD OF ACCOUNTING APPLIES.—An accounting method which the taxpayer used for the period described in subparagraph (A) may include—

(i) costs of the type permitted by section 1.451-4 of the Income Tax Regulations to be included in the estimated average cost of redeeming coupons, plus

(ii) any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

(C) SUSPENSE ACCOUNT NOT REQUIRED IN CERTAIN CASES.—A taxpayer whose election under this paragraph applies to all types of discount coupons which he issued during the continuous period referred to in subparagraph (A)(ii) shall not be required to establish a suspense account under section 466(e) of the Internal Revenue Code of 1954.

(D) RULES RELATING TO ELECTION UNDER THIS SUBSECTION.—An election under this paragraph may be made only before the expiration of the period for making an election under section 466 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1978. An election under this paragraph shall be made in such a manner and form as the Secretary of the Treasury or his delegate may by regulations prescribe. For purposes of the Internal Revenue Code of 1954, such an election shall be treated as a method of accounting, except that the approval of the Secretary of the Treasury or his delegate to the making of the election may not be required.

26 USC 1.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

SEC. 401. REPEAL OF ALTERNATIVE TAX ON CAPITAL GAINS OF INDIVIDUALS.

26 USC 1201.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax) is amended—

(1) by striking out subsections (b) and (c),

(2) by redesignating subsection (d) as subsection (b), and
(3) by amending the section heading to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3(b) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively. 26 USC 3.

(2) Subsection (a) of section 5 is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively. 26 USC 5.

(3) Paragraph (1) of section 871(b) is amended by striking out "section 1, 402(e)(1), or 1201(b)" and inserting in lieu thereof "section 1 or 402(e)(1)". 26 USC 871.

(4) Paragraph (1) of section 911(d) is amended— 26 USC 911.

(A) by striking out "section 1 or section 1201" each place it appears and inserting in lieu thereof "section 1", and

(B) by striking out "(whichever is applicable)" each place it appears.

(5) Subsection (b) of section 1304 is amended— 26 USC 1304.

(A) by adding "and" at the end of paragraph (2),

(B) by striking out paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(6) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1201 and inserting in lieu thereof the following:

"Sec. 1201. Alternative tax for corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 1201 note.

SEC. 402. INCREASED CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 1202 (relating to deduction for capital gains) is amended to read as follows: 26 USC 1202.

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 60 percent of the amount of the net capital gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets. 26 USC 652, 662.

"(c) TAXABLE YEARS WHICH INCLUDE NOVEMBER 1, 1978.—If for any taxable year beginning before November 1, 1978, and ending after October 31, 1978, a taxpayer other than a corporation has a net capital gain, the deduction under subsection (a) shall be the sum of—

"(1) 60 percent of the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taking into account only sales and exchanges after October 31, 1978, plus

"(2) 50 percent of the excess of—

"(A) the net capital gain for the taxable year, over

"(B) the amount of net capital gain taken into account under paragraph (1)."

(b) TECHNICAL AMENDMENTS.—

26 USC 57.

(1) Subparagraph (A) of section 57(a)(9) (relating to treatment of capital gains for purposes of the minimum tax) is amended to read as follows:

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202."

Ante, p. 2867.

26 USC 170.

(2) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "50 percent" and inserting in lieu thereof "40 percent".

(c) EFFECTIVE DATES.—

26 USC 1202 note.

(1) The amendments made by subsections (a) and (b)(1) shall apply to taxable years ending after October 31, 1978.

26 USC 170 note.

(2) The amendment made by subsection (b)(2) shall apply to contributions made after October 31, 1978.

SEC. 403. REDUCTION OF ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS.

26 USC 1201.

(a) GENERAL RULE.—Paragraph (2) of section 1201(a) (relating to alternative tax for corporations) is amended by striking out "30 percent" and inserting in lieu thereof "28 percent".

(b) TRANSITIONAL RULE.—Section 1201 is amended by adding at the end thereof the following new subsection:

"(c) TAXABLE YEARS WHICH INCLUDE JANUARY 1, 1979.—If for any taxable year beginning before January 1, 1979, and ending after December 31, 1978, a corporation has a net capital gain, then subsection (a) shall be applied by substituting for the language of paragraph (2) the following:

"(2)(A) a tax of 28 percent of the lesser of—

"(i) the net capital gain for the taxable year, or

"(ii) the net capital gain taking into account only sales and exchanges after December 31, 1978, plus

"(B) a tax of 30 percent of the excess of—

"(i) the net capital gains for the taxable year, over

"(ii) the amount of net capital gain taken into account under subparagraph (A)."

(c) CONFORMING AMENDMENTS.—

26 USC 170.

(1) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "62½ percent" and inserting in lieu thereof "$28\frac{9}{46}$".

26 USC 528.

(2) Subparagraph (B) of section 528(b)(2) (relating to tax imposed on certain homeowners associations) is amended to read as follows:

Supra.

"(B) an amount determined as provided in section 1201(a) on such gain."

26 USC 857.

(3) Clause (ii) of section 857(b)(3)(A) (relating to tax on real estate investment trusts) is amended by striking out "a tax of 30 percent of" and inserting in lieu thereof "a tax determined at the rate provided in section 1201(a) on".

26 USC 904.

(4) Subsection (b) of section 904 (relating to taxable income for computing the limitation on foreign tax credits) is amended—

(A) by striking out "three-eighths" wherever it appears and inserting in lieu thereof "the rate differential portion"; and

(B) by striking the period at the end of subparagraph (D) of paragraph (3), inserting in lieu thereof a comma, and insert-

ing immediately thereafter the following new paragraph to read as follows:

"(E) RATE DIFFERENTIAL PORTION.—The 'rate differential portion' of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)." 26 USC 11. *Ante*, p. 2868.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978. 26 USC 1201 note.

(2) The amendment made by paragraph (1) of subsection (c) shall apply to gifts made after December 31, 1978. 26 USC 170 note.

(3) The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect on the date of the enactment of this Act. 26 USC 528 note.

SEC. 404. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

(a) GENERAL RULE.—The section heading and subsections (a) and (b) section 121 are amended to read as follows: 26 USC 121.

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if—

"(1) the taxpayer has attained the age of 55 before the date of such sale or exchange, and

"(2) during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect.

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE ON OR BEFORE JULY 26, 1978.—In the case of any sale or exchange after July 26, 1978, this section shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date."

(b) TACKING OF HOLDING PERIOD IN CASE OF INVOLUNTARY CONVERSIONS.—Subsection (d) of section 121 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(8) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged." 26 USC 1033.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 121.

(1) Paragraph (2) of section 121(d) is amended by striking out "8-year period" and inserting in lieu thereof "5-year period".

(2) Paragraph (5) of section 121(d) is amended—

(A) by striking out "8-year period" and inserting in lieu thereof "5-year period", and

(B) by striking out "5 years" and inserting in lieu thereof "3 years".

(3) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence by individual who has attained age 55."

26 USC 1033.

(4) Paragraph (3) of section 1033(g) (relating to cross references) is amended to read as follows:

"(3) For one-time exclusion from gross income of gain from involuntary conversion of principal residence by individual who has attained age 55, see section 121."

26 USC 1034.

(5) Subsection (k) of section 1034 (relating to cross references) is amended to read as follows:

"(k) CROSS REFERENCE.—

"For one-time exclusion from gross income of gain from sale of principal residence by individual who has attained age 55, see section 121."

26 USC 1038.

(6) Section 1038(e)(1)(A) is amended by striking out "relating to gain from sale or exchange of residence of an individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 1250.

(7) Section 1250(d)(7)(B) is amended by striking out "relating to gains from sale or exchange of residence of individual who has attained the age of 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 6012.

(8) Section 6012(c) is amended by striking out "relating to sale of residence by individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 121 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales or exchanges after July 26, 1978, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—In the case of a sale or exchange of a residence before July 26, 1981, a taxpayer who has attained age 65 on the date of such sale or exchange may elect to have section 121 of the Internal Revenue Code of 1954 applied by substituting "8-year period" for "5-year period" and "5 years" for "3 years" in subsections (a), (d)(2), and (d)(5) of such section.

SEC. 405. WAIVER OF CERTAIN 18-MONTH RULES OF SECTION 1034 WHEN SALE OF RESIDENCE IS CONNECTED WITH COMMENCING WORK AT NEW PLACE.

26 USC 1034.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to sale or exchange of residence) is amended to read as follows:

"(d) LIMITATION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property

used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a).

"(2) SUBSEQUENT SALE CONNECTED WITH COMMENCING WORK AT NEW PLACE.—Paragraph (1) shall not apply with respect to the sale of the taxpayer's residence if—

"(A) such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

"(B) if the residence so sold is treated as the former residence for purposes of section 217 (relating to moving expenses), the taxpayer would satisfy the conditions of subsection (c) of section 217 (as modified by the other subsections of such section)." 26 USC 217.

(b) RELATED TECHNICAL AMENDMENT.—Paragraph (4) of section 1034(c) is amended by adding at the end thereof the following new sentence: "If a principal residence is sold in a sale to which subsection (d)(2) applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period." 26 USC 1034.

(c) CLERICAL AMENDMENTS.—

(1) The section heading of section 1034 is amended to read as follows:

"SEC. 1034. ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1034 and inserting in lieu thereof the following new item:

"Sec. 1034. Rollover of gain on sale of principal residence."

(3) Subparagraph (B) of section 1083(e)(1) (relating to certain acquisitions of real property) is amended by striking out "(relating to sale or exchange of residence)" and inserting in lieu thereof "(relating to rollover of gain on sale of principal residence)". 26 USC 1083.

(4) Subparagraph (A) of section 1250(d)(7) (relating to gain from dispositions of certain depreciable realty) is amended by striking out "relating to sale or exchange of residence" and inserting in lieu thereof "relating to rollover of gain on sale of principal residence". 26 USC 1250.

(5) Subparagraph (C) of section 6212(c)(2) (relating to cross references) is amended by striking out "personal residence" and inserting in lieu thereof "principal residence". 26 USC 6212.

(6) Paragraph (4) of section 6504 (relating to cross references) is amended by striking out "residence" and inserting in lieu thereof "principal residence". 26 USC 6504.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date. 26 USC 1034 note.

Subtitle B—Minimum Tax Provisions

SEC. 421. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

26 USC 55.

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) ALTERNATIVE MINIMUM TAX IMPOSED.—In the case of a taxpayer other than a corporation, if—

"(1) an amount equal to the sum of—

"(A) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000 plus

"(B) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(C) 25 percent of so much of the alternative minimum taxable income as exceeds $100,000, exceeds

"(2) the regular tax for the taxable year, then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means gross income—

"(A) reduced by the sum of the deductions allowed for the taxable year,

"(B) reduced by the sum of any amounts included in income under section 667, and

26 USC 667.

"(C) increased by an amount equal to the sum of the tax preference items for—

"(i) adjusted itemized deductions (within the meaning of section 57(a)(1)), and

26 USC 57.

"(ii) capital gains (within the meaning of section 57(a)(9)).

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39 and 43).

26 USC 72, 402, 408, 667.
26 USC 31.
26 USC 31, 39, 43.

"(c) CREDITS.—

"(1) CREDITS OTHER THAN THE FOREIGN TAX CREDIT NOT ALLOWABLE.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a)), the tax imposed by this section shall not be treated as a tax imposed by this chapter.

26 USC 31.
26 USC 33.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under section 901 and sections 903 through 908. For purposes of this determination—

26 USC 901, 903-908.

"(A) the amount of taxes paid or accrued to foreign countries or possessions of the United States in the taxable year shall be deemed to include an amount equal to the lesser of (i) the foreign tax credit allowed under section 33(a) in computing the regular tax for the taxable year, or (ii) the tax imposed under subsection (a);

26 USC 33.

"(B) the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by this section against which such credit is taken and the regular tax (excluding the tax imposed by section 56) which

26 USC 904.
26 USC 56.

the taxpayer's alternative minimun taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income) bears to his entire alternative minimum taxable income for the same taxable year. For purposes of the preceding sentence, the entire alternative minimum taxable income shall be reduced by an amount equal to the zero bracket amount;

"(C) the term 'alternative minimum taxable income from sources without United States' means the excess of the items of gross income from sources without the United States over that portion of the deductions taken into account in computing alternative minimum taxable income which are deducted from those items of gross income in computing taxable income from sources without the United States; for purposes of this subparagraph, and except as provided in section 904, gross and taxable income from sources without the United States shall be determined under part I of subchapter N of chapter 1; and

"Alternative minimum taxable income from sources without United States".

26 USC 861.

"(D) the amount of foreign taxes paid during the taxable year which may be deemed to be paid in a preceding or succeeding year under section 904(c), the limitation of section 904(a) shall be increased by the lesser of (i) the amount described in subparagraph (B) or (ii) the tax imposed under subsection (a).

26 USC 904.

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In any taxable year in which a tax is imposed by this section (referred to as the current taxable year)—

"(A) EMPLOYMENT CREDIT.—For purposes of determining under section 53(c) the amount of any jobs credit carryback or carryover to any other taxable year, the amount of the limitation under section 53(a) for the current taxable year shall be deemed to be—

Ante, p. 2835.

"(i) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, reduced by

Ante, p. 2834.

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year.

"(B) WORK INCENTIVE PROGRAM CREDIT.—For purposes of determining under section 50A(b) the amount of any work incentive program credit carryback or carryover to any other taxable year, the amount of the limitation under section 50A(a)(2) for the current taxable year shall be deemed to be—

Ante, p. 2836.

"(i) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, reduced by

26 USC 40.

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, or, (II) the net tax imposed by this section for the current taxable year reduced by the amount of reduction described in clause (ii) of subparagraph (A).

"(C) INVESTMENT CREDIT.—For purposes of determining under section 46(b) the amount of any investment credit

26 USC 46.

carryback or carryover to any other taxable year, the amount of the limitation under section 46(a)(3) for the current taxable year shall be deemed to be

26 USC 46.

"(i) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, reduced by

26 USC 38.

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year reduced by the sum of the amounts of reduction described in clause (ii) of subparagraphs (A) and (B).

"(D) NET TAX IMPOSED BY THIS SECTION.—For purposes of this paragraph, the term 'net tax imposed by this section' means the tax imposed by this section reduced by the foreign tax credit allowed under section 33 (a), as modified by paragraph (2).

26 USC 33.

26 USC 57.

(b) AMENDMENT OF SECTION 57.—Section 57 (relating to items of tax preference) is amended—

(1) by adding the following at the end of paragraph (9) subsection (a):

"(D) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.",

26 USC 1034.

(2) by striking out the last sentence of subsection (a) and inserting in lieu thereof the following: "Paragraphs (3) and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371 (b)) and a personal holding company (as defined in section 542). For purposes of section 56, in the case of a taxpayer other than a corporation, the adjusted itemized deductions described in paragraph (1) and capital gains described in paragraph (9) shall not be treated as items of tax preference."

26 USC 1371.
26 USC 542.
26 USC 56.

(3) by striking out subsection (b)(1) and inserting the following in lieu thereof:

"(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the itemized deductions (as defined in section 63(f)) other than—

26 USC 63.

"(A) the deduction for State and local taxes provided by section 164(a),

26 USC 164.

"(B) the deduction for medical, dental, etc., expenses provided by section 213,

26 USC 213.

"(C) the deduction for casualty losses described in section 165(c)(3), and

26 USC 165.

"(D) the deduction allowable under section 691(c),

26 USC 691.

exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in subparagraphs (A) through (D) for the taxable year.", and

(4) by striking out subparagraph (A) of subsection (b)(2), as amended by section 701 of this Act, and inserting in lieu thereof the following:

Post, p. 2897.

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the

amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b), 26 USC 642.

"(iii) the deduction for casualty losses described in section 165(c)(3), 26 USC 165.

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), 26 USC 651, 661, 691.

"(v) the deduction for State and local taxes provided by section 164(a), and

"(vi) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends, 26 USC 642. 26 USC 662.

exceeds 60 percent of the adjusted gross income reduced by the items in clauses (i) through (vi) for the taxable year."

(c) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended— 26 USC 58.

(1) by adding at the end of subsection (a) the following new sentence: "In the case of a married individual who files a separate return for the taxable year, the amount determined under paragraph (1) of section 55(a) shall be an amount equal to one-half of the amount which would be determined under such paragraph if the amount of the individual's alternative minimum taxable income were multiplied by 2."; 26 USC 55.

(2) by amending subsection (c) to read as follows:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

"(2) the $10,000 amount specified in section 56 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $10,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum, and 26 USC 56.

"(3) the liability for the tax imposed by section 55 (a) shall be determined as in the case of a married individual filing separately.", and

(3) by deleting subsection (i) (relating to the definition of corporation).

(d) TAXES TAKEN INTO ACCOUNT IN CASE OF ACCUMULATION DISTRIBUTIONS BY TRUSTS.—The second sentence of section 666(b) (relating to total taxes deemed distributed) is amended by striking out "taxes" and inserting in lieu thereof "taxes (other than the tax imposed by section 55)". 26 USC 666.

(e) TECHNICAL AMENDMENTS.—

(1) Paragraph (4) of section (5)(a) (as redesignated by section 401 of this Act) (relating to cross references relating to tax on individuals) is amended to read as follows: 26 USC 5.

"(4) For minimum tax for taxpayers other than corporations, see section 55.".

26 USC 443. (2) Subsection (d) of section 443 (relating to adjustment in computing minimum tax for short periods) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX FOR TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a), then—

"(1) in the case of a taxpayer other than a corporation, the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying that amount by 12 and dividing the result by the number of months in the short period, and the amount computed under paragraph (1) of section 26 USC 55. 55(a) shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months; and

"(2) in the case of a corporation, the $10,000 amount specified 26 USC 56. in section 56 (relating to minimum tax for tax preferences), 26 USC 58. modified as provided by section 58, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.".

26 USC 511. (3) Subsection (d) of section 511 (relating to tax preferences) is amended to read as follows:

"(d) TAX PREFERENCES.—

"(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.—If an organization is subject to tax on unrelated business taxable income 26 USC 56. pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation of unrelated business taxable income in the same manner as section 56 applies to corporations.

"(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 and section 56 (as the case may be) shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income."

26 USC 871. (4) Paragraph (1) of section 871(b) (relating to tax on nonresident alien individuals) is amended by inserting ", section 55," after "section 1".

26 USC 877. (5) Subsection (b) of section 877 (relating to expatriation to avoid tax) is amended by inserting ", section 55," after "section 1".

26 USC 904. (6) Section 904(h) (relating to cross references) is amended to read as follows:

"(h) CROSS REFERENCES.—

"(1) For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).

"(2) For modification of limitation under subsection (a) for purposes of determining the amount of credit which can be taken by an individual against the alternative minimum tax, see section 55(c).".

26 USC 6015. (7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Subparagraph (A) of section 6362(b) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56". 26 USC 6362.

(9) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credit against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56". 26 USC 6654.

(f) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by adding at the beginning thereof the following new item:

"Sec. 55. Alternative Minimum Tax for Taxpayers other than Corporations.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978, except that the amendment made by paragraph (1) of subsection (b) shall apply to sales and exchanges made after July 26, 1978, in taxable years ending after such date. 26 USC 55 note.

SEC. 422. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978". 26 USC 57 note.

SEC. 423. AMENDMENT TO DEFINITION OF FOREIGN SOURCE CAPITAL GAIN TAX PREFERENCES.

(a) GENERAL RULE.—Section 58(g)(2) (relating to capital gains and stock options) is amended by striking out the period at the end of the last sentence thereof, and inserting the following: "; except that, for purposes of subparagraph (B), preferential treatment shall be deemed not to be accorded to capital gain recognized on the receipt of property (other than money) in exchange for stock of a corporation which is engaged in the active conduct of a trade or business within one or more foreign countries or possessions if (i) such exchange is described in section 332, 351, 354, 355, 356, or 361, (ii) such exchange is made in the foreign country or possession in which such corporation's business is primarily carried on, (iii) such exchange is not subject to tax by such foreign country or possession because it is regarded under the laws of such country or possession as a transaction in which gain or loss is either not realized or not recognized, and (iv) such gain, if it had been realized and recognized under the laws of such country or possession, would not have been accorded preferential treatment and would have been subject to tax at a rate of at least 28 percent (30 percent if the exchange occurs before January 1, 1979). For purposes of computing the minimum tax, if any, which may be payable on a subsequent transaction involving any property received upon the exchange of stock described in the preceding sentence, the property received shall be treated as having the same basis in the taxpayer's hands immediately after such exchange as such stock had immediately before such exchange." 26 USC 58. 26 USC 332, 351, 354, 355, 356, 361.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 58 note.

Subtitle C—Maximum Tax Provisions

SEC. 441. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF THE MAXIMUM TAX.

26 USC 1348.

(a) GENERAL RULE.—Subparagraph (b) of section 1348(b)(2) (relating to definition of personal service income) is amended by striking out "items of tax preference (as defined in section 57)" and inserting in lieu thereof "items of tax preference described in subsection (a) (other than paragraph (9)) of section 57".

26 USC 1348 note.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after October 31, 1978.

(2) TRANSITIONAL RULES.—In the case of a taxable year which begins before November 1, 1978, and ends after October 31, 1978, the amendment made by subsection (a) shall apply with respect to so much of the net capital gain of the taxpayer for the taxable year as is attributable to sales or exchanges after October 31, 1978.

SEC. 442. DETERMINATION OF PERSONAL SERVICE INCOME FROM NONSALARIED TRADE OR BUSINESS ACTIVITIES.

(a) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (relating to personal service income) is amended by adding at the end thereof the following: "For purposes of this subparagraph, section 911(b) shall be applied without regard to the phrase ', not in excess of 30 percent of his share of net profits of such trade or business,'.".

26 USC 1348 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1978.

TITLE V—OTHER TAX PROVISION

Subtitle A—Administrative Provisions

SEC. 501. REPORTING REQUIREMENTS WITH RESPECT TO CHARGED TIPS.

26 USC 6001.

(a) RECORDS.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by adding at the end thereof the following: "The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a)."

26 USC 6053.

26 USC 6041.

(b) RETURNS.—Section 6041 (relating to information at source) is amended by redesignating subsection (d) as subsection (c) and by adding at the end thereof the following new subsection:

"(d) SECTION DOES NOT APPLY TO CERTAIN TIPS.—This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies."

26 USC 6053.

26 USC 6001 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1978.

SEC. 502. EXTENSION OF OPTIONAL SMALL TAX CASE PROCEDURES AND EXPANSION OF AUTHORITY OF COMMISSIONERS OF TAX COURT.

(a) EXTENDING THE OPTIONAL SMALL TAX CASE PROCEDURES TO ADDITIONAL TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 7463 (relating to small tax cases) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following: 26 USC 7463.

"(1) $5,000 for any one taxable year, in the case of the taxes imposed by subtitle A, 26 USC 1.

"(2) $5,000, in the case of the tax imposed by chapter 11, or 26 USC 2001 *et seq.*

"(3) $5,000 for any one calendar year, in the case of the tax imposed by chapter 12,". 26 USC 2501 *et seq.*

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 7463 is amended by striking out "$1,500" and inserting in lieu thereof "$5,000".

(B) the table of sections for part II of subchapter C of chapter 76 is amended by striking out "$1,500" in the item relating to section 7463 and inserting in lieu thereof "$5,000".

(b) AUTHORITY TO ASSIGN SMALL TAX CASES TO COMMISSIONERS.—Section 7463 (relating to small tax cases) is amended by adding at the end thereof the following new subsection:

"(g) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings conducted under this section to be heard by the Commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by rule provide."

(c) AUTHORITY OF TAX COURT COMMISSIONERS TO ADMINISTER OATHS, PROCURE TESTIMONY, ETC.—Subsection (a) of section 7456 (relating to the administration of oaths and testimony) is amended— 26 USC 7456.

(1) by striking out "any judge of the Tax Court" each place it appears and inserting in lieu thereof "any judge or commissioner of the Tax Court"; and

(2) by striking out "by the judge" and inserting in lieu thereof "by the judge or commissioner".

(d) EFFECTIVE DATES.— 26 USC 7463 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 180 days after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsection (b) and (c) shall take effect on the date of the enactment of this Act.

SEC. 503. DISCLOSURE OF RETURN INFORMATION TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.

(a) IN GENERAL.—Paragraph (2) of section 6103(h) (relating to Department of Justice) is amended— 26 USC 6103.

(1) by striking out "A" after the heading, and inserting in lieu thereof "In a matter involving tax administration, a",

(2) by striking out "attorneys" after "open to inspection by or disclosure to", in paragraph (2) and inserting in lieu thereof "officers and employees",

(3) by inserting "any proceeding before a Federal grand jury or" before "preparation for any proceeding" in paragraph (2),

(4) by striking out "in a matter involving tax administration" after "or any Federal or State court".

(b) APPLICATION TO TAXPAYER.—

26 USC 6103.

(1) Section 6103(h)(2) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;".

(2) Section 6103(h)(4) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;".

SEC. 504. REFUND ADJUSTMENTS FOR AMOUNTS HELD UNDER CLAIM OF RIGHT.

26 USC 6411.

(a) IN GENERAL.—Section 6411 (relating to application for adjustment) is amended by adding at the end thereof the following new subsection:

"(d) TENTATIVE REFUND OF TAX UNDER CLAIM OF RIGHT ADJUSTMENT.—

"(1) APPLICATION.—A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

26 USC 1341.

"(A) be verified in the same manner as an application under subsection (a),

"(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

"(C) set forth in such detail and with such supporting data such regulations prescribe—

"(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

"(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

"(iii) the amount determined under section 1341(a)(5)(B),

"(iv) the amount of the overpayment determined under section 1341(b)(1); and

"(v) such other information as the Secretary may require.

"(2) ALLOWANCE OF ADJUSTMENTS.—Within a period of 90 days from the date on which an application is filed under paragraph (1), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs, whichever is later, the Secretary shall—

"(A) review the application,

"(B) determine the amount of the overpayment, and

"(C) apply, credit, or refund such overpayment in a manner similar to the manner provided in subsection (b).

"(3) CONSOLIDATED RETURNS.—The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) The heading for section 6411 is amended by inserting "AND REFUND" after "CARRYBACK". 26 USC 6411.

(B) The table of sections for subchapter B of chapter 65 is amended by inserting "and refund" after "carryback" in the item relating to section 6411.

(2) Paragraph (3) of section 6213(b) (relating to assessments arising out of tentative carryback adjustments) is amended— 26 USC 6213.

(A) by inserting "OR REFUND" after "CARRYBACK" in the heading; and

(B) by inserting "or the amount described in section 1341(b)(1)" after "carryback".

(3) Subsection (m) of section 6501 (relating to tentative carryback adjustment period) is amended by inserting "and refund" after "carryback" the first place it appears. 26 USC 6501.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tentative refund claims filed on and after the date of the enactment of this Act. 26 USC 6411 note.

Subtitle B—Estate and Gift Tax Provisions

SEC. 511. REDUCTION OF VALUE TAKEN INTO ACCOUNT FOR ESTATE TAX PURPOSES WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OF OTHER BUSINESS

(a) IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection: 26 USC 2040.

"(c) VALUE WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OR OTHER BUSINESS.—

"(1) IN GENERAL.—Notwithstanding subsections (a), in the case of an eligible joint interest in section 2040(c) property, the value included in the gross estate with respect to such interest by reason of this section shall be—

"(A) the value of such interest, reduced by

"(B) the sum of—

"(i) the section 2040(c) value of such interest, and

"(ii) the adjusted consideration furnished by the decedent's spouse.

"(2) LIMITATIONS.—

"(A) AT LEAST 50 PERCENT OF VALUE TO BE INCLUDED.—Paragraph (1) shall in no event result in the inclusion in the decedent's gross estate of less than 50 percent of the value of the eligible joint interest.

"(B) AGGREGATE REDUCTION.—The aggregate decrease in the value of the decedent's gross estate resulting from the application of this subsection shall not exceed $500,000.

"(3) ELIGIBLE JOINT INTEREST DEFINED.—For purposes of paragraph (1) the term 'eligible joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both, and

"(B) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants.

26 USC 2040. "(4) SECTION 2040(c) PROPERTY DEFINED.—For purposes of paragraph (1), the term 'section 2040(c) property' means any interest in any real or tangible personal property which is devoted to use as a farm or used for farming purposes (within the meaning of 26 USC 2032A. paragraphs (4) and (5) of section 2032A(e)) or is used in any other trade or business.

"(5) SECTION 2040(c) VALUE.—For purposes of paragraph (1), the term 'section 2040(c) value' means—

"(A) the excess of the value of the eligible joint interest over the adjusted consideration furnished by the decedent, the decedent's spouse, or both, multiplied by

"(B) 2 percent for each taxable year in which the spouse materially participated in the operation of the farm or other trade or business but not to exceed 50 percent.

"(6) ADJUSTED CONSIDERATION.—For the purpose of this subsection, the term 'adjusted consideration' means—

"(A) the consideration furnished by the individual concerned (not taking into account any consideration in the form of income or gain from the business of which the section 2040(c) property is a part) determined under rules similar to the rules set forth in subsection (a), and

"(B) an amount equal to the amount of interest which the consideration referred to in subparagraph (A) would have earned over the period in which it was invested in the farm or other business if it had been earning interest throughout such period at 6 percent simple interest.

"(7) MATERIAL PARTICIPATION.—For purposes of paragraph (1), material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 26 USC 1402. 1402(a) (relating to net earnings from self-employment).

"(8) VALUE.—For purposes of this subsection, except where the context clearly indicates otherwise, the term 'value' means value determined without regard to this subsection.

(9) ELECTION TO HAVE SUBSECTION APPLY.—This subsection shall apply with respect to a joint interest only if the estate of the decedent elects to have this subsection apply to such interest. Such an election shall be made not later than the time prescribed 26 USC 6075. by section 6075(a) for filing the return of tax imposed by section 26 USC 2001. 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe."

26 USC 2040 note. (b) EFFECTIVE DATE.—The amendement made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1978.

SEC. 512. TREATMENT OF CERTAIN INTERESTS HELD BY DECEDENT'S FAMILY FOR PURPOSES OF THE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX PROVIDED BY SECTION 6166.

26 USC 6166. (a) INTEREST HELD BY MEMBER OF DECEDENT'S FAMILY TREATED AS HELD BY DECEDENT.—Paragraph (2) of section 6166(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.—All stock and all partnership interests held by the decedent or by any member of his family (within the mean-

ing of section 267(c)(4)) shall be treated as owned by the decedent." 26 USC 267.

(b) ELECTION FOR PURPOSES OF THE 20-PERCENT REQUIREMENTS WITH RESPECT TO PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.—Subsection (b) of section 6166 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

"(7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

"(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

"(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and 26 USC 6151.

"(iii) section 6601(j) (relating to 4-percent rate of interest) shall not apply. 26 USC 6601.

"(B) NON-READILY-TRADABLE STOCK DEFINED.—For purposes of this paragraph, the term 'non-readily-tradable stock' means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act. 26 USC 6166 note.

SEC. 513. SUBORDINATION OF SPECIAL LIENS FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.

(a) GENERAL RULE.—Subsection (d) of section 6325 (relating to subordination of lien) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph: 26 USC 6325.

"(3) in the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination." 26 USC 6324B.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976. 26 USC 6325 note.

SEC. 514. AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(a) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or 26 USC 2055.

conformed on or before December 31, 1978, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1978 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (a) or (B) (as the case may be), a deduction shall nevertheless be allowed."

26 USC 2055 note.

(b) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

26 USC 170, 2522.

SEC. 515. DEFERRAL OF CARRYOVER BASIS RULES.

The following provisions are each amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1979":

26 USC 1014. (1) the caption and text of section 1014(d) (relating to basis of property acquired from the decedent);

26 USC 1016. (2) section 1016(a)(23) (relating to adjustments to basis);

26 USC 1023. (3) the heading of section 1023 (relating to carryover basis for certain property);

(4) section 1023(a) (relating to general rule for carryover basis);

(5) the item relating to section 1023 in the table of sections for part II of subchapter O of chapter I; and

26 USC 1023 note. (6) section 2005(f)(1) of the Tax Reform Act of 1976 (relating to effective dates for carryover basis provisions).

Subtitle C—Other Excise Tax Provisions

SEC. 520. REDUCTION OF ADMINISTRATION TAX ON PRIVATE FOUNDATIONS.

26 USC 4940. (a) IN GENERAL.—Subsection (a) of section 4940 (relating to excise tax based on investment income) is amended by striking out "4 percent" and inserting in lieu thereof "2 percent".

26 USC 4940 note. (b) EFFECTIVE DATE.—The amendment made by the first section of this Act shall apply to taxable years beginning after September 30, 1977.

SEC. 521. EXCISE TAX ON CERTAIN GAMING DEVICES.

26 USC 4464. (a) INCREASE IN CREDIT FOR STATE TAX.—Paragraph (2) of section 4464(b) (relating to limitations on the credit for State-imposed taxes) is amended by striking out "80 percent" in the heading and text thereof and inserting in lieu thereof "95 percent".

Repeal. 26 USC 4461–4464. (b) REPEAL OF OCCUPATIONAL TAX.—Subchapter B of chapter 36 is repealed.

(c) CONFORMING AMENDMENTS.—

26 USC 4402. (1) Section 4402(2) (relating to exemptions from taxes on wagering) is amended to read as follows:

"(2) COIN-OPERATED DEVICES.—On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or".

26 USC 4462.

26 USC 4901. (2) Subsection (a) of section 4901 (relating to payment of occupational tax) is amended by striking out "or 4461(a)(1) (coin-operated gaming devices)".

(d) EFFECTIVE DATES.— 26 USC 4464 note.

(1) The amendment made by subsection (a) shall apply with respect to years ending June 30, 1979, and June 30, 1980.

(2) The amendments made by subsections (b) and (c) shall apply with respect to years beginning after June 30, 1980.

SEC. 522. TREATMENT OF CERTAIN PRIVATE FOUNDATIONS FOR PURPOSES OF SECTION 4942.

(a) GENERAL RULE.—Subsection (j) of section 4942 (relating to other definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 4942.

"(6) CERTAIN ELDERLY CARE FACILITIES.—For purposes of this section (but no other provisions of this title), the term 'operating foundation' includes any organization which, on May 26, 1969, and at all times thereafter before the close of the taxable year, operated and maintained as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children but only if such organization meets the requirements of paragraph (3)(B)(ii)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969. 26 USC 4942 note.

Subtitle D—Income Tax Provisions

SEC. 530. CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.

(a) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY FOR PERIODS BEFORE 1980.— 26 USC 3401 note.

(1) IN GENERAL.—If—

(A) for purposes of employment taxes, the taxpayer did not treat an individual as an employee for any period ending before January 1, 1980, and

(B) in the case of periods after December 31, 1978, all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period are filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee,

then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(2) STATUTORY STANDARDS PROVIDING ONE METHOD OF SATISFYING THE REQUIREMENTS OF PARAGRAPH (1).—For purposes of paragraph (1), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(3) CONSISTENCY REQUIRED IN THE CASE OF 1979 TAX TREATMENT.—Paragraph (1) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(4) REFUND OR CREDIT OF OVERPAYMENT.—If refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) is not barred on the date of the enactment of this Act by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) shall not expire before the date 1 year after the date of the enactment of this Act.

(b) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act and before January 1, 1980 (or, if earlier, the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes) by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

(c) DEFINITIONS.—For purposes of this section—

(1) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1954.

26 USC 3101.

(2) EMPLOYMENT STATUS.—The term "employment status" means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

SEC. 531. CERTAIN ORIGINAL STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

26 USC 216.

(a) IN GENERAL.—Subsection (b) of section 216 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by adding at the end thereof the following new paragraph:

"(6) STOCK OWNED BY PERSON FROM WHOM THE CORPORATION ACQUIRED ITS PROPERTY.—

"(A) IN GENERAL.—If the original seller acquires any stock of the corporation—

"(i) from the corporation by purchase, or

"(ii) by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in such stock held by the original seller,

the original seller shall be treated as a tenant-stockholder for a period not to exceed 3 years from the date of acquisition.

"(B) ORIGINAL SELLER MUST HAVE RIGHT TO OCCUPY APARTMENT OR HOUSE.—Subparagraph (A) shall apply with respect to any acquisition of stock only if, together with such acquisition, the original seller acquires the right to occupy an apartment or house to which such stock is appurtenant.

For purposes of the preceding sentence, there shall not be taken into account the fact that, by agreement with the corporation, the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation.

"(C) ORIGINAL SELLER DEFINED.—For purposes of this paragraph, the term 'original seller' means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act. 26 USC 216 note.

Subtitle E—Other Income Tax Provisions

SEC. 540. DEPOSITS IN CERTAIN BRANCHES OF PUERTO RICAN SAVINGS AND LOAN ASSOCIATIONS.

(a) IN GENERAL.—Subparagraph (F) of section 861(a)(1) (relating to income from sources within the United States) is amended to read as follows: 26 USC 861.

"(F) interest—

"(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

"(ii) on amounts satisfying the requirements of paragraph (2) of subsection (c) which are paid by a foreign branch of a domestic corporation or a domestic partnership,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 861 note.

SEC. 541. TAXATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT CORPORATIONS.

Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding three new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation established pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with exploration on such lands for oil, gas, or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described

in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided,* That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This subsection shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

43 USC 1611, 1613.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation."

"(i) PERSONAL HOLDING COMPANY ACT EXEMPTION.—No Corporation created pursuant to the Alaska Native Claims Settlement Act shall be considered to be a personal holding company within the meaning of section 542(a) of the Internal Revenue Code of 1954 prior to January 1, 1992."

26 USC 542.

SEC. 542. REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION.

26 USC 1033.

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION.—For purposes of subsection (a), if, because of soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted."

26 USC 1033 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1974.

SEC. 543. CERTAIN PAYMENTS NOT INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesig-

nating section 126 as 127 and by inserting immediately after section 125 the following new section: 26 USC 127.

"SEC. 126. CERTAIN COST-SHARING PAYMENTS. 26 USC 126.

"(a) GENERAL RULE.—Gross income does not include the excludable portion of payments received under—

"(1) The rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

"(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

"(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

"(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978. *Ante*, p. 433.

"(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

"(6) The great plains conservation program authorized by section 16 of the Soil Conservation and Domestic Policy Act (16 U.S.C. 590p(b)).

"(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.).

"(8) The forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103). *Ante*, p. 367.

"(9) Any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury to be substantially similar to the type of programs described in paragraphs (1) through (8).

"(10) Any State program under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

"(b) EXCLUDABLE PORTION.—For purposes of this section, the term 'excludable portion' means that portion (or all) of a payment made to any person under any program described in subsection (a) which—

"(1) is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and

"(2) is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property.

"(c) APPLICATION WITH OTHER SECTIONS.—No deduction or credit allowable under any other provision of this chapter shall be allowed with respect to any expenditure made with the use of payments described in subsection (a) or with respect to any property acquired with any payment described in subsection (a) (to the extent that the basis is allocable to the use of such payments). Notwithstanding any provision of section 1016 to the contrary, no adjustment to basis shall be made with respect to property acquired through the use of such payments, to the extent that such adjustment would reflect the amount of such payment." 26 USC 1016.

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 126. Certain cost-sharing payments.
"Sec. 127. Cross references to other Acts."

(c) RECAPTURE OF GAIN FROM DISPOSITION OF PROPERTY.—

(1) Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following:

26 USC 1255.

"SEC. 1255. GAIN FROM DISPOSITION OF SECTION 126 PROPERTY.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—Except as otherwise provided in this section, if section 126 property is disposed of, the lower of—

Ante, p. 2889.

"(A) the applicable percentage of the aggregate payments, with respect to such property, excluded from gross income under section 126, or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such section 126 property (in the case of any other disposition), over

"(ii) the adjusted basis of such property shall be treated as ordinary income.

"(2) SECTION 126 PROPERTY.—For purposes of this section, 'section 126 property' means any property acquired, improved, or otherwise modified by the application of payments excluded from gross income under section 126.

"(3) APPLICABLE PERCENTAGE.—For purposes of this section, if section 126 property is disposed of less than 10 years after the date of receipt of payments excluded from gross income under section 126, the applicable percentage is 100 percent. If section 126 property is disposed of more than 10 years after such date, the applicable percentage is 100 percent reduced (but not below zero) by 10 percent for each year or part thereof in excess of 10 years such property was held after the date of receipt of the payments.

"(b) SPECIAL RULES.—Under regulations prescribed by the Secretary—

26 USC 1245.

"(1) rules similar to the rules applicable under section 1245 shall be applied for purposes of this section, and

"(2) amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(2) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1255. Gain from disposition of section 126 property."

26 USC 126 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to grants made under the programs after September 30, 1979.

Subtitle F—Studies

SEC. 551. STUDY OF SIMPLIFICATION OF TAX RETURNS.

26 USC 6011 note.

(a) STUDY.—The Secretary of the Treasury shall conduct a full and complete study and investigation with respect to—

(1) provisions of the Internal Revenue Code of 1954 which, due to their complexity, may hamper the ability of individuals to prepare accurate and complete Federal income tax returns, and

(2) methods of simplifying Federal income tax return forms and instructions accompanying such forms.

(b) TASK FORCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish a task force to assist him in the conduct of the study and investigation under subsection (a).

(2) REPORTS OF TASK FORCE.—The task force shall report from time to time on its progress directly to the Secretary and shall submit a final report to the Secretary which includes its findings with respect to such study and investigation and any recommendations with respect thereto. Such final report shall be submitted by such time as is necessary to enable the Secretary to file the report called for in subsection (c) of this section.

(3) AUTHORITY TO HIRE.—The Secretary is authorized to appoint such employees, not in excess of 10, as may be necessary to carry out the functions of the task force without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, except that such employees shall not be paid at a rate in excess of the annual rate of pay under grade GS-18 of the General Schedule under section 5332 of such title 5. 5 USC 5101, 5331 *et seq.*

(c) REPORT.—The Secretary, after studying the reports and recommendations of the task force under subsection (b), shall, not later than 2 years after the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report on the study and investigation conducted under this section, together with such recommendations for legislation as he finds necessary.

SEC. 552. STUDY OF TAX INCENTIVES FOR EXPENDITURES REQUIRED BY OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND MINING HEALTH AND SAFETY ADMINISTRATION.

(a) STUDY.—The Secretary of the Treasury shall make a full and complete study and investigation with respect to the appropriateness of providing additional tax incentives for expenditures required by the Occupational Safety and Health Act (OSHA) and the Mining Safety and Health Administration (MSHA) of the Department of Labor. 26 USC 7801. 29 USC 651 note.

(b) REPORT.—Before April 1, 1979, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations for legislation.

SEC. 553. STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES.

(a) STUDY.—The Secretary of the Treasury shall make a full and complete study and analysis of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations. 26 USC 7801 note.

(b) REPORT.—The Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report of its study, together with its recommendations, no later than 6 months from the date of enactment of this Act.

26 USC 50A note.

SEC. 554. REPORT ON EFFECTIVENESS OF JOBS CREDIT.

(a) REPORT ON TARGETED JOBS CREDIT.—Not later than June 30, 1981, the Secretary of the Treasury and the Secretary of Labor shall jointly submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the effectiveness of the targeted jobs credit provided by the amendments made by this section in improving the employment situation of the targeted groups, and

(2) the types of employers claiming such credit.

(b) GENERAL JOBS CREDIT.—The report required under paragraph (1) shall also include an evaluation of—

(1) the effectiveness of the general jobs credit provided by section 44B of the Internal Revenue Code of 1954 for 1977 and 1978 in stimulating employment and enhancing economic growth, and

Ante, p. 2834.

(2) the types of employers claiming such credit.

SEC. 555. STUDY OF EFFECTS OF CHANGES IN THE TAX TREATMENT OF CAPITAL GAINS ON STIMULATING INVESTMENT AND ECONOMIC GROWTH.

26 USC 1201 note.

Not later than September 30, 1981, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the effectiveness of the changes made by this title in the tax treatment of capital gains of individuals and corporations in stimulating investment and increasing the rate of economic growth. The report shall also include an analysis of the effects these changes had on employment growth and on income tax revenues.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

SEC. 601. ESTABLISHMENT AND TAXATION OF GENERAL STOCK OWNERSHIP CORPORATIONS AND THEIR SHAREHOLDERS.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391. Definitions.
"Sec. 1392. Election by general stock ownership corporation.
"Sec. 1393. Corporation taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of electing general stock ownership corporations.
"Sec. 1395. Adjustments to basis of stock of shareholders.
"Sec. 1396. Minimum distribution.
"Sec. 1397. Special rules applicable to earnings and profits of an electing general stock ownership plan.

26 USC 1391.

"SEC. 1391. DEFINITIONS.

"(a) GENERAL STOCK OWNERSHIP CORPORATION.—For purposes of this subchapter, the term 'general stock ownership corporation'

(hereinafter referred to as a 'GSOC') means a domestic corporation which—

"(1) is not a member of an affiliated group (as defined in section 1504), and 26 USC 1504.

"(2) is chartered and organized after December 31, 1978, and before January 1, 1984;

"(3) is chartered by an act of a State legislature or as a result of a State-wide referendum;

"(4) has a charter providing—

"(A) for the issuance of only 1 class of stocks,

"(B) for the issuance of shares only to eligible individuals (as defined in subsection (c));

"(C) for the issuance of at least one share to each eligible individual, unless such eligible individual elects within one year after the date of issuance not to receive such share;

"(D) that no share of stock shall be transferable—

"(i) by a shareholder other than by will or the laws of descent and distribution until after the expiration of 5 years from the date such stock is issued by the GSOC except where the shareholder ceases to be a resident of the State;

"(ii) to any person other than a resident individual of the chartering State;

"(iii) to any individual who, after the transfer, would own more than 10 shares of the GSOC;

"(E) that such corporation shall qualify as a GSOC under the Internal Revenue Code;

"(5) is empowered to invest in properties (but not in properties acquired by it or for its benefit through the right of eminent domain).

For purposes of this subsection, section 1504(a) shall be applied by substituting '20 percent' for '80 percent' wherever it appears.

"(b) ELECTING GSOC.—For purposes of this subchapter, the term 'electing GSOC' means a GSOC which files an election under section 1392 which, under section 1392, is in effect for such taxable year.

"(c) ELIGIBLE INDIVIDUALS.—For purposes of subsection (a), the term 'eligible individual' means an individual who is, as of a date specified in the State's enabling legislation for the GSOC, a resident of the chartering State and who remains a resident of such State between that date and the date of issuance.

"(d) TREATED AS PRIVATE CORPORATION.—For purposes of this title, a GSOC shall be treated as a private corporation and not as a governmental unit.

"(e) STUDY OF GENERAL STOCK OWNERSHIP CORPORATIONS.—The staff of the Joint Committee on Taxation shall prepare a report on the operation and effects of this subchapter relating to GSOC's. An interim report shall be filed within two years after the first GSOC is formed and a final report shall be filed by September 30, 1983.

"SEC. 1392. ELECTION BY GSOC. 26 USC 1392.

"(a) ELIGIBILITY.—Except as provided in section 1393, any GSOC 26 USC 1393.
may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter.

"(b) EFFECT.—If a GSOC makes an election under subsection (a) then—

"(1) with respect to the taxable years of the GSOC for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such

taxable years and all succeeding taxable years, the provisions of section 1396 shall apply to such GSOC, and

Post, p. 2895.

"(2) with respect to each such taxable year, the provisions of sections 1393, 1394, and 1395 shall apply to the shareholders of such GSOC.

Infra.

Post, p. 2895.

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a GSOC at such time and in such manner as the Secretary shall prescribe by regulations.

"(d) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the GSOC for which it is made and for all succeeding taxable years of the GSOC, unless it is terminated under subsection (f).

"(e) TAXABLE YEAR.—The taxable year of a GSOC shall end on October 31 unless the Secretary consents to a different taxable year.".

"(f) TERMINATION.—The election of a GSOC under subsection (a) shall terminate for any taxable year during which it ceases to be a GSOC and for all succeeding taxable years. The election of a GSOC under subsection (a) may be terminated at any other time with the consent of the Secretary, effective for the first taxable year with respect to which the Secretary consents and for all succeeding taxable years.

26 USC 1393.

"SEC. 1393. GSOC TAXABLE INCOME TAXED TO SHAREHOLDERS.

"(a) GENERAL RULE.—The taxable income of an electing GSOC for any taxable year shall be included in the gross income of the shareholders of such GSOC in the manner and to the extent set forth in this subsection.

"(1) AMOUNT INCLUDED IN GROSS INCOME.—Each shareholder of an electing GSOC on any day of a taxable year of such GSOC shall include in his gross income for the taxable year with or within which the taxable year of the GSOC ends the amount he would have received if, on each day of such taxable year, there had been distributed pro rata to its shareholders by such GSOC an amount equal to the taxable income of the GSOC for its taxable year divided by the number of days in the GSOC's taxable year.

"(2) TAXABLE INCOME DEFINED.—For purposes of this section, the term 'taxable income' of a GSOC shall be determined without regard to the deductions allowed by part VIII of subchapter B (other than deductions allowed by section 248, relating to organizational expenditures).

26 USC 248.

"(b) SPECIAL RULE FOR INVESTMENT CREDIT.—The investment credit of an electing GSOC for any taxable year shall be allowed as a credit to the shareholders of such corporation in the manner and to the extent set forth in this subsection.

"(1) CREDIT.—There shall be apportioned among the shareholders a credit equal to the amount each shareholder would have received if, on each day of such taxable year, there had been distributed pro rata to the shareholders the electing GSOC's net investment credit divided by the number of days in the GSOC's taxable year.

"(2) NET INVESTMENT CREDIT.—For purposes of this paragraph the term 'net investment credit' means the investment credit of the electing GSOC for its taxable year less any tax from recomputing a prior year's investment credit in accordance with section 47.

26 USC 47.

"(3) RECAPTURE.—There shall be apportioned among the shareholders of a GSOC, in the manner described in paragraph (1), an

additional tax equal to the excess of any tax resulting from recomputing a prior year's investment credit in accordance with section 47 over the investment credit of the GSOC for its taxable year. 26 USC 47.

"SEC. 1394. RULES APPLICABLE TO DISTRIBUTIONS OF AN ELECTING GSOCs. 26 USC 1394.

"(a) SHAREHOLDER INCOME ACCOUNT.—An electing GSOC shall establish and maintain a shareholder income account which account shall be—

"(1) increased at the close of the GSOC's taxable year by an amount equal to the GSOC's taxable income for such year, and

"(2) decreased, but not below zero, on the first day of the GSOC's taxable year by the amount of any GSOC distribution to the shareholders of such GSOC made or treated as made during the prior taxable year.

"(b) TAXATION OF DISTRIBUTIONS.—Distributions by an electing GSOC shall be treated as—

"(1) a distribution of previously taxed income to the extent such distribution does not exceed the balance of the shareholder income account as of the close of the taxable year of the GSOC, and

"(2) a distribution to which section 301(a) applies but only to the extent such distribution exceeds the balance of the shareholder income account as of the close of the taxable year of the GSOC. 26 USC 301.

"(c) DISTRIBUTIONS NOT TREATED AS A DIVIDEND.—Any amounts includible in the gross income of any individual by reason of ownership of stock in a GSOC shall not be considered as a dividend for purposes of section 116. 26 USC 116.

"(d) REGULATIONS.—The Secretary shall have authority to prescribe by regulation, rules for treatment of distributions in respect of shares of stock of the GSOC that have been transferred during the taxable year.".

"SEC. 1395. ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS. 26 USC 1395.

"The basis of a shareholder's stock in an electing GSOC shall be increased by the amount includible in the gross income of such shareholder under section 1393, but only to the extent to which such amount is actually included in the gross income of such shareholder. *Ante*, p. 2894.

"SEC. 1396. MINIMUM DISTRIBUTIONS. 26 USC 1396.

"(a) GENERAL RULE.—A GSOC shall distribute at least 90 percent of its taxable income for any taxable year by January 31 following the close of such taxable year. Any distribution made on or before January 31 shall be treated as made as of the close of the preceding taxable year.

"(b) IMPOSITION OF TAX IN CASE OF FAILURE TO MAKE MINIMUM DISTRIBUTIONS.—If a GSOC fails to make the minimum distribution requirements described in subsection (a), there is hereby imposed a tax equal to 20 percent of the excess of the amount required to be distributed over the amount actually distributed.

"SEC. 1397. SPECIAL RULES APPLICABLE TO AN ELECTING GSOC. 26 USC 1397.

"(a) GENERAL RULE.—The current earnings and profits of an electing GSOC as of the close of its taxable year shall not include the amount of taxable income for such year which is required to be

included in the gross income of the shareholders of such GSOC under section 1393(a).

Ante, p. 2894.

"(b) SPECIAL RULE FOR AUDIT ADJUSTMENTS.—

"(1) TAXABLE INCOME.—Taxable income of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to taxable income for a prior taxable year.

"(2) INVESTMENT CREDIT.—The net investment credit of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to the net investment credit for a prior taxable year.

"(3) METHOD OF MAKING ADJUSTMENTS.—An electing GSOC shall include in gross income for the year of an adjustment the amount described in paragraph (1) and shall take into account the adjustment described in paragraph (2), and shall be liable for payment of interest in the amount that would have been payable by the GSOC under section 6601 (relating to interest on underpayment, nonpayment or extensions of time for payment, of tax) or receivable by the GSOC under section 6611 (relating to interest on overpayments) if such GSOC had been a corporation other than an electing GSOC."

26 USC 6601.

26 USC 6611.

(b) TECHNICAL AMENDMENTS.—

(1) NET OPERATING LOSS DEDUCTION.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

26 USC 172.

"(H) In the case of an electing GSOC which has a net operating loss for any taxable year such loss shall not be a net operating loss carryback to any taxable year preceding the year of such loss, but shall be a net operating loss carryover to each of the 10 taxable years following the year of such loss."

(2) INCOME TAX COLLECTED AT SOURCE.—Section 3402 (relating to income collected at source) is amended by adding at the end thereof the following new subsection:

26 USC 3402.

"(r) EXTENSION OF WITHHOLDING TO GSOC DISTRIBUTIONS.—

"(1) GENERAL RULE.—An electing GSOC making any distribution to its shareholders shall deduct and withhold from such payment a tax in an amount equal to 25 percent of such payment.

"(2) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, distributions of an electing GSOC to any shareholder which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

26 USC 3403, 3404.

26 USC 7205.

26 USC 1016.

(3) ADJUSTMENTS TO BASIS.—Section 1016(a) (relating to adjustments of basis) is amended by redesignating paragraph (23) as (22) and by inserting after paragraph (20) the following new paragraph:

Ante, p. 2895.

"(21) to the extent provided in section 1395 in the case of stock of shareholders of a general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392; and".

Ante, p. 2892.
Ante, p. 2893.

(4) RETURN OF GENERAL STOCK OWNERSHIP CORPORATION.—Subpart A of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

26 USC 6031.

"SEC. 6039B. RETURN OF GENERAL STOCK OWNERSHIP CORPORATION. 26 USC 6039B.

"Every general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392 shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the amount of investment credit or additional tax, as the case may be, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purpose of carrying out the provisions of subchapter U of chapter 1, as the Secretary may by regulation prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012. Every GSOC shall file an annual report with the Secretary summarizing its operations for such year." 26 USC 1391, 1392. 26 USC 6501 *et seq.* 26 USC 6012.

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by adding at the end thereof the following:

"SUBCHAPTER U.—General stock ownership plans."

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6039B. Return of general stock ownership corporation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984. 26 USC 1391 note.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

SEC. 701. TECHNICAL AMENDMENTS TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).— 26 USC 37.

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (c) of section 37 (relating to election of prior law with respect to public retirement system income) is amended—

(A) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws.",

(B) by striking out "paragraph (8)(A)" in paragraph (4)(B) and inserting in lieu thereof "paragraph (9)(A)"; and

(C) by striking out "paragraph (8)(B)" in paragraph (5)(B) and inserting in lieu thereof "paragraph (9)(B)".

26 USC 37 note.

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1977.

(b) AMENDMENTS RELATING TO THE MINIMUM TAX.—

26 USC 57.

(1) SPECIAL RULES FOR MINIMUM TAX IN THE CASE OF SUBCHAPTERS CORPORATIONS AND PERSONAL HOLDING COMPANIES.—

(A) Paragraph (1) of section 57(a) (relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

26 USC 58.

(2) DIVISION OF $10,000 AMOUNT AMONG MEMBERS OF CONTROLLED GROUPS.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

26 USC 1563.
26 USC 56.

(3) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

26 USC 57.

"(2) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

26 USC 642.

"(iii) the deduction for casualty losses described in section 165(c)(3),

26 USC 165.

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

26 USC 651.
26 USC 661, 691.

"(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trusts ends,

26 USC 642.
26 USC 662.

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c), 26 USC 642.

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes of this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income:

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), 26 USC 170.

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5),

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1977, and

"(v) deductions allowable to a trust, all of the income interest of which is devoted solely to one or more of the purposes described in section 170(c)(2)(B), which are attributable to transfers pursuant to a will or pursuant to an inter vivos trust in which the grantor had the power to revoke at the date of his death."

(4) SECTION 691(c) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph: 26 USC 57.

"(E) the deduction allowable under section 691(c),". 26 USC 691.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976. 26 USC 57 note. 26 USC 301.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph: 26 USC 105.

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPHS (2) AND (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 143(a).

26 USC 143.

"(D) JOINT RETURN DEFINED.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

26 USC 6013.

26 USC 105 note.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

26 USC 505.

26 USC 105.

26 USC 105 note.

(B) Subsections (c) and (e)(1) of section 301 of the Tax Reduction and Simplification Act of 1977 (relating to effective date of changes in the exclusion for sick pay) are each amended by striking out "section 105(d)(7)" and inserting in lieu thereof "section 105(d)(6)".

26 USC 105.

26 USC 105 note.

(3) EFFECTIVE DATE.—

(A) The amendments made by paragraphs (1) and (2)(A) shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

26 USC 105.

26 USC 505.

(B) The amendments made by paragraph (2)(B) shall take effect as if included in section 301 of the Tax Reduction and Simplification Act of 1977.

26 USC 105 notes.

(d) NET OPERATING LOSSES.—

26 USC 172.

(1) AMENDMENT OF SECTION 172(b)(1)(B).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

26 USC 172 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to losses incurred in taxable years ending after December 31, 1975.

26 USC 189 note.

(e) EFFECTIVE DATE FOR FISCAL YEAR TAXPAYERS FOR CONSTRUCTION PERIOD INTEREST AND TAXES.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 201.

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,".

(f) CLARIFICATION OF PROVISIONS PROVIDING TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.—

26 USC 191.

(1) DEFINITION OF CERTIFIED HISTORIC STRUCTURES.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

26 USC 167.

"(A) is listed in the National Register, or

"(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows: 26 USC 191.

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190". 26 USC 1250.

(D) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by inserting "or 191" after "167(k)". 26 USC 57.

(E) Paragraph (4) of section 1250(b) (relating to definition of additional depreciation) is amended—

(i) by inserting "or amortization" after "depreciation" the second and third places it appears, and

(ii) by inserting "or 191" after "167(k)" each place it appears.

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—Subsection (n) of section 167 is amended to read as follows: 26 USC 167.

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which

was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply, and

"(B) the term 'reasonable allowance' as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

"(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

"(A) to personal property, and

"(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if—

"(i) such structure was not a certified historic structure,

"(ii) the Secretary of the Interior certified to the Secretary that such structure is not of historic significance to the district, and

"(iii) if the certification referred to in clause (ii) occurs after the beginning of the demolition or substantial alteration of such structure, the taxpayer certifies to the Secretary that, at the beginning of such demolition or substantial alteration, he in good faith was not aware of the requirements of clause (ii).

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'certified historic structure', 'registered historic district', and 'certified rehabilitation' have the respective meanings given such terms by section 191(d)."

26 USC 191.

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

26 USC 280B.

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified that such structure is not a certified historic structure, and that such structure is not of historic significance to the district, and if such certification occurs after the beginning of the demolition of such structure, the taxpayer has certified to the Secretary that, at the time of such demolition, he in good faith was not aware of the certification requirement by the Secretary of the Interior."

26 USC 191.

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

26 USC 167.

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting "(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)" after "substantially rehabilitated historic property".

26 USC 191.

26 USC 167.

(B) Paragraph (2) of section 167(o) is amended by striking out "section 191(d)(3)" and inserting in lieu thereof "section 191(d)(4)".

26 USC 191.

(7) AMORTIZATION ALLOWABLE TO PERSONS WITH CERTAIN LEASE INTERESTS.—Section 191(f) (relating to treatment of life tenants and remaindermen) is amended to read as follows:

"(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

"(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(2) CERTAIN LESSEES.—

"(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

"(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

"(C) LIMITATION.—Subparagraph (A) shall apply only if on the date of the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

"(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

"(ii) for not less than 30 years.".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976. 26 USC 191 note. 26 USC 191.

(g) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended to read as follows: 26 USC 274.

"(D) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(i) Except as provided in clause (ii), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual. 26 USC 162, 212.

"(ii) This subsection shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includible in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included." 26 USC 6031 *et seq.*

(2) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—Section 274(h)(6) is amended by adding at the end thereof the following new subparagraph: 26 USC 274.

"(E) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—For purposes of this subsection, in the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he was a bona fide resident of a foreign country at the time that he attended a convention in such foreign country, such individual's attendance at such convention shall not be considered as attendance at a foreign convention.".

26 USC 274.

(3) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

26 USC 274 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) RENTAL OF FORMER PRINCIPAL RESIDENCE.—

26 USC 280A.

(1) IN GENERAL.—Subsection (d) of section 280A (relating to use of residence for personal purposes) is amended by adding at the end thereof the following new paragraph:

"(3) RENTAL OF PRINCIPAL RESIDENCE.—

"(A) IN GENERAL.—For purposes of applying subsection (c)(5) to deductions allocable to a qualified rental period, a taxpayer shall not be considered to have used a dwelling unit for personal purposes for any day during the taxable year which occurs before or after a qualified rental period described in subparagraph (B)(i), or before a qualified rental period described in subparagraph (B)(ii), if with respect to such day such unit constitutes the principal residence (within the meaning of section 1034) of the taxpayer.

26 USC 1034.

"(B) QUALIFIED RENTAL PERIOD.—For purposes of subparagraph (A), the term 'qualified rental period' means a consecutive period of—

"(i) 12 or more months which begins or ends in such taxable year, or

"(ii) less than 12 months which begins in such taxable year and at the end of which such dwelling unit is sold or exchanged, and

for which such unit is rented to a person other than a member of the family (as defined in section 267(c)(4)) of the taxpayer, or is held for rental, at a fair rental."

26 USC 267.

26 USC 280A note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 280A of the Internal Revenue Code of 1954, as such provision was added to such Code by section 601(a) of the Tax Reform Act of 1976.

26 USC 280A.
26 USC 601.

26 USC 337.

(i) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the 'selling corporation') if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies. 26 USC 333.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporation' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation." 26 USC 1504.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975. 26 USC 337 note.

(j) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).— 26 USC 368.

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company 26 USC 267.

shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3)."

26 USC 368 note.

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraphs (B) and (C), the amendments made by paragraph (1) shall apply as if

26 USC 368.

included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 2131(a) of the Tax Reform Act of 1976.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(C) Clause (vii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to transfers made after September 26, 1977.

(k) AT RISK PROVISIONS.—

26 USC 465 note.

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

26 USC 465.

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

26 USC 465 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(l) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph

26 USC 447.

(3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining taxable years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

26 USC 447 note.

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

26 USC 464.

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

26 USC 447.

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979,

then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by

26 USC 481.

section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 464(c)(2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu thereof "(or a spouse of any such member)". 26 USC 464. 26 USC 267.

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections. 26 USC 447 note. 26 USC 447, 464.

(m) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended— 26 USC 189.

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542)," ; and 26 USC 1371. 26 USC 542.

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual." 26 USC 552.

(2) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended— 26 USC 280.

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976. 26 USC 189 note. 26 USC 189.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976. 26 USC 280 note.

(n) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominium management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences". 26 USC 528.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1973. 26 USC 528 note.

(o) DEFINITION OF PERSONAL HOLDING COMPANY.—

26 USC 542 note. 26 USC 542.

(1) IN GENERAL.—The last sentence of section 542(a)(2) of the Internal Revenue Code of 1954 (relating to stock ownership requirement) shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

26 USC 542 note.

(2) EFFECTIVE DATE.—The provisions of paragraph (1) shall apply with respect to taxable years beginning after December 31, 1976.

(p) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) ADDITIONAL TAX TO APPLY ONLY TO RECOGNIZED GAINS.—

26 USC 644.

(A) IN GENERAL.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) SPECIAL RULE FOR SUBSTITUTED BASIS PROPERTY.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) SPECIAL RULES.—

"(1) SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(2) SUBSTITUTED BASIS PROPERTY.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) TREATMENT OF NET OPERATING LOSSES, CAPITAL LOSSES, ETC., WHICH MAY AFFECT TRANSFEROR'S TAX IN OTHER YEARS.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) TECHNICAL AMENDMENT.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.— Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof. 26 USC 644 note.

(5) EFFECTIVE DATES.— 26 USC 644 note.

(A) Except as provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(q) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) SPECIAL RULES FOR FOREIGN TRUST.—

(A) Subsection (d) of section 665 is amended to read as follows: 26 USC 665.

"(d) TAXES IMPOSED ON THE TRUST.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxes imposed on the trust' means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart or subpart A of part IV of subchapter A) and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) and (c) or 669 (d) and (e) to any beneficiary. 26 USC 666, 669.

"(2) FOREIGN TRUSTS.—In the case of any foreign trust, the term 'taxes imposed on the trust' includes the amount, reduced as provided in the last sentence of paragraph (1), of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable."

(B) Section 667 is amended by adding at the end thereof the following new subsection: 26 USC 667.

"(d) SPECIAL RULES FOR FOREIGN TRUST.—

"(1) FOREIGN TAX DEEMED PAID BY BENEFICIARY.—

"(A) IN GENERAL.—In determining the increase in tax under subsection (b)(1)(D) for any computation year, the taxes described in section 665(d)(2) which are deemed distributed under section 666 (b) or (c) and added under subsection (b)(1)(C) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subsection (b)(1)(D).

"(B) DEDUCTION IN LIEU OF CREDIT.—If the beneficiary did not choose the benefits of subpart A of part III of subchapter N with respect to the computation year, the beneficiary may in lieu of treating the amounts described in subparagraph (A) (without regard to subparagraph (C)) as a credit may treat such amounts as a deduction in computing the beneficiary's taxable income under subsection (b)(1)(C) for the computation year.

"(C) LIMITATION ON CREDIT; RETENTION OF CHARACTER.—

"(i) LIMITATION ON CREDIT.—For purposes of determining under subparagraph (A) the amount treated as a credit for any computation year, the limitations under subpart A of part III of subchapter N shall be applied

separately with respect to amounts added under subsection (b)(1)(C) to the taxable income of the beneficiary for such computation year. For purposes of computing the increase in tax under subsection (b)(1)(D) for any computation year for which the beneficiary did not choose the benefits of subpart A of part III of subchapter N, the beneficiary shall be treated as having chosen such benefits for such computation year.

"(ii) RETENTION OF CHARACTER.—The items of income, deduction, and credit of the Trust shall retain their character (subject to the application of section 904(f)(5)) to the extent necessary to apply this paragraph.

26 USC 904.

"(D) COMPUTATION YEAR.—For purposes of this paragraph, the term 'computation year' means any of the three taxable years remaining after application of subsection (b)(1)(B).".

26 USC 667.

(C) The last sentence of section 667(b)(1) is amended by inserting "(other than the amount of taxes described in section 665(d)(2))" after "taxes".

Ante, p. 2909.

26 USC 904.

(2) RECAPTURE OF OVERALL FOREIGN LOSS.—Section 904(f) is amended by adding at the end thereof the following new paragraph:

"(5) ACCUMULATION DISTRIBUTIONS OF FOREIGN TRUST.—For purposes of this chapter, in the case of amounts of income from sources without the United States which are treated under section 666 (without regard to subsections (b) and (c) thereof if the taxpayer chose to take a deduction with respect to the amounts described in such subsections under section 667(d)(1)(B)) as having been distributed by a foreign trust in a preceding taxable year, that portion of such amounts equal to the amount of any overall foreign loss sustained by the beneficiary in a year prior to the taxable year of the beneficiary in which such distribution is received from the trust shall be treated as income from sources within the United States (and not income from sources without the United States) to the extent that such loss was not used under this subsection in prior taxable years, or in the current taxable year, against other income of the beneficiary.".

26 USC 666.

26 USC 667.

(3) EFFECTIVE DATES.—

26 USC 665 note.

(A) The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

26 USC 904 note.

(B) The amendments made by paragraph (2) shall take effect as if included in section 904(f) of the Internal Revenue Code of 1954, as such provision was added to such Code by section 1032(a) of the Tax Reform Act of 1976.

26 USC 904.

26 USC 904.

(r) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

26 USC 667.

(1) IN GENERAL.—Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest."

26 USC 662.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975. 26 USC 667 note.

(s) EXEMPT INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(1) TREATMENT OF TAX-EXEMPT INTEREST FOR PURPOSES OF THE 90-PERCENT AND 30-PERCENT TESTS.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income." 26 USC 851. 26 USC 103.

(2) LOSSES ATTRIBUTABLE TO TAX-EXEMPT INTEREST WHERE STOCK IS HELD LESS THAN 31 DAYS.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows: 26 USC 852.

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) LOSS ATTRIBUTABLE TO EXEMPT-INTEREST DIVIDEND.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(C)(3)." 26 USC 246.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975. 26 USC 851 note.

(t) AMENDMENTS RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) ANNUAL ACCOUNTING PERIOD.—Section 859 (relating to adoption of annual accounting period), as redesignated by the Act, is further amended to read as follows: 26 USC 859.

"SEC. 859. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year. Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

26 USC 856. (2) AMENDMENT OF SECTION 856(c)(3)(D).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) EXCISE TAX ON REIT UNDISTRIBUTED INCOME.—

26 USC 6501. (A) Paragraph (3) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

26 USC 275. (B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

26 USC 6212. (C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 4971. "(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of

26 USC 4971, 4981. chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

26 USC 859. (4) CORRECTION OF CROSS REFERENCE.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601(b)".

26 USC 859 note. (5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(u) AMENDMENTS RELATING TO TREATMENT OF FOREIGN INCOME.—

(1) FOREIGN TAX CREDITS NOT DISALLOWED ON CERTAIN DISTRIBUTIONS MADE BY POSSESSIONS CORPORATIONS.—

26 USC 901. (A) IN GENERAL.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B) (i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) DEFINITION OF POSSESSIONS CORPORATION.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

26 USC 931. (i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) EFFECTIVE DATES.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date. 26 USC 901 note. 26 USC 901.

(2) FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS.— 26 USC 904.

(A) IN GENERAL.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) SOURCE RULE.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) SOURCE RULE FOR LIQUIDATIONS OF CERTAIN FOREIGN CORPORATIONS.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975. 26 USC 904 note.

(3) TREATMENT OF CERTAIN CAPITAL LOSS CARRYOVERS AND CARRYBACKS FOR PURPOSES OF THE LIMITATION ON CREDIT FOR FOREIGN TAXES.—

(A) IN GENERAL.—Clause (iii) of section 904(b)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))". 26 USC 904. 26 USC 1212.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975. 26 USC 904 note.

(4) TREATMENT OF CAPITAL LOSS CARRYOVERS FOR PURPOSES OF FOREIGN LOSS RECAPTURE.—

(A) IN GENERAL.—Subparagraph (a) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212". 26 USC 904. 26 USC 1212.

(B) FOREIGN OIL RELATED LOSSES.—Subparagraph (A) of section 904(f)(4) (relating to determination of foreign oil 26 USC 904.

26 USC 907.

related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

26 USC 1212.
26 USC 904 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

26 USC 904 note.

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

26 USC 904 note.

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

26 USC 904 note.

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to such loss under the principles of such section 904(a)(1)."

26 USC 904.

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

26 USC 904 note.

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

26 USC 904 note.

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxpayer in such possession on January 1, 1976, and

"(iii) the taxpayer chooses to have the benefits of subpart A of part III of subchapter N apply for such taxable year and section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year. 26 USC 904.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.—In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act); but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) applies by reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) TAXPAYERS NOT ENGAGED IN TRADE ON BUSINESS ON JANUARY 1, 1976.—In any case to which this paragraph applies but for the fact that the taxpayer was not engaged in a trade or business in such possession on January 1, 1976, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979; if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of such section 904(a)(1).

"(E) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined, was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504." 26 USC 1504.

26 USC 904 note.

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—

26 USC 907.

Subsection (a) (as amended by this Act) of section 907 (relating to special rules in case of foreign oil and gas income) is further amended to read as follows:

26 USC 901.

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

26 USC 11.

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

26 USC 901.

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income."

26 USC 904.

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section

26 USC 907, 904.

907 (relating to application of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section

26 USC 904.

904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to

26 USC 907.

which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

26 USC 907 note.

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the

26 USC 907. 26 USC 904.

Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

26 USC 907 note.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preced-

ing sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date."

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows: 26 USC 911.

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accrued by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction— 26 USC 151.

"(A) the numerator of which is the tax determined under subsection (d) (1) (B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph (A), plus the limitation imposed for the taxable year by section 904(a).". 26 USC 904.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976. 26 USC 911 note.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows: 26 USC 936.

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any asset the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall

not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) EXCEPTION FOR POSSESSIONS CORPORATIONS, ETC.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

26 USC 931, 957.

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) DEFINITIONS AND SPECIAL RULES.—".

26 USC 936 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

26 USC 936.

26 USC 995 note.

(12) GAIN ON DISPOSITION OF STOCK IN A DISC.—

(A) DELAY IN EFFECTIVE DATE.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

26 USC 995.

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

26 USC 995 note.

(C) EFFECTIVE DATE.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

(13) LIMITATION ON PARTNER'S TAX WHERE PARTNER RECEIVES AMOUNT TREATED AS SALE OF SECTION 1248 STOCK.—

26 USC 1248.
26 USC 751.

(A) IN GENERAL.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON TAX ATTRIBUTABLE TO DEEMED SALES OF SECTION 1248 STOCK.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporation)."

26 USC 1248.
26 USC 731, 736, 741.
26 USC 1248.

26 USC 736.

(B) CROSS REFERENCE.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

26 USC 751 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14) EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.—

(A) TRANSFERS INVOLVING ESTATES.—Section 1491 (relating to tax on transfers to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust". 26 USC 1491.

(B) CLARIFICATION OF PARAGRAPH (3) OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows: 26 USC 1492.

"(3) To a transfer described in section 367; or". 26 USC 367.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers after October 2, 1975. 26 USC 1491 note.

(15) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) PROVISIONS AFFECTED BY ELECTION.—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows: 26 USC 6013.

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and 26 USC 1 *et seq.*, 1491 *et seq.*

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year." 26 USC 3401 *et seq.*

(B) CONFORMING AMENDMENT.—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary) is amended by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5". 26 USC 6013.

(C) YEAR OF RESIDENCY.—Paragraph (1) of section 6013(h) (relating to return for year nonresident alien becomes resident) is amended—

(i) by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5", and 26 USC 1 *et seq.*, 1491 *et seq.*

(ii) by inserting before the period at the end thereof the following: ", and for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year". 26 USC 3401 *et seq.*

(D) CERTAIN AMOUNTS WITHHELD UNDER CHAPTER 3 TREATED AS OVERPAYMENTS OF TAX.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013 (g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31." 26 USC 6401. 26 USC 32. 26 USC 6013. 26 USC 31.

(E) EFFECTIVE DATES.—The amendments made by this paragraph— 26 USC 6013 note.

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and 26 USC 1 *et seq.*, 1491 *et seq.*

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month 26 USC 3401 *et seq.*

which begins more than 90 days after the date of the enactment of this Act.

(16) NONRESIDENT ALIEN INDIVIDUAL ALLOWED TO BE TREATED AS RESIDENT OF THE UNITED STATES.—

26 USC 6013.

(A) IN GENERAL.—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

26 USC 6013 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(v) AMENDMENT OF SECTION 1239(a).—

26 USC 1239.

(1) IN GENERAL.—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

26 USC 167.

26 USC 1239 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

26 USC 1239.

(w) RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.—

26 USC 1245.

(1) IN GENERAL.—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

"(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer."

(2) RECAPTURE OF DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—Subparagraph (B) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to initial contracts) is amended—

(A) by inserting "attributable to periods after December 31, 1975," after "depreciation" in clause (i),

(B) by inserting "incurred after December 31, 1975," after "losses" in clause (i), and

(C) by inserting "described in clause (i)" after "amounts" in clause (ii).

26 USC 1245 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(x) TREATMENT OF PENSIONS AND ANNUITIES FOR 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.—

26 USC 1348.

(1) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax-deductible contributions to a retirement plan".

(2) TECHNICAL AMENDMENT.—The last sentence of section 1348(b) is amended by striking out "earned income" and inserting in lieu thereof "personal service income".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 1348 note.

(y) CHANGES IN THE SUBCHAPTER S PROVISIONS.—

(1) GRANTOR TRUST MAY BE TREATED AS PERMITTED SHAREHOLDER AFTER DECEDENT'S DEATH; GRANTOR OR GRANTOR TRUST MUST BE INDIVIDUAL.—Paragraph (1) of subsection (e) of section 1371 (as redesignated by this Act) is amended to read as follows: 26 USC 1371.

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976. 26 USC 1371 note.

(z) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.—

(1) IN GENERAL.—Section 1207(f)(4) of the Tax Reform Act of 1976 (relating to effective date of provisions relating to withholding on certain individuals engaged in fishing) is amended by striking out "December 31, 1971" each place it appears and inserting in lieu thereof "December 31, 1954". 26 USC 3121 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 4, 1976. 26 USC 3121 note.

(aa) WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(1) IN GENERAL.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting in lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220(b)(3)". 26 USC 4973. 26 USC 219. 26 USC 219, 220.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act. 26 USC 4973 note.

(bb) AMENDMENTS RELATING TO DISCLOSURE OF TAX RETURNS.—

(1) DISCLOSURE OF MAILING ADDRESS FOR PURPOSES OF COLLECTING CERTAIN STUDENT LOANS.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows: 26 USC 6103.

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a

Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

31 USC 952.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

20 USC 1088 *et seq.*

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

26 USC 6103.

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

26 USC 7213.

(C) Paragraph (2) of section 7213(a) (relating to penalties for unauthorized disclosure of information) is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

26 USC 6103.

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(i) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(i) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than

taxpayer return information) which may constitute evidence of a violation of Federal criminal laws."

(5) DISCLOSURE UNDER TAX CONVENTIONS.—Section 6103(k)(4) (relating to disclosure of return information under income tax conventions) is amended— 26 USC 6103.

(A) by striking out "income" in the caption thereof,

(B) by inserting "or gift and estate tax" after "income tax", and

(C) by inserting ", or other convention relating to the exchange of tax information," after "convention" the first place it appears.

(6) CRIMINAL PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213(a) (relating to unauthorized disclosure of information) is amended— 26 USC 7213.

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(7) NO CIVIL LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION OF DISCLOSURE REQUIREMENTS.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended— 26 USC 7217.

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and 26 USC 6103.

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "PERIOD FOR BRINGING ACTION.—An action".

(8) EFFECTIVE DATES.— 26 USC 6103 note.

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (7) shall apply with respect to disclosures made after the date of the enactment of this Act.

(cc) AMENDMENTS RELATING TO INCOME TAX RETURN PREPARERS.—

(1) NEGOTIATION OF CHECKS BY BANK.—Subsection (f) of section 6695 (relating to negotiation of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer." 26 USC 6695. 26 USC 581.

(2) DEFINITION.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows: 26 USC 7701.

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

26 USC 6695 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(dd) CLARIFICATION OF DECLARATORY JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

26 USC 7476.

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to qualification of certain retirement plans) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

26 USC 7428.

26 USC 501.

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

26 USC 7476 note.

26 USC 7476, 7428.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

(ee) CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.—

26 USC 1231.

(1) IN GENERAL.—Paragraph (1) of section 1231(b) (relating to definition of property used in trade or business) is amended—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(D) a publication of the United States Government (including the Congressional Record) which is received from the United States Government, or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer described in paragraph (6) of section 1221.".

26 USC 1221.

26 USC 1231 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and contributions made after October 4, 1976.

(ff) EXEMPTION FOR LIGHT-DUTY TRUCK PARTS.—

26 USC 4063.

(1) IN GENERAL.—Section 4063 (relating to exemption of motor vehicles and parts) is amended by adding at the end thereof the following new subsection:

"(e) PARTS FOR LIGHT-DUTY TRUCKS.—The tax imposed by section 4061(b) shall not apply to the sale by the manufacturer, producer, or importer of any article which is to be resold by the purchaser on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), or which is to be resold by the purchaser to a second purchaser for resale by such second purchaser on or in connection with the first retail sale of a light-duty truck."

26 USC 4061.

(2) CONFORMING AMENDMENTS.—

26 USC 4221.

26 USC 4063.

(A) Section 4221(c) (relating to manufacturer relieved from liability in certain cases) is amended by inserting "4063(e)," after "4063(b),".

(B) Section 4222(d) (relating to registration in the case of tax-free sales) is amended by inserting "4063(e)," after "4063(b),". 26 USC 4222. 26 USC 4063.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act. 26 USC 4063 note.

SEC. 702. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND GIFT TAX PROVISIONS.

(a) AMENDMENTS RELATING TO TREATMENT OF SECTION 306 STOCK.—

(1) APPLICATION OF "FRESH START" TO SECTION 306 STOCK.—Subsection (a) of section 306 (relating to disposition of certain stock) is amended by adding at the end thereof the following new paragraph: 26 USC 306.

"(3) ORDINARY INCOME FROM SALE OR REDEMPTION OF SECTION 306 STOCK WHICH IS CARRYOVER BASIS PROPERTY ADJUSTED FOR 1976 VALUE.—

"(A) IN GENERAL.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of— 26 USC 1023. 26 USC 301.

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h). 26 USC 1023.

"(B) REDEMPTION MUST BE DESCRIBED IN SECTION 302(b).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)." 26 USC 302.

(2) CLARIFICATION THAT SECTION 303 OVERRIDES SECTION 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 303 REDEMPTIONS.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1979. 26 USC 306 note.

(b) COORDINATION OF DEDUCTION FOR ESTATE TAXES ATTRIBUTABLE TO INCOME IN RESPECT OF A DECEDENT WITH THE CAPITAL GAIN DEDUCTION, ETC.—

(1) IN GENERAL.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph: 26 USC 691.

"(4) COORDINATION WITH CAPITAL GAIN DEDUCTION, ETC.—For purposes of sections 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item." 26 USC 1201, 1202, 1211. 26 USC 57.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act. 26 USC 691 note.

(c) AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) AMENDMENTS RELATING TO THE POSTPONEMENT OF THE EFFECTIVE DATE OF CARRYOVER BASIS PROVISIONS.—

(A) FAIR MARKET VALUE WHERE FARM VALUATION ELECTED.—Subsection (a) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

26 USC 1014.

"(a) IN GENERAL.—Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be—

"(1) the fair market value of the property at the date of the decedent's death, or

"(2) in the case of an election under either section 2032 or section 811(j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections, or

26 USC 5712, 2032.

"(3) in the case of an election under section 2032.1, its value determined under such section."

26 USC 2032.

(B) GENERATION-SKIPPING TRANSFERS.—The second sentence of section 2614(a) (relating to basis adjustments in connection with generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted—

26 USC 2614.

"(1) in the case of such a transfer occurring after June 11, 1976, and before January 1, 1980, in a manner similar to the manner provided under section 1014(a), and

26 USC 1014.

"(2) in the case of such a transfer occurring after December 31, 1979, in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1979)."

26 USC 1023.

(2) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

26 USC 1023.

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for any property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

26 USC 2032.

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained". 26 USC 1023.

(3) TREATMENT OF INDEBTEDNESS.—

(A) IN GENERAL.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11". 26 USC 2001 *et seq.*

(B) TECHNICAL AMENDMENT.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(4) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph: 26 USC 1023.

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(5) AUTOMATIC LONG-TERM STATUS FOR GAINS AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014". 26 USC 1223, 1023, 1014.

(6) CLARIFICATION THAT ADJUSTED BASIS IS INCREASED FOR STATE ESTATE TAXES.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows: 26 USC 1023.

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—

"(1) FEDERAL ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal estate taxes as— 26 USC 2001. 26 USC 2101.

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101. 26 USC 2001, 2101.

"(2) STATE ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment 26 USC 1023.

under paragraph (1) of subsection (c), for purposes of subsection (d),".

26 USC 1023. (C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

26 USC 2001, 2101. "(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

26 USC 1023. (7) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(8) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

26 USC 1001. 26 USC 1014, 1015. (9) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

26 USC 1014, 1015, 1023. 26 USC 1014 note. (10) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments and additions made by, and the appropriate provisions of the Tax Reform Act of 1976.

26 USC 1 note.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

26 USC 2032A. (1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A(b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2032A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

26 USC 1014. "(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death of the decedent) to receive from the trust a specific

dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM VALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Subsection (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11". 26 USC 1040. 26 USC 2032A, 2001 *et seq.*

(4) TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph: 26 USC 2032A.

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A(c) is amended to read as follows:

"(6) LIABILITY FOR TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e)(11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(11) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determination of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976. 26 USC 2032A note.

(e) AMOUNT OF SECURITY REQUIRED FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES.—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11)." 26 USC 6324A. 26 USC 6151. 26 USC 2001 *et seq.*

26 USC 6324A.

(B) Subparagraph (B) of section 6324A(b)(2) (relating to maximum value of required property) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6324A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

26 USC 6324A note.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) CLARIFICATION OF THE $3,000 ANNUAL EXCLUSION FROM THE RULE INCLUDING IN GROSS ESTATE TRANSFERS WITHIN 3 YEARS OF DEATH.—

26 USC 2035.

(1) AMENDMENT OF SECTION 2035(b).—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"(b) EXCEPTIONS.—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

26 USC 6019.

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

26 USC 2035 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976, except that it shall not apply to transfers made before January 1, 1977.

(g) AMENDMENTS RELATING TO ESTATE TAX MARITAL DEDUCTION.—

26 USC 2056.

(1) DEDUCTION NOT REDUCED FOR GIFT TO SPOUSE WHICH IS INCLUDED IN DONOR'S ESTATE BY REASON OF SECTION 2035.—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

26 USC 2035.

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

26 USC 2056.

(2) REDUCTION FOR GIFT TAX MARITAL DEDUCTION IN EXCESS OF 50 PERCENT OF THE VALUE OF GIFTS TO A SPOUSE.—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

26 USC 2056 note.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2513, 2035.

(h) COORDINATION OF SECTIONS 2513 AND 2035.—

26 USC 2001.

(1) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If— 26 USC 2513, 2035.

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and 26 USC 2513.

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035, 26 USC 2035.

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping transfers) is amended by striking out "section 2001(b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))". 26 USC 2602. 26 USC 2001.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977. 26 USC 2001 note.

(i) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS.—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection: 26 USC 2036.

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right (either alone or in conjunction with any person) to vote, stock possessing at least 20 percent of the total combined voting power of all classes of stock. 26 USC 318.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent." 26 USC 2035.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 2036 is amended by striking out the last sentence thereof. 26 USC 2036.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers made after June 22, 1976. 26 USC 2036 note.

(j) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220". 26 USC 2039. 26 USC 219. 26 USC 219, 220.

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTERESTS.—Section

26 USC 2503. 2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 26 USC 408. 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

26 USC 409. "(3) for a retirement bond described in section 409,

shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220".

(3) EFFECTIVE DATES.—

26 USC 2039 note. (A) The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2503 note. (B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) PROVISIONS RELATING TO TREATMENT OF JOINT INTERESTS.—

(1) REMOVAL OF REQUIREMENT OF ACTUARIAL COMPUTATIONS FOR JOINT INTERESTS IN PERSONAL PROPERTY.—

26 USC 2511 *et seq.* 26 USC 2515. (A) IN GENERAL.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

26 USC 2515A. "SEC. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

26 USC 2515. (B) CHANGE IN SECTION 2515 HEADING.—The heading for section 2515 is amended to read as follows:

"SEC. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

26 USC 2511 *et seq.* 26 USC 2515. (C) CLERICAL AMENDMENTS.—The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property.
"Sec. 2515A. Tenancies by the entirety in personal property."

26 USC 2515A note. (D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) EXTENSION OF FRACTIONAL INTEREST RULE TO CERTAIN JOINT INTERESTS IN REAL OR PERSONAL PROPERTY CREATED BEFORE 1977.—

26 USC 2040. Section 2040 (relating to joint interests) as amended by this Act, is further amended by adding at the end thereof the following new subsections:

"(d) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor. 26 USC 2503.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if .the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under section 6501 has expired with respect to the tax (if any) on such gift, 26 USC 6501.

then the value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(e) TREATMENT OF CERTAIN POST-1976 TERMINATIONS.—

"(1) IN GENERAL.—If—

"(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, such joint interest was terminated, and

"(C) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created.

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (d).

"(2) SPECIAL RULES.—For purposes of applying subsection (d) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraphs (4) and (5) of subsection (d) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) AMENDMENTS RELATING TO ORPHANS' EXCLUSION.—

(1) ORPHANS' EXCLUSION WHERE THERE IS A TRUST FOR MINOR CHILDREN.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

26 USC 2057.

"(d) QUALIFIED MINORS' TRUST.—

"(1) IN GENERAL.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) QUALIFIED MINORS' TRUST.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the beneficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) CERTAIN DISPROPORTIONATE DISTRIBUTIONS PERMITTED.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) TRUSTEE MAY ACCUMULATE INCOME.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) COORDINATION WITH SUBSECTION (c).—In applying subsection (c) to a qualified minors' trust, those provisions of section

2056(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply. 26 USC 2056.

"(6) DEATH OF BENEFICIARY BEFORE YOUNGEST CHILD REACHES AGE 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decedent attains age 23."

(2) AGE 23 FOR TERMINABLE INTEREST RULE IN THE CASE OF ORPHANS' EXCLUSION.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23". 26 USC 2057.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976. 26 USC 2057 note.

(m) DISCLAIMER BY SURVIVING SPOUSE WHERE INTEREST PASSES TO SUCH SPOUSE.—

(1) IN GENERAL.—Paragraph (4) of section 2518(b) (defining qualified disclaimer) is amended to read as follows: 26 USC 2518.

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976. 26 USC 2518 note.

(n) AMENDMENTS RELATING TO TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) EFFECTIVE DATE OF GENERATION-SKIPPING TRANSFER PROVISIONS.—Section 2006(c) of the Tax Reform Act of 1976 (relating to effective date of generation-skipping transfer provisions) is amended by striking out "April 30, 1976" each place it appears and inserting in lieu thereof "June 11, 1976". 26 USC 2601 note.

(2) CERTAIN POWERS OF INDEPENDENT TRUSTEES NOT TREATED AS POWERS.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows: 26 USC 2613.

"(e) CERTAIN POWERS NOT TAKEN INTO ACCOUNT.—

"(1) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF THE GRANTOR.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) POWERS OF INDEPENDENT TRUSTEES.—

"(A) IN GENERAL.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the

trust or the income therefrom to a beneficiary or a class of beneficiaries designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate trustee' means any trustee who is assigned to a younger generation than the grantor's generation and who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor or of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control,

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive,

"(v) a partner of a partnership in which the interest of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of operating control or distributive share of partnership income,

"(vi) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive, or

"(vii) an employee of a partnership in which the grantor or any beneficiary of the trust is a partner.".

(3) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) (defining taxable termination for purposes of the tax on generation-skipping transfer) is amended— 26 USC 2613.

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(4) ALTERNATE VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transferor". 26 USC 2602.

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "(or beneficiary)" after "the deemed transferor".

(5) EFFECTIVE DATE.— 26 USC 2613 note.

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976. 26 USC 2601 *et seq.*

(B) The amendment made by paragraph (1) shall take effect on October 4, 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph: 26 USC 667.

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) IN GENERAL.—The partial tax shall be reduced by an amount which is equal to the pre-death portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportionate basis) to amounts included in the accumulation distribution, and

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

26 USC 2001 *et seq.*, 2601 *et seq.*

"(B) PARTIAL TAX DETERMINED WITHOUT REGARD TO THIS PARAGRAPH.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) PRE-DEATH PORTION.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

26 USC 667 note.

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1979, and

26 USC 2001 *et seq.*

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after June 11, 1976.

26 USC 2601 *et seq.*

(p) RELIEF OF EXECUTOR FROM PERSONAL LIABILITY IN THE CASE OF RELIANCE ON GIFT TAX RETURNS.—

(1) IN GENERAL.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

26 USC 2204.

"(d) GOOD FAITH RELIANCE ON GIFT TAX RETURNS.—If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

26 USC 6103.

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

26 USC 2204 note.

(q) INDEXING OF FEDERAL TAX LIENS.—

(1) IN GENERAL.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

26 USC 6323.

"(4) INDEXING REQUIRED WITH RESPECT TO CERTAIN REAL PROPERTY.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a

public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien."

26 USC 6323. (2) REFILING OF NOTICE OF LIEN.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and".

26 USC 6323 note. (3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

26 USC 6323. (B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(r) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

26 USC 6694. (A) IN GENERAL.—Section 6694 (relating to failure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976

26 USC 6698. is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end thereof the following new subsection:

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of

26 USC 6211 *et seq.* chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(C) TABLE OF SECTIONS.—The table of sections for sub-

26 USC 6671 *et seq.* chapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basis property."

and inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

26 USC 2051. (2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of

26 USC 1016. section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) CLERICAL AMENDMENT TO SECTION 6324B(b).—Subsection (b) of section 6324B (relating to period of lien for additional estate tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property". 26 USC 6324.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976. 26 USC 6698 note.

SEC. 703. CORRECTIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) ERRONEOUS CROSS REFERENCE IN INVESTMENT CREDIT.—

(1) AMENDMENT OF SECTION 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)". 26 USC 46.

(2) AMENDMENT OF SECTION 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936". 46 USC 1245 note. 46 USC 1101 *et seq.*

(3) AMENDMENT OF SECTION 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) AMENDMENT OF SECTION 48(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)". 26 USC 48. 26 USC 57.

(b) PREPAID LEGAL SERVICES.—

(1) Paragraph (2) of section 2134(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)". 26 USG 120 note. 26 USC 120.

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph". 26 USC 501.

(c) AMENDMENTS RELATING TO SECTIONS 219 AND 220.—

(1) AMENDMENT OF SECTION 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)". 26 USC 219.

(2) AMENDMENT OF SECTION 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to the account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond". 26 USC 220.

(3) AMENDMENT OF SECTION 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payment".

(4) AMENDMENT OF SECTION 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows: 26 USC 408.

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976. 26 USC 46 note.

(d) ACCRUAL ACCOUNTING FOR FARM CORPORATIONS.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses". 26 USC 447.

(e) AMENDMENT OF SECTION 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7). 26 USC 911.

26 USC 4940 note.

(f) TRANSITION RULE FOR PRIVATE FOUNDATIONS.—Subparagraph (F) of section 101(l)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) LOBBYING BY PUBLIC CHARITIES.—

26 USC 4911.

(1) LOBBYING NONTAXABLE AMOUNT.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) TECHNICAL AMENDMENTS RELATING TO SECTION 501.—

26 USC 501.

(A) Section 2(a) of Public Law 94-568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

26 USC 501.

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94-568) is redesignated as subsection (i).

26 USC 501 note.

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94-568.

(h) AMENDMENTS TO FOREIGN TAX PROVISIONS.—

26 USC 907 note.

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

26 USC 907.

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

26 USC 999.
26 USC 995.

(2) Paragraph (1) of section 999(c) (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) AMENDMENTS TO DISC PROVISIONS.—

26 USC 995.

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Subparagraph (G) of section 995(b)(1) is amended by striking out "subsection (D)" and inserting in lieu thereof "subsection (d)".

26 USC 996.
26 USC 995.
26 USC 995 note.
26 USC 993.
26 USC 995.

(3) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

(4) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) The heading of paragraph (1) of section 103(b) is amended to read as follows: 26 USC 103.

"(1) SUBSECTION (a) (1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a) (1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a) (1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a) (1) or (2) or (4)" and inserting in lieu thereof "subsection (a) (1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended— 26 USC 311.

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976. 26 USC 311 note.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended— 26 USC 453.

(A) by striking out "(or by the corresponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "any paragraph of section 805(d)". 26 USC 801. 26 USC 805.

(5) AMENDMENT OF SECTION 1033(a)(2).—Clause (ii) of section 103(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)". 26 USC 1033.

(6) AMENDMENT OF SECTION 1375(a).—Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such gain". 26 USC 1375.

(7) AMENDMENT OF SECTION 1561(b)(3).—Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)". 26 USC 1561.

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)". 26 USC 1402.

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT TO SECTION 46(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking 26 USC 46.

26 USC 46.

out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

26 USC 6504.

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504".

26 USC 37 note.

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

26 USC 2011 note.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

26 USC 2011 note.

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (9) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

26 USC 2501 note.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

26 USC 4973 note.

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 1904(a)(22)(A).—Notwithstanding section 1904(d) of the Tax Reform Act of 1976, the amendment made by section 1904(a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

42 USC 402.

(A) Section 202(v) of the Social Security Act is amended by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

42 USC 405.

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

42 USC 410.

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

42 USC 411.

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal

26 USC 35.

Revenue Code of 1954)".

42 USC 411.

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

26 USC 1212.

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

26 USC 4041.

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

26 USC 6427.

(3) Subsection (d) of section 6427 (relating to repayment of tax on fuels used by certain aircraft museums) is amended by

striking out "Secretary or his delegate" and inserting in lieu thereof "Secretary".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)". 26 USC 7609.

(m) INSPECTION BY COMMITTEE OF CONGRESS.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)". 26 USC 6104. 26 USC 6103.

(n) AMENDMENT OF SECTION 6501.—Subsections (h), (j), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)". 26 USC 6501.

(o) CONFORMING AMENDMENTS TO NEW DEFINITION OF TAXABLE INCOME.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended— 26 USC 443.

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amount."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) MODIFIED TAXABLE INCOME DEFINED.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976. 26 USC 443 note.

(p) CONFORMING AMENDMENTS TO REPEAL OF SECTION 317 OF TRADE EXPANSION ACT OF 1962.— 26 USC 172.

(1) AMENDMENTS OF SECTION 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows: 26 USC 172.

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraphs (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively.

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

26 USC 6501.

(2) AMENDMENT OF SECTION 6501(h).—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

26 USC 6511.

(3) AMENDMENT OF SECTION 6511(d)(2).—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

26 USC 1481.

26 USC 172 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

20 USC 1001 note.

(q) CONFORMING AMENDMENT TO REPEAL OF SECTION 2 OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969.—

26 USC 103.

(1) IN GENERAL.—Paragraph (5) of section 103(d) (relating to arbitrage bonds) is amended by striking out "section 2 of the Emergency Insured Student Loan Act of 1969" and inserting in lieu thereof "section 438 of the Higher Education Act of 1965".

20 USC 1001 note.

20 USC 1087-1.

26 USC 103 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to payments made by the Commissioner of Education after December 31, 1976.

26 USC 46 note.

(r) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

SEC. 801. GRANTS TO STATES FOR SOCIAL SERVICES.

42 USC 1397a.

(a) AMOUNT TO BE ALLOCATED TO STATES.—Section 2002(a)(2)(A) of the Social Security Act is amended—

(1) by striking out "$2,500,000,000" and inserting in lieu thereof "the amount specified in clause (ii)";

(2) by inserting "(i)" after "(2)(A)"; and

(3) by adding the following clause at the end thereof:

"(ii) The amount specified for purposes of clause (i) is $2,500,000,000 for fiscal years prior to fiscal year 1979, $2,700,000,000 for fiscal year 1979, and $2,500,000,000 for fiscal years after fiscal year 1979.".

42 USC 1397a note.

(b) ADDITIONAL AMOUNT FOR CHILD DAY CARE SERVICES IN FISCAL YEAR 1979.—Section 3 of Public Law 94-401 is amended—

(1) in the matter preceding paragraph (1) of subsection (a)—

(A) by striking out the word "and" which appears after "1977,", and

(B) by inserting after "1978," the following: "and the fiscal year ending September 30, 1979,",

(2) in subsection (a)(1), by adding after and below subparagraph (B) the following new subparagraph:

"(C) 107.407 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1979, or",

(3) in subsection (a)(2), by striking out "or either such fiscal year" and inserting in lieu thereof "or any such fiscal year",

(4) in subsection (b), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year",

(5) in subsections (c)(1) and (c)(2)(A), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year (other than the fiscal year ending September 30, 1979)",

(6) in subsection (d)(1)—

(A) by striking out the word "or" which appears after "1977,", and

(B) by inserting after "1978" the following: ", or the fiscal year ending September 30, 1979", and

(7) in subsection (d)(2), by striking out "for either such fiscal year" and inserting in lieu thereof "for any such fiscal year".

SEC. 802. CHANGE IN PUBLIC ASSISTANCE MATCHING FORMULA, AND INCREASE IN AMOUNT OF PUBLIC ASSISTANCE DOLLAR LIMITATIONS, FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM IN FISCAL YEAR 1979.

(a) PUBLIC ASSISTANCE MATCHING FORMULA.—Section 1118 of the Social Security Act is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'Federal medical assistance percentage' shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum when applied to quarters in the fiscal year ending September 30, 1979.". 42 USC 1318.

(b) DOLLAR LIMITATIONS.—Subsection (a) of section 1108 of such Act is amended— 42 USC 1308.

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the semicolon at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) $72,000,000 with respect to the fiscal year 1979;",

(2) in paragraph (2)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out "; and" at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) $2,400,000 with respect to the fiscal year 1979;", and

(3) in paragraph (3)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the period at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) $3,300,000 with respect to the fiscal year 1979.".

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1445 (Comm. on Ways and Means) and 95-1800 (Comm. of Conference).

SENATE REPORT No. 95-1263 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 10, considered and passed House.

Oct. 5, 6, 7, 9, 10, considered and passed Senate, amended.

Oct. 15, Senate and House agreed to conference report.

○

Public Law 95-601
95th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

Nov. 6, 1978
[S. 2584]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nuclear Regulatory Commission. Appropriation authorization, 1978.

SECTION 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1979, to remain available until expended $333,007,000. Of such total amount authorized to be appropriated:

(1) not more than $47,162,000 may be used for "Nuclear Reactor Regulation"; of the total amount appropriated for this purpose, $2,080,000 shall be available for Advanced Reactors;

(2) not more than $38,760,000 may be used for "Inspection and Enforcement";

(3) not more than $14,945,000 may be used for "Standards Development"; of the total amount appropriated for this purpose, $650,000 shall be available for Low-Level Radiation activities, including those described in section 5 of this Act;

(4) not more than $27,240,000 may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose, $8,127,000 shall be available for Nuclear Waste Disposal and Management activities;

(5) not more than $163,470,000 may be used for "Nuclear Regulatory Research"; of the total amount appropriated for this purpose, $1,500,000 shall be available for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended. $4,448,000 shall be available for Nuclear Waste research activities, and $18,333,000 shall be available for Advanced Reactor Research, including an authorization of $3,900,000 to accelerate the effort in gas-cooled thermal reactor safety research.

42 USC 5845.

(6) not more than $13,480,000 may be used for "Program Technical Support";

(7) not more than $27,950,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity.

Safeguard research contracts, limitation.

(b) (1) Not more than $14,285,000 of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a) may be used for contracts encompassing research, studies, and technical assistance on domestic safeguards matters.

(2) Of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a), $1,000,000 shall be available for studies and analysis of alternative fuel cycles (including studies and analysis relating to licensing and safety, safeguards, and environmental aspects).

(c)(1) No amount appropriated pursuant to subsection (a) for purposes of subparagraphs (1) through (7) of such subsection, may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such subparagraphs be reduced by more than $500,000, unless

(i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

(2) Of the amounts authorized to be appropriated for the purposes set forth in paragraphs (1) through (7) of subsection (a) of this section, the amounts available for Advanced Reactors, Low-Level Radiation, Nuclear Waste Disposal and Management, Improved Safety Systems Research, and Nuclear Waste Research, or that specified in subsection (b)(2) of this section for Alternative Fuel Cycle activities shall not be reprogramed, unless—

(i) a period of ninety calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

Safeguard research contracts, limitation.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract, providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provi-

sions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

Funds, transfers.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

42 USC 5849.

SEC. 4. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission."

Equal employment opportunity, report.

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semi-annual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts.".

Radiation, health effects studies, consultation. 42 USC 2051 note.

SEC. 5. (a) The Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, are authorized and directed to conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation. In the conduct of such studies, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

Memorandum, submittal to Congress.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies authorized by subsection (a) of this section.

Reports to Congress, consultations.

(c) On or before April 1, 1979, the Commission and the Environmental Protection Agency shall submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low-level ionizing radiation.

(d) On or before September 30, 1979, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, shall submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiation, with evaluations of the feasibility of such options. Such report shall be consistent with the findings of the assessment required by subsection (c) of this section.

(e) In carrying out the activities specified in subsections (c) and (d) such agencies shall:

Cooperation.

(i) cooperate with appropriate scientific organizations and agencies involved in related research, and

Copies.

(ii) furnish copies of the reports required by those subsections to the organizations and agencies referred to in subsection (e)(i).

Annual status report.

SEC. 6. Section 209 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(d) The Executive Director shall prepare and forward to the Commission an annual report (for the fiscal year 1978 and each succeeding fiscal year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities licensed

Report to Congress.

by the Commission. The Commission shall forward to the Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 307(c) of the Energy Reorganization Act of 1974) following the fiscal year to which such report applies.".

42 USC 5877.

Review.

42 USC 5841 note.

SEC. 7. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

Report to Congress.

Disclosure rules.

SEC. 8. (a) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC. 2210a.

"SEC. 170A. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.—

"a. The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

"b. The Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection a. and any other information otherwise available to the Commission that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

Publication.

"c. The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States

Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.".

(b) The table of contents for such chapter 14 is amended by adding the following new item at the end thereof:

"Sec. 170A. Conflicts of interest relating to contracts and other arrangements.".

Monitoring and assistance, reports to Congress. 42 USC 2153 note.

SEC. 9. The Commission shall monitor and assist, as requested, the International Fuel Cycle Evaluation and the studies and evaluations of the various nuclear fuel cycle systems by the Department of Energy in progress as of the date of enactment, and report to the Congress semiannually through calendar year 1980 and annually through calendar year 1982 on the status of domestic and international evaluations of nuclear fuel cycle systems. This report shall include, but not be limited to, a summary of the information developed by and available to the Commission on the health, safety and safeguards implications of the leading fuel cycle technologies.

SEC. 10. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

42 USC 5851.

"SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended; 42 USC 2011 note.

"(2) testified or is about to testify in any such proceeding or;

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

Complaint, filing and notification.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

Investigation and notification.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the

Order.

person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

Notice and hearing.
Settlement.

Relief.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

Review.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

5 USC 701 *et seq.*

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

Jurisdiction.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate. Litigative costs.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.". 42 USC 2011 note.

SEC. 11. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent. Report to Congress. 42 USC 2205a.

SEC. 12. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority. Authority extension, study. 42 USC 5842 note.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire. Cooperation.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies. Report to Congress.

SEC. 13. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 14. (a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal. Waste storage or disposal facility planning, notification. 42 USC 2021a.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage State participation, report.

or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

Submittal with legislative recommendations to Congress.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1089, pt. I and pt. II, accompanying H.R. 12355 (Comm. on Interior and Insular Affairs) and (Comm. on Interstate and Foreign Commerce) and No. 95-1796 (Comm. of Conference).

SENATE REPORT No. 95-848 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 18, considered and passed Senate.

Oct. 3, 4, H.R. 12355 considered and passed House; passage vacated and S. 2584, amended, passed in lieu.

Oct. 14, House agreed to conference report.

Oct. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 8, Presidential statement.

Public Law 95-602
95th Congress

An Act

Nov. 6, 1978
[H.R. 12467]

To amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.
29 USC 701 note.

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS

SEC. 101. (a) Section 100(b) of the Rehabilitation Act of 1973 is amended—

Federal grants.
29 USC 720.

(1) in subsection (b)(1), by adding at the end the following: "There is further authorized to be appropriated for such purpose $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for the three succeeding fiscal years but in no event shall the amount appropriated be greater than $880,000,000 for the fiscal year ending September 30, 1980, $945,000,000 for the fiscal year ending September 30, 1981, and $972,000,000 for the fiscal year ending September 30, 1982.";

(2) by amending subsection (b)(2) to read as follows:

"(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $55,000,000 for the fiscal year ending September 30, 1981, and $60,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary."; and

29 USC 740.

(3) by adding at the end the following new paragraph:

"(3) For the purpose of making grants to Indian tribes under part D of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this subsection.".

Indian tribes.
Post, p. 2961.

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(c)(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published

Percentage change in price index, publication in Federal Register.

for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2)(A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

"Price index". "(3) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

29 USC 730. (c) Section 110(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 110. (a)(1) For each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under

29 USC 720. section 100(b)(1) for allotment under this section as the product of (A) the population of the State, and (B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount author-

Ante, p. 2955. ized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.".

(d) Section 110(b) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after "(b)", by striking out the last sentence, and by adding at the end thereof the following new paragraphs: 29 USC 730.

"(2) If a State receives as its Federal share under section 111(a) for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to 80 percent of such expenditure for vocational rehabilitation services. 29 USC 731. 29 USC 721.

"(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.".

(e)(1) The second sentence of section 120(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "three" and inserting in lieu thereof "five". 29 USC 740.

(2) The first sentence of section 121(b) of the Rehabilitation Act of 1973 is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982". 29 USC 741.

STATE PLANS

SEC. 102. (a) Section 101(a) of the Rehabilitation Act of 1973 is amended— 29 USC 721.

(1) by striking out "For each fiscal year in which" and all that follows through the dash and inserting in lieu thereof the following: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—"; Submittal to Commissioner.

(2) in paragraph (5)(A) by inserting after "handicaps" the first place it appears the following: "and a description of the method to be used to utilize existing rehabilitation facilities to the maximum extent feasible";

(3) in paragraph (6) by inserting "(A)" after "(6)", by inserting "and" after the semicolon the second place it appears, and by adding at the end the following new subparagraph:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;"; 42 USC 4151 note.

(4) in paragraph (7) by striking out "and" at the end of clause (A), and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication";

(5) in clause (C) of paragraph (9) by striking out "under section 401" and inserting in lieu thereof "under section 13";

(6) in paragraph (11) by inserting before the semicolon the following: "(specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Education of the Handicapped Act, and the Vocational Education Act)";

20 USC 1401 note.

20 USC 2301 note.

(7) in paragraph (12) by inserting "(A)" after "(12)", by inserting after the semicolon "and", and by adding at the end the following new subparagraph:

"(B) provide (as appropriate) for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;";

(8) in paragraph (15) by striking out "(including the State's needs for rehabilitation facilities)" and inserting in lieu thereof "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)";

(9) in paragraph (18) by inserting "personnel" before "working in the field of vocational rehabilitation" and by striking out "and" at the end thereof;

(10) in paragraph (19) by striking out the period and by inserting in lieu thereof a semicolon; and

(11) by adding at the end thereof the following new paragraphs:

Handicapped American Indians.

Post, p. 2961.

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 130, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State;

Contracts.

Post, 2993.

"(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of title VI upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations; and

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.".

29 USC 721.

(b) Section 101(c) of the Vocational Rehabilitation Act of 1973 is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "(1)" before "the plan" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(4) by adding at the end the following new paragraph:

Disbursement of funds.

"(2) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph

unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.".

(c) Section 101(d) of the Rehabilitation Act of 1973 is amended to read as follows: 29 USC 721.

"(d)(1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by him for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings. Determination appeal, petition.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c), and (ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code. 5 USC 701 *et seq.*

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 103. Section 102 of the Rehabilitation Act of 1973 is amended— 29 USC 722.

(1) in subsection (b) by inserting "and agree to" after "redevelop"; and

(2) by adding at the end the following new subsection:

"(d)(1) The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request Review procedures.

of a handicapped individual (or, in appropriate cases, his parents or guardians). Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the Director. The Director may not delegate his responsibility to make any such final decision to any other officer or employee of the designated State unit.

"(2) Any handicapped individual (or, in appropriate cases, his parent or guardian) who is not satisfied with the final decision made under paragraph (1) by the Director of the designated State unit may request the Secretary to review such decision. Upon such request the Secretary shall conduct such a review and shall make recommendations to the Director as to the appropriate disposition of the matter. The Secretary may not delegate his responsibilities under this paragraph to any officer of the Department of Health, Education, and Welfare who is employed at a position below that of an Assistant Secretary.".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

29 USC 723.

SEC. 104. (a) Section 103(a)(1) of the Rehabilitation Act of 1973 is amended by inserting "mental or" before "emotional".

(b) Section 103(b) of the Rehabilitation Act of 1973 is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by (A) inserting "(including services offered at rehabilitation facilities)" after "services" and (B) striking out the period and inserting in lieu thereof ";"; and

(3) by adding at the end the following new paragraphs:

"(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals; and

"(4) the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.".

CLIENT ASSISTANCE

29 USC 732.

SEC. 105. Section 112(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "section 304" in each place it appears and inserting in lieu thereof "section 310";

(2) by striking out "up to $1,500,000" and all that follows through "dispersed regions" and inserting in lieu thereof "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions"; and

(3) by inserting before the period at the end of the first sentence the following: ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this Act".

AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

SEC. 106. Part D of title I of the Rehabilitation Act of 1973 is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 130. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations. 29 USC 750. Grants.

"(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application— Application.

"(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

"(B) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

"(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner. 25 USC 450c, 450d, 450e, 450f.

"(3) Any application approved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1)." *Ante*, p. 2956.

"(d) For the purpose of computing the allotment of any State under section 110(a), the number of American Indians residing on a reservation to be served by a grant under this part shall be subtracted from the population used for such State in section 110(a)(1) as follows:

"(1) 33 percent of such American Indians in the first fiscal year during which such Indians are served by grants under this part;

"(2) 66 percent of such American Indians in the second fiscal year during which such Indians are served by grants under this part; and

"(3) 100 percent of such American Indians in the third fiscal year during which such Indians are served by grants under this part.

"(e) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. "Reservation."

"EVALUATION

"SEC. 131. Not less than thirty months after the date of the enactment of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, the Secretary shall submit to the Con- 43 USC 1601 note. Submittal to Congress. 29 USC 751. *Ante*, p. 2955.

gress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include—

"(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and

29 USC 721.

"(2) An assessment of the extent to which governing bodies of Indian tribes receiving grants under this part have made services under such grants available to all handicapped American Indians residing on reservations served by such grants."

DECLARATION OF PURPOSE

29 USC 760.

SEC. 107. Section 200 of the Rehabilitation Act of 1973 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of research, demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct research, by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

RESEARCH AUTHORIZATIONS

29 USC 761.

SEC. 108. Section 201(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

National Institute of Handicapped Research.
29 USC 762.
Post, p. 2963.
29 USC 764.

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years; and

"(2) for the purpose of carrying out section 204, $50,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 109. The Rehabilitation Act of 1973 is amended—

Repeal.
29 USC 774, 777c.
Post, 2974.

(1) by repealing section 304 and redesignating section 305 as section 313;

(2) by transferring section 203 to title III and redesignating such section as section 304; 29 USC 763. 29 USC 774.

(3) by repealing section 204 and redesignating section 202 as section 204; and Repeal. 29 USC 764, 762.

(4) by inserting after section 201 the following new sections: 29 USC 761.

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"SEC. 202. (a) In order to promote and coordinate research with respect to handicapped individuals and to more effectively carry out the programs under section 204, there is established within the Department of Health, Education, and Welfare a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Commissioner is responsible under section 3(a) of this Act. Establishment. 29 USC 761a. *Supra.*

"(b) The Director, through the Institute, shall be responsible for— Responsibilities.

"(1) administering the programs described in section 204;

"(2) disseminating information acquired through research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation; *Post,* p. 2965.

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of handicapped individuals may be improved;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"(6) conducting conferences, seminars, and workshops (including in-service training programs) concerning research and engineering advances in rehabilitation pertinent to the problems of handicapped individuals;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

"(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate payable for level V of the Execu- Appointment.

tive Schedule under section 5316 of title 5, United States Code. In carrying out any of his functions under this section, the Director shall be guided by general policies of the National Council on the Handicapped established in title IV. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

Post, p. 2977.

"(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS–17 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5, United States Code.

5 USC 5332 note.

"(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems ncessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

5 USC 5101 *et seq.*, 5331.

Consultants.

"(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

Fellowships.

"(d) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

Grant review.

"(e) The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(f) Not less than 90 percent of the funds appropriated under paragraph (2) of section 201(a) to carry out section 204 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

Ante, p. 2962.
Ante, p. 2963.

Plan, submittal to Congress.

"(g) The Director shall develop and submit to appropriate committees of the Congress within eighteen months after the effective date of this section a long-range plan for rehabilitation research which shall—

"(1) identify any research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment;

"(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, includ-

ing a detailed description of any new types of research recommended under this paragraph for funding; and

"(3) specify appropriate goals and timetables for activities to be conducted under this section.

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, the National Council on the Handicapped established under title IV, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established by section 203, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

Consultation.

Post, p. 2977.

Post, p. 3003.

Infra.

"(h) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

"(i)(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director in his role of Chairman of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.

"INTERAGENCY COMMITTEE

"SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

Interagency Committee on Handicapped Research. Establishment. 29 USC 761b.

"(2) The Committee shall meet not less than four times each year.

"(b) The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

Report to President and congressional committees.

"(c) The Committee, not later than eighteen months after the date of enactment of this section, and annually thereafter, shall submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.".

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 110. Section 204(a) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

Ante, p. 2963.

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Director may";

(2) by striking out "public or nonprofit" and inserting in lieu thereof "public or private";

(3) by striking out "provision of vocational rehabilitation services" and inserting in lieu thereof "provision of vocational and other rehabilitation services";

(4) by inserting after "restorative techniques" the following: ", including basic research where related to rehabilitation techniques or services"; and

(5) by inserting ", psychiatric" after "social".

RESEARCH AND TRAINING CENTERS

SEC. 111. Section 204(b) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

Ante, p. 2963.

(1) by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Director may";

(2) by amending paragraph (1) to read as follows:

"(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.";

(3) in clause (A) of paragraph (2) by inserting "psychiatric," before "psychological"; and

(4) by adding at the end the following new paragraphs:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite,

radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.

"(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation. Joint projects.

"(8) Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped individuals who are aged sixty or older.

"(9) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.

"(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

"(11) Conduct of a model research and demonstration program to develop innovative methods of providing services for preschool age handicapped children, including the following: (A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three; (B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

"(12) Conduct of a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and developing the employment potential of handicapped individuals, including programs which— Model research and training program.

"(A) provide training and continuing education for personnel involved with the employment of handicapped individuals;

"(B) develop model procedures for testing and evaluating the employment potential of handicapped individuals;

"(C) develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of handicapped individuals, including new followup procedures relating to such placement; and

"(E) provide information services regarding education, training, employment, and job placement for handicapped individuals.".

AUTHORIZATIONS FOR REHABILITATION FACILITIES AND VOCATIONAL TRAINING

SEC. 112. (a) (1) The first sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending before October 1, 1982". 29 USC 771.

29 USC 771.

(2) The last sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1983".

29 USC 772.

(b) Section 302(a) of the Rehabilitation Act of 1973 is amended to read as follows:

Appropriation authorization.

"SEC. 302. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.".

LOAN GUARANTEES

29 USC 773.

SEC. 113. Section 303 of the Rehabilitation Act of 1973 is amended to read as follows:

"LOAN GUARANTEES FOR REHABILITATION FACILITIES

"SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

"(b) The Commissioner may, in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

29 USC 776.

Interest payments.

"(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

"(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified

by the Commissioner to the extent he considers consistent with the interests of the United States.

"(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

"(f)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts— Loan guarantee fund, establishment.

"(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

"(B) for payment of interest under subsection (c) on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets. Appropriation authorization.

"(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

"(i) to make payments of interest under subsection (c); or

"(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Treasury notes or obligations.

"(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. Interest rate.

"(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States. 31 USC 774.

"(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.".

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TRAINING

SEC. 114. Section 304 of the Rehabilitation Act of 1973 (as so redesignated by section 109(2) of this Act) is amended— *Ante*, p. 2963.

(1) in subsection (a)—

(A) by striking out "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Commissioner may";

(B) by inserting ", medical, social, and psychological rehabilitation" after "vocational"; and

(C) by striking out "and" before "in performing" and inserting in lieu thereof the following: ", including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained";

(2) in subsection (b)—

(A) by inserting ", rehabilitation psychiatry" after "work"; and

(B) by inserting after "blind and deaf individuals," the following: "specialized personnel in providing job development and job placement services for handicapped individuals,"; and

(3) by adding at the end the following new subsections:

"(c) The Commissioner shall evaluate the impact of the training programs conducted under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

Interpreters for the deaf, grants.

"(d)(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals, the Secretary, through the Office of Information and Resources for the Handicapped, may award grants under this section to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. Not more than twelve programs shall be established or assisted by grants under this section. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

Application.

"(2) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

"(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

"(B) demonstrate the applicant's capacity or potential for providing training for interpreters for deaf individuals;

"(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section;

"(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including

short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the Education for All Handicapped Children Act; and 20 USC 1401 note.

"(E) contain such other information as the Secretary may require.

"(d) There are authorized to be appropriated to carry out this section $34,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.". Appropriation authorization.

COMPREHENSIVE CENTERS

SEC. 115. (a) The Rehabilitation Act of 1973 is amended by inserting after section 304 the following new section: *Ante*, p. 2963.

"COMPREHENSIVE REHABILITATION CENTERS

"SEC. 305. (a)(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities. Grants. 29 USC 775.

"(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504. 29 USC 794.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application— Application.

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c)(1) The designated State unit may—

"(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

"(i) leasing facilities to serve as comprehensive rehabilitation centers;

"(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

"(iii) operating such centers; or

"(iv) carrying out any combination of the activities specified in this subparagraph; and

"(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

"(3) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

"(d)(1) The designated State unit may approve a grant or enter into a contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any facility assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

29 USC 776.

"(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

"(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c)(1)(A)(ii). Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

Appropriation authorization.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the three succeeding fiscal years.".

29 USC 776.

(b) Section 306(a) of the Rehabilitation Act of 1973 is amended by inserting in the first sentence before the period ", except as otherwise provided in section 305(g)".

Supra.

SPECIAL FEDERAL RESPONSIBILITIES

29 USC 770.

SEC. 116. Title III of the Rehabilitation Act of 1973 is amended—

(1) by inserting after the title heading the following:

"PART A—CONSTRUCTION AND TRAINING PROGRAMS"

and

(2) by adding after section 306 the following new part:

"PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) For the purpose of carrying out this part (other than section 313), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982. 29 USC 777.

"(b) Of the amounts appropriated for any fiscal year under subsection (a), 5 percent of such amount shall be available in such fiscal year only for the purpose of making grants under section 312. There is further authorized to be appropriated for each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under section 312, an amount of $5,000,000 for each such fiscal year.

"SPECIAL DEMONSTRATION PROGRAMS

"SEC. 311. (a) Subject to the provisions of section 306, the Commissioner may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for— 29 USC 777a. 29 USC 776.

"(1) establishing programs and, where appropriate, constructing facilities for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps), including individuals with spinal cord injuries and blind or deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services;

"(2) applying new types or patterns of services or devices for handicapped individuals (including programs for providing handicapped individuals, or other individuals in programs servicing handicapped individuals, with opportunities for new careers); and

"(3) operating programs and, where appropriate, renovating and constructing facilities to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

"(b) Any project or demonstration assisted by a grant under this section which provides services to individuals with spinal cord injuries shall— Individuals with spinal cord injuries.

"(1) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(2) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(3) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(4) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"MIGRATORY WORKERS

Grants.
29 USC 777b.
29 USC 776.
29 USC 721.

"SEC. 312. The Commissioner, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

20 USC 241a note.
42 USC 2861.
42 USC 247d.
7 USC 2041 note

"HELLEN KELLER NATIONAL CENTER

Establishment.
29 USC 777c.

"SEC. 313. (a) The purpose of this section is to provide for the establishment and operation of the Hellen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this part for construction of the Center shall remain available until expended.

"(b) In order—

"(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

"(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

"(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

Agreements.

the Secretary, subject to the provisions of section 306, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

"(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations

by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of the Helen Keller National Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

"(d) To the extent feasible the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year beginning before October 1, 1982. Appropriation authorization.

"READER SERVICES FOR THE BLIND

"SEC. 314. (a) The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioner) to— Grants. 29 USC 777d.

"(1) provide reading services to blind persons who are not otherwise eligible for such services through other State or Federal programs; and

"(2) expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible that the reading services provided under this Act will meet the reading need of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

"(b) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require. Application.

"(c) For purposes of this section, the term 'reading services' means— "Reading services."

"(1) the employment of persons who, by reading aloud, can afford blind persons ready access to printed information;

"(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from blind persons for such services;

"(3) the storage and distribution of braille materials and sound recordings;

"(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

"(5) the purchase, storage, and distribution of equipment to blind persons to provide them with individual access to printed materials by mechanical or electronic means; and

"(6) radio reading services for blind persons.

"INTERPRETER SERVICES FOR THE DEAF

"SEC. 315. (a) The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made Grants. 29 USC 777e.

available to deaf individuals and to any public agency or private nonprofit organization involved in the delivery of assistance or services to deaf individuals.

Application.

"(b) No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

"(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum number of deaf individuals feasible;

"(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 101(a)(22);

Ante, p. 2958.

"(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

"(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

"(5) contain such other information as the Secretary may require.

"(c) Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(d) Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to deaf individuals who are receiving rehabilitation services under any other provision of this Act.".

"SPECIAL RECREATIONAL PROGRAMS

Grants.
29 USC 777f.

"SEC. 316. The Commissioner, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4–H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 117. The Rehabilitation of 1973 is amended by striking out title IV and inserting in lieu thereof the following new title: 29 USC 701 note.

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"SEC. 400. (a) There is established with the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals. Membership. 29 USC 780.

"(b)(1) Members of the National Council shall be appointed to serve for terms of three years, except that of the members first appointed— Term.

"(A) five shall serve for terms of one year,

"(B) five shall serve for terms of two years, and

"(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

"(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall— 29 USC 781.

"(1) establish general policies for, and review the operation of, the National Institute of Handicapped Research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

"(4) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals and persons with developmental disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act, in order to assess the effectiveness of such policies, programs, and activities in meeting the needs of handicapped individuals;

Post, p. 3003.

"(5) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve research concerning handicapped individuals, the administration of services for handicapped individuals, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of programs based upon such findings; and

Report to Secretary, Congress, and President.

"(6) submit not later than March 31 of each year (beginning in 1980) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of research concerning the handicapped in the United States, (B) a review of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

COMPENSATION OF NATIONAL COUNCIL MEMBERS

29 USC 782.

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

29 USC 783.

"SEC. 403. (a) The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, up to seven technical and professional employees to assist the National Council to carry out its duties.

5 USC 5101 *et seq.*
5 USC 5331.

"(b) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of

title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code).

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request. General Services Administrator, administrative support.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title. Bylaws and rules. 29 USC 784.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary.". 29 USC 785.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 118. (a)(1) Section 502(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 502. (a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the 'Board') which shall be composed as follows: Establishment. 29 USC 792.

"(A) Eleven members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals. Membership.

"(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

"(i) Department of Health, Education, and Welfare.
"(ii) Department of Transportation.
"(iii) Department of Housing and Urban Development.
"(iv) Department of Labor.
"(v) Department of the Interior.
"(vi) Department of Defense.
"(vii) Department of Justice.
"(viii) General Services Administration.
"(ix) Veterans' Administration.
"(x) United States Postal Service.

The President shall appoint the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

"(2) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall Term.

serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.

"(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

Compensation.

"(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.".

29 USC 792.

(b)(1) Section 502(b)(1) of the Rehabilitation Act of 1973 is amended to read as follows: "(1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;".

42 USC 4151 note.

(2) Section 502(b)(2) of the Rehabilitation Act of 1973 is amended by inserting "communication," before "and attitudinal", and by inserting "telecommunication devices," before "public buildings"; and

(3) Section 502(b) of the Rehabilitation Act of 1973 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clauses: "(7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and (8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.".

(c)(1) The first sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "or contracts with", and by inserting after "organizations" "or contracts with private nonprofit or forprofit organizations".

(2) The second sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of subsection (e), the".

(3) The last sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by inserting "or public conveyance or rolling stock"

after "building" and by striking out "prescribed pursuant to the Act cited in subsection (b) of this section" and inserting in lieu thereof "enforced under this section".

(4) Section 502(d) of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sentence: Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding. 29 USC 792. 5 USC 701 *et seq.*

(5) Section 502(d) of the Rehabilitation Act of 1973 is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The executive director is authorized, at the direction of the Board— Civil action.

"(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any, final order of the Board under this subsection; and

"(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which related to this section or to the Architectural Barriers Act of 1968. 42 USC 4151 note.

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the executive director may appear for and represent the Board in any civil litigation brought under this section.".

"(3) The Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect overcoming to architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.". Development of standards, consultation.

(d) Section 502(e) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(e) Section 502 of the Rehabilitation Act of 1973 is amended by striking out subsection (h) and inserting in lieu thereof the following new subsections:

"(h)(1) Within one year following the enactment of this subsection, the Board shall submit to the President and the Congress a report Report to President and Congress.

containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide handcapped individuals with full access to all programs and activities receiving Federal assistance.

Grants or contracts.

"(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

Appropriation authorization.

"(i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1982, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.".

NONDISCRIMINATION UNDER FEDERAL PROGRAMS AND ACTIVITIES

29 USC 794.

SEC. 119. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) in the section heading by inserting "AND PROGRAMS" after "GRANTS"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.".

Regulations.
Proposals, copies to congressional committees.

NONDISCRIMINATION PROVISIONS; INTERAGENCY COUNCIL; SECRETARIAL DUTIES

SEC. 120. (a) Title V of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sections:

"REMEDIES AND ATTORNEYS' FEES

29 USC 794a.

"SEC. 505. (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706 (f) through 706 (k) (42 U.S.C. 2000e–5 (f) through (k)), shall be available, with respect to

29 USC 791.

any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

"(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act. 42 USC 2000d. 29 USC 794.

"(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"SECRETARIAL RESPONSIBILITIES

"SEC. 506. (1) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance— 29 USC 794b.

"(A) to persons operating rehabilitation facilities; and

"(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization; *Ante*, p. 2979.

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1).

"(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Experts or consultants, compensation.

"(3) The Secretary, with the concurrence of the Board and the President may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(2) of this title." *Ante*, p. 2981.

"(4) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.". Appropriation authorization.

"INTERAGENCY COORDINATING COUNCIL

"SEC. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before Establishment. Membership. 29 USC 794c. Report to President and Congress.

July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

APPLICATION OF OTHER LAWS

29 USC 701 note. SEC. 121. The Rehabilitation Act of 1973 is amended by inserting after section 10 the following new section:

"APPLICATION OF OTHER LAWS

29 USC 710. 42 USC 4251 note. 48 USC 1469a. "SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.".

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 122. (a) The Rehabilitation Act of 1973 is amended—

29 USC 701. (1) by amending section 2 to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living.".

29 USC 702. (2) in section 3(a) by inserting "and part A of title VI" after "titles IV and V", and by inserting at the end thereof the following: "Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of his functions under this Act, the Commissioner shall be guided by general policies of the National Council on the Handicapped established under title IV of this Act.";

Ante, p. 2977.

(3) by striking out section 3(b) and redesignating section 3(c) as 3(b);

29 USC 706. (4) in section 7(3) by striking out "and the initial equipment" and all that follows through the period and inserting in lieu thereof "and may include such additional equipment and staffing as the Commissioner considers appropriate.";

(5) in section 7(4)(B) by inserting after "medical" comma and the word "psychiatric";

(6) in section 7(6)—

(A) by striking out "The term" and inserting in lieu thereof: "(A) Except as otherwise provided in subparagraph (B), the term";

"(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"Handicapped individual." *Ante*, p. 2977. 29 USC 790. "(B) Subject to the second sentence of this subparagraph, the term 'handicapped individual' means, for purposes of titles IV and V of

this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504 as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.";

29 USC 793, 794.

(7) in section 7(10)—

29 USC 706.

(A) by inserting ", psychiatric" after "medical" in subparagraph (A) thereof; and

(B) by inserting "psychiatric," before "psychological" in subparagraph (B) thereof;

(8) in section 7 by (A) redesignating paragraphs (3) through (14) as paragraphs (4) through (15), respectively and (B) inserting after paragraph (2) the following new paragraph:

"(3) The term 'designated State units' means (A) any State agency unit required under section 101(a)(2)(A) of this Act, or (B) in cases in which no such unit is so required, the State agency described in section 101(a)(B)(i) of this Act."

"Designated State units."
29 USC 721.

(9) in section 10 by inserting before the period at the end thereof the following: "except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities";

29 USC 709.

(10) by adding after section 11 (as added by section 121 of this Act) the following new sections:

Ante, p. 2984.

"ADMINISTRATION OF THE ACT

SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

29 USC 711.

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the National Council on the Handicapped.

"(b) In carrying out his duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) The Commissioner may promulgate such regulations as he considers appropriate to carry out his duties under this Act.

Regulations.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

Appropriation authorization.

"REPORTS

"SEC. 13. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report

Submittal to President and Congress.
29 USC 712.

on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"EVALUATION

29 USC 713.

"SEC. 14. (a) The Secretary shall evaluate the impact of all programs authorized by this Act, their general effectiveness in achieving stated goals, and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

Evaluation results, annual publication and availability.

"(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to the Congress and the public.

"(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

Appropriation authorization.

"(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

29 USC 714.

"SEC. 15. (a) The Secretary may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

Information and data retrieval system.

"(b) The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

"(c) Any office established to carry out the provisions of this section shall be known as the "Office of Information and Resources for the Handicapped".

Appropriation authorization.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. No funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.". Restriction. 29 USC 715.

(b) Title I of the Rehabilitation Act of 1973 is further amended—

(1) in parts A through C by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; and 29 USC 721, 722, 730–732, 740, 741.

(2) in section 121(a) by inserting after the first sentence the following new sentence: "Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan.". 29 USC 741.

(c) Title III of the Rehabilitation Act of 1973 is further amended—

(1) in section 300— 29 USC 770.

(A) by adding before the semicolon in paragraph (1) the following: "and authorize such staffing as the Commissioner deems appropriate";

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4);

(2) in section 301 by striking out "initial" each place it appears and by striking out "Secretary" in each place it appears and inserting lieu thereof "Commissioner"; 29 USC 771.

(3) in section 302 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; 29 USC 772.

(4) in subsections (a), (c), (e), (f), and (i) of section 306 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; 29 USC 776.

(5) by amending paragraph (3) of section 306(b) to read as follows:

"(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;"; Annual report. *Ante*, p. 2985.

(6) in paragraph (4) of section 306(b) by striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner"; and

(7) by striking out "SPECIAL FEDERAL RESPONSIBILITIES" in the title heading and inserting in lieu thereof "SUPPLEMENTARY SERVICES AND FACILITIES". 29 USC prec. 770.

(d) Title V of the Rehabilitation Act of 1973 is further amended—

(1) in section 503(a), by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7); and 29 USC 793. 29 USC 706.

(2) in section 504, by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7)". 29 USC 794.

(e) Section 412 of the Energy Conservation and Production Act is amended by striking out "as defined in section 7(6)" and inserting in lieu thereof "as defined in section 7(7)". 42 USC 6862.

(f) Section 1904 of title 38, United States Code, is amended—

(1) by striking out "section 202(b)(2)" and inserting in lieu thereof "and section 204(b)(2)"; and

(2) by striking out ", and section 405" and all that follows through "activities)".

29 USC 701 note.

(g) The table of contents for the Rehabilitation Act of 1973 is amended—

(1) by inserting after the item relating to section 10 the following new items:

"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.";

(2) by striking out the items relating to part D of title I and section 130 and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 130. Vocational rehabilitation services grants.
"Sec. 131. Evaluation.

(3) by striking out the items relating to titles II and III and to sections 200 through 204 and 300 through 306 and inserting in lieu thereof the following:

"TITLE II—RESEARCH

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Interagency committee.
"Sec. 204. Research.

"TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES

"PART A—MISCELLANEOUS PROGRAMS

"Sec. 300. Declaration of purpose.
"Sec. 301. Grants for construction of rehabilitation facilities.
"Sec. 302. Vocational Training Services for handicapped individuals.
"Sec. 303. Loan guarantees for rehabilitation facilities.
"Sec. 304. Training.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 313. Helen Keller National Center.
"Sec. 314. Reader services for the blind.
"Sec. 315. Interpreter services for the deaf.
"Sec. 316. Special Recreational Programs."

(4) by striking out the items relating to title IV and sections 400 through 407 and inserting in lieu thereof the following:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. Establishment of National Council on the Handicapped.
"Sec. 401. Duties of National Council.
"Sec. 402. Compensation of National Council members.
"Sec. 403. Staff of National Council.
"Sec. 404. Administrative powers of National Council.
"Sec. 405. Authorization of appropriations.";

and

(5) by adding at the end of the items relating to title V the following new items:

"Sec. 505. Remedies and attorneys' fees.
"Sec. 506. Secretarial responsibilities.
"Sec. 507. Interagency Coordinating Council.".

TITLE II—COMMUNITY SERVICE PILOT PROGRAMS; PROJECTS WITH INDUSTRY

ESTABLISHMENT OF PROGRAMS

SEC. 201. The Rehabilitation Act of 1973 is amended by adding at the end thereof the following new title: 29 USC 701 note.

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Employment Opportunities for Handicapped Individuals Act'. Employment Opportunities for Handicapped Individuals Act. 29 USC 795 note.

"PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"ESTABLISHMENT OF PILOT PROGRAM

"SEC. 611. (a) In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') is authorized to establish a community service employment pilot program for handicapped individuals. For purposes of this part, the term 'eligible individuals' means persons who are handicapped individuals (as defined in section 7(7) of this Act) and who are referred to programs under this part by designated State units. 29 USC 795. "Eligible individuals." 29 USC 706.

"(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that: Agreements.

"(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

"(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

"(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship. 26 USC 501.

"(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

"(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

"(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

29 USC 721.

"(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

"(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

"(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

Work-related expenses.

"(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

Placement services.

"(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

Rate of pay.

"(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

"(A) the prevailing rate of pay for persons employed in similar occupations by the same employer.

"(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof.

29 USC 201.
29 USC 213.

"(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section.

29 USC 214.

"(c) (1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

Project costs, consultation.

"(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

Non-Federal share.

"(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ADMINISTRATION

"SEC. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehalibitation Services Administration, consult with any designated State unit with regard to—

Consultation with State unit. 29 USC 795a.

"(1) the localities in which community service projects of the type authorized by this part are most needed;

"(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

"(3) potential projects suitable for funding in such localities.

"(b) The Secretary shall coordinate the pilot program established under this part with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

29 USC 801 note. 29 USC 801 note. 42 USC 2701 note. 42 USC 4871 note.

"(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

"(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

Regulations, publication in Federal Register.

"(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

29 USC 795b. 5 USC 2101.

"(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insur-

Contracts.

ance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

"(c) No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this title.

"INTERAGENCY COOPERATION

29 USC 795c.

"SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

Information, dissemination.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

Grants or contracts.
29 USC 795d.

"SEC. 615. (a) (1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States.

State projects, allotment of funds.

"(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 616. For purposes of this part— 29 USC 795e.

"(1) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(2) the term 'pilot program' means the community service employment program for handicapped individuals established under this part; and

"(3) the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals to perform duties of employment.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 617. There are authorized to be appropriated to carry out the purposes of this part $35,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982. 29 USC 795f.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"PROJECTS WITH INDUSTRY

"SEC. 621. (a)(1) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may enter into agreements with individual employers and other entities to establish jointly financed projects which— Jointly financed projects, consultation and agreements. 29 USC 795g.

"(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

"(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

"(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of

such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

"(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, and, to the extent practicable, the appropriate designated State unit and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

Minimum wage. Review.

"(b) No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) unless such agreement—

"(1) provides assurances that handicapped individuals placed with such employer shall receive at least the applicable minimum wage;

"(2) specifies that the Commissioner, together with the designated State unit, has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such designated State unit; and

"(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

Grants and contracts, consultation. 29 USC 795h. Regulations.

"SEC. 622. The Commissioner, in consultation with the Secretaries of Labor and Commerce, may make grants to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

"AUTHORIZATION OF APPROPRIATIONS

29 USC 795i.

"SEC. 623. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for each fiscal year beginning before October 1, 1982.

CONFORMING AMENDMENTS

SEC. 202. (a) The table of contents for the Rehabilitation Act of 1973, as amended by section 120(c)(6), is further amended by adding at the end thereof the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 601. Short title.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"Sec. 611. Establishment of program.
"Sec. 612. Administration.
"Sec. 613. Participants not Federal employees.
"Sec. 614. Interagency cooperation.
"Sec. 615. Equitable distribution of assistance.
"Sec. 616. Definitions.
"Sec. 617. Authorization of appropriations.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 621. Projects with industry.
"Sec. 622. Business opportunities for handicapped individuals.
"Sec. 623. Authorization of appropriations.".

TITLE III—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

COMPREHENSIVE SERVICES

SEC. 301. The Rehabilitation Act of 1973, as amended by section 201 of this Act, is further amended by adding at the end the following new title: *Ante*, p. 2989.

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"PURPOSE

Grants.
29 USC 796.
29 USC 720.

"SEC. 701. The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist States in providing comprehensive services for independent living designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

"ELIGIBILITY

29 USC 796a.

"SEC. 702. Services may be provided under this title to any individual whose ability to engage or continue in employment, or whose ability to function independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services required for the rehabilitation of a handicapped

individual are required to improve significantly either his ability to engage in employment or his ability to function independently in his family or community. Priority of services under this part shall be given to individuals not served by other provisions of this Act.

"Comprehensive services for independent living."
29 USC 720.

"(b) For purposes of this title, the term "comprehensive services for independent living" means any appropriate vocational rehabilitation service (as defined under title I of this Act) and any other service that will enhance the ability of a handicapped individual to live independently and function within his family and community and, if appropriate, secure and maintain appropriate employment. Such services may include any of the following: counseling services, including psychological, psychotherapeutic, and related services; housing incidental to the purpose of this section (including appropriate accommodations to and modifications of any space to serve handicapped individuals); appropriate job placement services; transportation; attendant care; physical rehabilitation; therapeutic treatment; needed prostheses and other appliances and devices; health maintenance; recreational activities; services for children of preschool age, including physical therapy, development of language and communication skills, and child development services; and appropriate preventive services to decrease the needs of individuals assisted under the program for similar services in the future.

"ALLOTMENTS

29 USC 796b.

"SEC. 703. (a) (1) From sums made available for each fiscal year for the purposes of allotments under this subpart, each State whose comprehensive services plan has been approved under section 705 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States. Except as provided in paragraph (2), the allotment to any State under the preceding sentence shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) For purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(b) Amounts necessary to increase the allotments of States under paragraph (1) or to provide allotments under paragraph (2) shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(c) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount

made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"PAYMENTS TO STATES FROM ALLOTMENTS

"SEC. 704. (a) From each State's allotment for a fiscal year under section 703, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine. 29 USC 796c.

"(b)(1) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705. Federal share.

"(2) The non-Federal share of the cost of any project assisted by an allotment under this subpart may be provided in kind.

"(3) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"STATE PLANS

"SEC. 705. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner a State plan for a three-year period for providing comprehensive services for independent living to severely handicapped individuals, and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall— Submittal to Commissioner. 29 USC 796d.

"(1) designate the designated State unit of such State as the agency to administer the programs funded under this part;

"(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfway houses, and patient-release programs) and that the State will provide, to the maximum extent feasible, meaningful alternatives to institutionalization;

"(3)(A) describe the quality, scope, and extent of the comprehensive services for independent living to be provided to handicapped individuals under this part, and specify the State's goals and plans with respect to the distribution of funds received under part B of this title; and

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this part and part B of this title will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968; 42 USC 4151 note.

"(4) provide assurances that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilties Con- 29 USC 722.

42 USC 6011.
20 USC 1412, 1413.

struction Act, and sections 612(4) and 614(a)(5) of the Education for All Handicapped Children Act of 1975, respectively;

"(5) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this title to determine whether services provided to such individuals should be continued, modified, or discontinued;

"(6) provide assurances that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;

"(7) provide assurances that handicapped individuals shall have a substantial role in developing the State plan;

"(8) provide assurances that not less than 20 percent of the funds received by a State under this part shall be used to make grants to local public agencies and private nonprofit organizations for the conduct of independent living services except that the Commissioner may waive the requirement of this clause if the Commissioner determines, on the basis of evidence submitted by the State, that such State cannot feasibly use the funds required to be expended under this section for the purposes of this clause; and

"(9) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

Approval.

"(b) As soon as practicable after receiving a State plan submitted under subsection (a), the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section. The provisions of subsections (b), (c), and (d) of section 101 of this Act shall apply to any State plan submitted to the Commissioner pursuant to this section, except that for purposes of this section, all references in such subsections to the Secretary shall be deemed to be references to the Commissioner.

29 USC 721.
Ante, pp. 2958, 2959.

"PART B—CENTERS FOR INDEPENDENT LIVING

"GRANT PROGRAM ESTABLISHED

29 USC 796e.

"SEC. 711. (a) The Commissioner may make grants to any designated State unit which administers the State plan under section 705 to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2).

Application.

"(b) No grant may be made under this section unless an application therefore has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsection (c); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) An application by a public or nonprofit agency or organization for such grant shall—

"(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

"(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including as appropriate— Independent living services.

"(A) intake counseling to determine the client's need for specific rehabilitation services;

"(B) referral and counseling services with respect to attendant care;

"(C) counseling and advocacy services with respect to legal and economic rights and benefits;

"(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in jobseeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

"(E) housing and transportation referral and assistance;

"(F) surveys, directories, and other activities to identify appropriate housing and accessible transportation, and other support services;

"(G) health maintenance programs;

"(H) peer counseling;

"(I) community group living arrangements;

"(J) education and training necessary for living in the community and participating in community activities;

"(K) individual and group social and recreational activities;

"(L) other programs designed to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals;

"(M) attendant care and training of personnel to provide such care; and

"(N) such other services as may be necessary and not inconsistent with the provisions of this title; and

"(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(d) If, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted such an application, the Commissioner may accept applications for grants under this section from local public agencies or private nonprofit organizations within such State. After the receipt of such applications, the Commissioner may make grants to such agencies or organizations for the purpose of establishing independent living centers to provide the services described in subsection (c)(2).

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"SERVICE PROGRAM ESTABLISHED

"SEC. 721. (a) The Commissioner may make grants to any designated State unit to provide independent living services to older blind individuals. Such services shall be designed to assist an older blind individual to adjust to his blindness by becoming more able to care for his individual needs. Such services may include— Grants. 29 USC 796f.

"(1) services to help correct blindness such as (A) outreach services, (B) visual screening, (C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions, and (D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older blind individual to become more mobile and more able to care for himself;

"(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

"(5) guide services, reader services, and transportation; and

"(6) any other appropriate services designed to assist a blind person in coping with daily living activities, including supportive services or rehabilitation teaching services.

Application.

"(b) No grant may be made under this section unless an application therefor, containing such information as the Commissioner may require, has been submitted to and approved by the Commissioner. The Commissioner may not approve any application for a grant unless the application contains assurances that the designated State unit will seek to incorporate any new methods and approaches relating to the services described in subsection (a) into its State plan for independent living services under section 705 of this title.

Funds.

"(c) Funds received under this section by any designated State unit may be used to make grants to public or private nonprofit agencies or organizations to—

"(1) conduct activities which will improve or expand services for older blind individuals and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services to older blind individuals in accordance with the provisions of subsection (a).

"Older blind individual."

"(d) For purposes of this section, the term 'older blind individual' means an individual aged fifty-five or older whose severe visual impairment makes gainful employment extremely difficult to attain but for whom independent living goals are feasible.

"PART D—GENERAL PROVISIONS

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Grants.
29 USC 796g.

"SEC. 731. (a) The Commissioner may make grants to States to establish systems to protect and advocate the rights of severely handicapped individuals. In order to be eligible for a grant under this section, a State shall provide the Commissioner with assurances that any system established with grants made under this section shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals receiving services under this title within the State. A State must provide that such system will be independent of any designated State unit that provides services under this part to such individuals.

Application.

"(b) No grant may be made under this section unless an application therefor has been submitted to the Commissioner containing such information and in such form and in accordance with such procedures as the Commissioner may, by regulation, prescribe.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

Affirmative action.
29 USC 796h.

"SEC. 732. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take

affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"PART E—AUTHORIZATIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 731. (a) For the purpose of carrying out the provisions of parts A, B, and C of this title, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $200,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for the fiscal year ending September 30, 1982. 29 USC 796i.

"(b) From the amounts authorized to be appropriated under this section, an amount shall be made available for the purpose of carrying out the provisions of Part C of this title in an amount not in excess of 10 percent of the amount made available for carrying out the provisions of subpart 1 of Part A of this title.

"(c)(1) For the purpose of carrying out Part D of this title, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, but in no event shall such sums exceed $6,000,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981.

"(2) The provisions of section 1913 of title 18 of the United States Code shall be applicable to all moneys authorized under the provisions of this subsection."

CONFORMING AMENDMENT

SEC. 302. The table of contents for the Rehabilitation Act of 1973, as amended in section 120(c)(6) and section 202(b), is further amended by adding at the end thereof the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"Sec. 701. Purpose.
"Sec. 702. Eligibility.
"Sec. 703. Allotments.
"Sec. 704. Payments to States from allotments.
"Sec. 705. State plans.

"PART B—INDEPENDENT LIVING CENTERS

"Sec. 711. Grant program established.

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"Sec. 721. Service program established.

"PART D—GENERAL PROVISIONS

"Sec. 731. Protection and advocacy of individual rights.
"Sec. 732. Employment of handicapped individuals.

"PART E—AUTHORIZATIONS

"Sec. 731. Authorization of appropriations.".

TITLE IV—SPECIAL STUDIES AND MISCELLANEOUS PROVISIONS

RESEARCH AND DEMONSTRATION PROJECTS

Grants and contracts. 29 USC 762a.

SEC. 401. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to, and to enter into contract with, public and nonprofit agencies and organizations for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families. A report evaluating each project funded under this section shall be submitted to appropriate committees of the Congress within four months after the date each such project is completed.

Report to congressional committees.

Appropriation authorization.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary.

No funds other than those appropriated pursuant to this subsection can be used for the conduct of research specifically authorized by this section.

Impact study, transmittal to Congress.

(c) Within one year after the date appropriations are made under subsection (b) for purposes of research and demonstration projects under subsection (a), the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under the Rehabilitation Act of 1973 on recipients of disability payments under titles II and XVI of the Social Security Act. The study shall examine the relationship between the vocational rehabilitation services provided under the Rehabilitation Act of 1973 and the programs under sections 222 and 1615 of the Social Security Act, and shall include—

29 USC 701 note.
42 USC 401, 1381.
42 USC 422, 1382d.

"(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under the Rehabilitation Act of 1973;

"(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

"(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under the Rehabilitation Act of 1973 and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 201 of the Budget and Accounting Act, 1921; and

31 USC 11.

"(4) recommendations to improve the coordination of services under the Rehabilitation Act of 1973 with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.".

SPECIAL STUDY CONCERNING HANDICAPPED INDIVIDUALS LIVING IN RURAL AREAS

Consultation. 29 USC 713 note.

SEC. 402. The Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individ-

uals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as he deems appropriate to the President, and to the appropriate committees of the Congress.

Submittal to President and congressional committees.

SPECIAL STUDY CONCERNING DISINCENTIVES TO EMPLOYMENT

SEC. 403. In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than twenty-four months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress.

Consultation. 29 USC 713 note.

Submittal to the President and congressional committees.

PROHIBITION ON CERTAIN PROGRAMS

SEC. 404. No funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with direct responsibility for carrying out such research, demonstration, or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

29 USC 701 note; 42 USC 3001 note, 5101 note.

LIMITATIONS ON AUTHORIZATIONS

SEC. 405. No authorization of appropriations in this Act (except for title V) shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no new borrowing authority or authority to enter into contracts under this Act (except for title V) shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

Infra.

TITLE V—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

REFERENCE TO ACT

SEC. 501. Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Services and Facilities Construction Act.

42 USC 6001 note.

SHORT TITLE; FINDINGS AND PURPOSES

SEC. 502. Part A is amended by striking out section 101 and inserting in lieu thereof the following sections:

42 USC 6001 note.

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

Developmental Disabilities Assistance and Bill of Rights Act. 42 USC 6000 note.

"FINDINGS AND PURPOSES

42 USC 6000.

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs cannot be covered or otherwise met under the Education for All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

20 USC 1401 note.
29 USC 701 note.

"(B) to assist States in appropriate planning activities;

Grants.

"(C) to make grants to States and public and private, nonprofit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

"(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.".

DEFINITIONS AND SPECIAL REPORT

42 USC 6001.

SEC. 503. (a) Section 102(1) is amended by inserting "the Northern Mariana Islands," after "Guam,".

(b)(1) Paragraph (7) of section 102 is amended to read as follows:

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.".

(2) The Secretary of Health, Education, and Welfare shall submit to Congress, not later than January 15, 1981, a special report concerning the impact of the amendment of the definition of "developmentally disabled" made by paragraph (1). This report shall include— Report to Congress. 42 USC 6001 note.

(A) an analysis of the impact of the amendment on each of the categories of persons with developmental disabilities receiving services under the Developmental Disabilities Assistance and Bill of Rights Act before the date of enactment of this Act, and for the fiscal year ending on September 30, 1979 and for the succeeding fiscal year, including— *Ante*, p. 3003.

(i) the number of persons with developmental disabilities in each category served before and after such date of enactment; and

(ii) the amounts expended under such Act for each such category of persons with developmental disabilities before and after such date of enactment; and

(B) an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided before the date of enactment of this Act and for the fiscal year ending September 30, 1979 and for the succeeding fiscal year.

(c) Paragraph (8) of section 102 is amended— 42 USC 6001.

(1) by inserting "(A)" after "(8)";

(2) by striking out "means specialized services" and all that follows through "such term includes" and inserting in lieu thereof the following: "means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the"; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) The term 'priority services' means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

"(C) The term 'case management services' means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

"(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person's immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

"(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination

of) other services, information on programs and services, and monitoring of the persons' progress.

"(D) The term 'child development services' means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

"(E) The term 'alternative community living arrangement services' means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

"(F) The term 'nonvocational social-developmental services' means such services as will assist persons with developmental disabilities in performing daily living and work activities.".

42 USC 6001.

(d) Paragraph (9) of section 102 is amended to read as follows:

"(9) The term 'satellite center' means an entity which is affiliated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.".

(e) Paragraph (10) of section 102 is amended by striking out "and which aids" and all that follows through the end thereof and inserting in lieu thereof the following: "and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities.

"(B) Demonstration of the provision of exemplary services relating to persons with developmental disabilities.

"(C)(i) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.".

(f) Section 102 is amended by inserting after paragraph (11) the following new paragraph:

"(12) The term 'State Planning Council' means a State Planning Council established under section 137.".

Post, p. 3015.

REPEAL OF NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES OF THE DEVELOPMENTALLY DISABLED

Repeal.

SEC. 504. (a) Section 108 is repealed.

42 USC 6007.
42 USC 6009.

(b)(1) Section 110(a) is amended by striking out ", in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled,".

42 USC 6081.

(2) Section 145(a) is amended by striking out ", after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled,".

(3) Section 145(e) is amended by striking out "(after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled)".

REGULATIONS

SEC. 505. The text of section 109 is amended to read as follows: Regulations.
"SEC. 109. The Secretary, not later than 180 days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.". 42 USC 6008.

EVALUATION SYSTEM

SEC. 506. (a) Section 110(a) is amended— 42 USC 6009.

(1) by striking out "within two years of" and all that follows through "Bill of Rights Act develop" in the first sentence and inserting in lieu thereof "develop, not later than October 1, 1979,";

(2) by striking out "Within six months after the development of such a system, the" in the second sentence and inserting in lieu thereof "The";

(3) by striking out "the receipt of assistance under this title, that such State" in the second sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1980, under this title, that the State";

(4) by striking out "Within two years after the date of the development of such a system, the" in the third sentence and inserting in lieu thereof "The"; and

(5) by striking out "the receipt of assistance under this title, that each State" in the third sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1982, under this title, that the State".

(b) Subsection (c) of section 110 is amended to read as follows:

"(c) Upon development of the evaluation system described in subsection (b), the Secretary shall submit to Congress a report on the system, which report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.". Report to Congress.

(c) Section 110 is amended by striking out subsection (d).

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 507. Section 111 is amended by adding at the end thereof the following new sentence: "The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.". 42 USC 6010.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 508. (a) Section 113(a) is amended— 42 USC 6012.

(1) by striking out "The Secretary shall require" and all that follows through "such system will (A)" and inserting in lieu thereof "In order for a State to receive an allotment under part C, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system must (A)";

(2) by striking out "State" in clause (2)(B);

(3) by striking out "and (B)" and inserting in lieu thereof "(B) not be administered by the State Planning Council, and (C)";

(4) by inserting before the period at the end of the first sentence the following: ", and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year"; and

(5) by striking out the last sentence thereof.

42 USC 6012.

(b) Section 113(b)(1) is amended—

(1) by inserting "(A)" after "(b)(1)";

Allotments.

(2) by amending the second sentence to read as follows: "Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be allotted an amount under this subparagraph which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year."; and

42 USC 6062.

(3) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts of the allotments for grants to be made in accordance with such subparagraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under paragraph (2), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such subparagraph as the total of the amounts appropriated for that year under paragraph (2) bears to the aggregate amount required to make an allotment to each of the States in accordance with subparagraph (A).".

(c) Paragraph (2) of section 113(b) is amended (1) by striking out "and" after "1977,", and (2) by adding before the period the following: ", $9,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section".

GRANT AUTHORITY, APPLICATIONS, AND AUTHORIZATION OF APPROPRIATIONS FOR UNIVERSITY AFFILIATED FACILITIES

42 USC 6041-6043.

SEC. 509. Part B is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"GRANT AUTHORITY

42 USC 6031. 42 USC 6033. 42 USC 6001.

"SEC. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102(10).

"(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which

have received a grant under subsection (a), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(2) Assessing the need for trained personnel in providing assistance to persons with developmental disabilities.

"(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities.

"(4) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.

"(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under this section.

"APPLICATIONS

"SEC. 122. (a) Not later than six months after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the Secretary shall establish by regulation standards for university affiliated facilities. These standards for facilities shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

University affiliated facilities, standards.
42 USC 6032.
Ante, p. 2955.

"(b) No grant may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

"(2)(A) the applicant's facility is in full compliance with the standards established under subsection (a), or

"(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and (ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, fully comply with such standards.

"(c) The Secretary shall establish such a process for the review of applications for grants under section 121 as will ensure, to the max-

Review process.

imum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's facility reviews the application.

"(d)(1) The amount of any grant under section 121(a) to a university affiliated facility shall not be less than $150,000 for any fiscal year.

"(2) The amount of any grant under section 121(c) to a satellite center which has received a grant under section 121(b) (as in effect before the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978) for the fiscal year ending September 30, 1978, shall not be less than $75,000 for any fiscal year.

Ante, p. 2955.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6033.

"SEC. 123. (a) For the purpose of making grants under section 121, there are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $16,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a), not less than—

"(1) $9,000,000 for the fiscal year ending September 30, 1979,

"(2) $10,000,000 for the fiscal year ending September 30, 1980, and

"(3) $11,000,000 for the fiscal year ending September 30, 1981,

shall be made available for grants under subsections (a) and (c) of section 121 to qualified applicants which received grants under section 121 during the fiscal year ending September 30, 1978. The remainder of the sums appropriated for such fiscal years shall be made available as the Secretary determines, except that not less than 40 percent of such remainder shall be made available for grants under subsections (b) and (c) of section 121.".

AUTHORIZATION AND ALLOTMENTS FOR STATES

42 USC 6061.

SEC. 510. (a) Section 131 is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $55,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $75,000,000 for the fiscal year ending September 30, 1981.".

42 USC 6062.

(b) Section 132(a) is amended—

(1) by striking out subparagraph (B) of paragraph (1) and paragraphs (2), (3), and (4);

(2) by striking out "and facilities" each place it appears in subsection (a)(1);

(3) by striking out "(A)" in paragraph (1)(A) and by redesignating clauses (i) through (iii) of such paragraph as subparagraphs (A) through (C), respectively; and

(4) by inserting at the end thereof the following new paragraphs:

"(2) For any fiscal year, the allotment under paragraph (1)—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

"(B) to any other State may not be less than the greater of $250,000, or the amount of the allotment (determined without

regard to subsection (d)) received by the State for the fiscal year ending September 30, 1978.

"(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of the State.".

STATE PLANS FOR PROVISION OF SERVICES

SEC. 511. (a) Subsection (b) of section 133 is amended to read as follows: 42 USC 6063.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements: Requirements.

"State Planning Council and Administration of Plan

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned. *Post*, p. 3015.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports. Reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"Description of Objectives and Services

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 132 will be used 42 USC 6062.

to complement and augment rather than duplicate or replace services for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

"(C) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

Ante, p. 3005.

"(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"Use of Funds

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

42 USC 6062.

"(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) such funds paid to the State under section 132 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

"Provision of Priority Services

"(4)(A) The plan must—

"(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

"(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

Ante, p. 2955.

"(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

"(ii) For any year in which the sums appropriated under section 131 do not exceed—

42 USC 6061.

"(I) $60,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is

greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), and

"(II) $90,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii). 42 USC 6062.

"(iii) A State, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount which is available to it under section 132 and which is expended for planning activities below the amount so expended for planning activities in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

"(iv) For purposes of this subparagraph, the term 'service activities' includes, with respect to an area of services, provision of services in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use and availability of services in the area. "Service activities."

"(C) Notwithstanding subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of areas of services to be expended for service activities in additional areas of services if he determines that the expenditures of the State on service activities in the initially specified areas of services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional area or areas of services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the areas of priority services (as defined in section 102(8)(B)). *Ante*, p. 3005.

"(D) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas. Urban or rural poverty areas.

"Standards for Provision of Services and Protection of Rights of Recipients of Services

"(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

"(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4157) (known as the Architectural Barriers Act of 1968). Buildings.

42 USC 6011.

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans).

42 USC 6010.

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistent with section 111 (relating to rights of the developmentally disabled).

"(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

"Professional Assessment and Evaluation Systems

"(6) The plan must provide for—

"(A) an assessment of the adequacy of the skill level of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

42 USC 6009.

"(B) the planning and implementation of an evaluation system (in accordance with section 110(a)).

"Utilization of VISTA Personnel; Effect of Deinstitutionalization

42 USC 4951 note.

"(7)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

Consultation.

"(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services (as defined in section 102(8)(E)), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

Ante, p. 3006.

"Additional Information and Assurances Required by Secretary

"(8) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.".

42 USC 6063.

(b) Section 133(d)(1) is amended by striking out "for such purpose" and inserting in lieu thereof "for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan".

(c) Section 133(d)(2) is amended by striking out "during the fiscal year ending June 30, 1975" and inserting in lieu thereof "during the previous fiscal year". 42 USC 6063.

STATE PLANNING COUNCILS

SEC. 512. (a) Subsection (a) of section 137 is amended to read as follows: 42 USC 6067.

"(a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities (as defined in section 102(7)). The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State. Establishment. *Ante*, p. 3004. Membership.

"(2) At least one-half of the membership of each such Council shall consist of persons who—

"(A) are persons with developmental disabilities or parents or guardians of such persons, or

"(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity. 42 USC 1320a-5. 42 USC 1320a-3.

"(3) Of the members of the Council described in paragraph (2)—

"(A) at least one-third shall be persons with developmental disabilities, and

"(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.".

(b) Section 137(b) is amended to read as follows:

"(b) Each State Planning Council shall—

"(1) develop jointly with the State agency or agencies designated under section 133(b)(1)(B) the State plan required by this part, including the specification of areas of services under section 133(b)(4)(A)(ii);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and Review.

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably Reports and records.

request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.".

42 USC 6067. (c) Section 137 is amended by striking out subsection (c).

SPECIAL PROJECT GRANTS

42 USC 6081. SEC. 513. (a) Section 145 is amended—

(1) by inserting "(particularly priority services)" after "otherwise improving services" in subsection (a)(1);

(2) by striking out ", including programs" and all that follows through the semicolon at the end of paragraph (1) of subsection (a) and inserting in lieu thereof "; and";

(3) by striking out "subsection (d)" in subsections (e) and (f) and inserting in lieu thereof "subsection (f)" each place it appears;

(4) by redesignating subsections (b) through (f) as subsections (d) through (h), respectively;

(5) by inserting after paragraph (1) of subsection (a) the following (and redesignating paragraphs (2) through (9) of subsection (a) as paragraphs (1) through (8), respectively):

"(2) demonstrations (and research, training, and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving protection and advocacy services related to the state protection and advocacy system (described in section 113).

42 USC 6012. "(b) Grants provided under subsection (a) shall include grants for—"; and

(6) by inserting before subsection (d), as so redesignated, the following new subsection:

Participation procedures. "(c) The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making grants under this section.".

(b) Section 145(b), as amended by subsection (a) of this section, is amended (1) by striking out "and" at the end of paragraph (7), (2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new paragraph:

"(9) developing or demonstrating innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.".

(c) Section 145(f), as so redesignated, is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, $22,000,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 6011. SEC. 514. (a) Section 112 is amended—

(1) by striking out "after September 30, 1976," in subsection (a);

(2) by striking out "Such" in subsection (b)(3) and inserting in lieu thereof "The"; and

(3) by striking out "an" before "objective criteria" in clause (B) of subsection (b)(3).

(b) Section 134 is amended— 42 USC 6064.

(1) by striking out "CONSTRUCTION," in its heading,

(2) by striking out "(a)" in subsection (a), and

(3) by striking out subsection (b).

(c) Section 135 is amended— 42 USC 6065.

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(d) The heading to part C is amended to read as follows:

"PART C—GRANTS FOR PLANNING AND PROVISION OF SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES".

EFFECTIVE DATE

SEC. 515. The amendments made by this title shall apply to payments under title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act for fiscal years beginning on and after October 1, 1978. 42 USC 6000 note. 42 USC 2661 note.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1149 (Comm. on Education and Labor) and No. 95-1780 (Comm. of Conference).

SENATE REPORT No. 95-890 accompanying S. 2600 (Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 16, considered and passed House.

Sept. 20, 21, S. 2600 considered in Senate; H.R. 12467, amended, passed in lieu.

Sept. 26, House agreed to Senate amendments, with amendments.

Oct. 15, Senate and House agreed to conference report.

39-194 O—80—pt. 3— —25 : QL3

Public Law 95-603
95th Congress

An Act

Nov. 6, 1978
[S. 990]

To amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Act of 1978".

Federal Physicians Comparability Allowance Act of 1978.
5 USC 5948 note.

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

5 USC 5948.

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(1) $7,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) $10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,

"(2) occupies an internship or residency training position,

"(3) is a reemployed annuitant, or

"(4) is fulfilling a scholarship obligation.

"(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

"(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

"(g) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under— "Government physician."

"(A) section 5332 of this title, relating to the General Schedule; 5 USC 5332.

"(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel; 5 USC 5361.

"(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

"(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

"(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

"(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, and the District of Columbia government. "Agency."

"(h) (1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay. 5 USC 5551, 5595, 8101 *et seq.*, 8301 *et seq.*, 8701 *et seq.*

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

"(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.". TVA administration.

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances.".

5 USC 5948 note. (c) No agreement shall be entered into under section 5948 of title 5, United States Code, as added by subsection (a), before the 60th day after the date of the enactment of this Act. No such agreement shall provide for the payment of any allowance under such section for any pay period beginning before the later of—

(1) such 60th day, or

(2) October 1, 1978.

5 USC 5948 note. SEC. 3. The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-864 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 13, Senate concurred in House amendments.

Public Law 95-604
95th Congress

An Act

To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

Nov. 8, 1978
[H.R. 13650]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Uranium Mill Tailings Radiation Control Act of 1978".

Uranium Mill Tailings Radiation Control Act of 1978.
42 USC 7901 note.

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—REMEDIAL ACTION PROGRAM

Sec. 101. Definitions.
Sec. 102. Designation of processing sites.
Sec. 103. State cooperative agreements.
Sec. 104. Acquisition and disposition of land and materials.
Sec. 105. Indian tribe cooperative agreements.
Sec. 106. Acquisition of lands by Secretary.
Sec. 107. Financial assistance.
Sec. 108. Remedial action.
Sec. 109. Rules.
Sec. 110. Enforcement.
Sec. 111. Public participation.
Sec. 112. Termination; authorization.
Sec. 113. Limitation.
Sec. 114. Reports to Congress.
Sec. 115. Active operations; liability for remedial action.

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATIONS

Sec. 201. Definition.
Sec. 202. Custody of disposal site.
Sec. 203. Authority to establish certain requirements.
Sec. 204. Cooperation with States.
Sec. 205. Authorities of Commission respecting certain byproduct material.
Sec. 206. Authority of Environmental Protection Agency respecting certain byproduct material.
Sec. 207. Authorization of appropriations for grants.
Sec. 208. Effective date.
Sec. 209. Consolidation of licenses and procedures.

TITLE III—STUDY AND DESIGNATION OF TWO MILL TAILINGS SITES IN NEW MEXICO

Sec. 301. Study.
Sec. 302. Designation by Secretary.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that uranium mill tailings located at active and inactive mill operations may pose a potential and significant radiation health hazard to the public, and that the protection of

42 USC 7901.

the public health, safety, and welfare and the regulation of interstate commerce require that every reasonable effort be made to provide for the stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings.

(b) The purposes of this Act are to provide—

(1) in cooperation with the interested States, Indian tribes, and the persons who own or control inactive mill tailings sites, a program of assessment and remedial action at such sites, including, where appropriate, the reprocessing of tailings to extract residual uranium and other mineral values where practicable, in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public, and

(2) a program to regulate mill tailings during uranium or thorium ore processing at active mill operations and after termination of such operations in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

TITLE I—REMEDIAL ACTION PROGRAM

DEFINITIONS

42 USC 7911.

SEC. 101. For purposes of this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "Indian tribe" means any tribe, band, clan, group, pueblo, or community of Indians recognized as eligible for services provided by the Secretary of the Interior to Indians.

(5) The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

(6) The term "processing site" means—

(A) any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, except in the case of a site at or near Slick Rock, Colorado, unless—

(i) such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

(ii) a license (issued by the Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; and

42 USC 2011 note.
42 USC 2021.

(B) any other real property or improvement thereon which—

(i) is in the vicinity of such site, and

(ii) is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

Any ownership or control of an area by a Federal agency which is acquired pursuant to a cooperative agreement under this title shall not be treated as ownership or control by such agency for purposes of subparagraph (A)(i). A license for the production of any uranium product from residual radioactive materials shall not be treated as a license for production from ores within the meaning of subparagraph (A)(ii) if such production is in accordance with section 108(b).

(7) The term "residual radioactive material" means—

(A) waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and

(B) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

(8) The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

(9) The term "Federal agency" includes any executive agency as defined in section 105 of title 5 of the United States Code.

(10) The term "United States" means the 48 contiguous States and Alaska, Hawaii, Puerto Rico, the District of Columbia, and the territories and possessions of the United States.

DESIGNATION OF PROCESSING SITES

SEC. 102. (a)(1) As soon as practicable, but no later than one year after enactment of this Act, the Secretary shall designate processing sites at or near the following locations: 42 USC 7912.

Salt Lake City, Utah
Green River, Utah
Mexican Hat, Utah
Durango, Colorado
Grand Junction, Colorado
Rifle, Colorado (two sites)
Gunnison, Colorado
Naturita, Colorado
Maybell, Colorado
Slick Rock, Colorado (two sites)
Shiprock, New Mexico
Ambrosia Lake, New Mexico
Riverton, Wyoming
Converse County, Wyoming
Lakeview, Oregon
Falls City, Texas
Tuba City, Arizona
Monument Valley, Arizona
Lowman, Idaho
Cannonsburg, Pennsylvania

Remedial action.

Subject to the provisions of this title, the Secretary shall complete remedial action at the above listed sites before his authority terminates under this title. The Secretary shall within one year of the date of enactment of this Act also designate all other processing sites within the United States which he determines requires remedial action to carry out the purposes of this title. In making such designation, the Secretary shall consult with the Administrator, the Commission, and the affected States, and in the case of Indian lands, the appropriate Indian tribe and the Secretary of the Interior.

(2) As part of his designation under this subsection, the Secretary, in consultation with the Commission, shall determine the boundaries of each such site.

(3) No site or structure with respect to which remedial action is authorized under Public Law 92-314 in Grand Junction, Colorado, may be designated by the Secretary as a processing site under this section.

86 Stat. 222.

Health hazard assessment.

(b) Within one year from the date of the enactment of this Act, the Secretary shall assess the potential health hazard to the public from the residual radioactive materials at designated processing sites. Based upon such assessment, the Secretary shall, within such one year period, establish priorities for carrying out remedial action at each such site. In establishing such priorities, the Secretary shall rely primarily on the advice of the Administrator.

Notification.

(c) Within thirty days after making designations of processing sites and establishing the priorities for such sites under this section, the Secretary shall notify the Governor of each affected State, and, where appropriate, the Indian tribes and the Secretary of the Interior.

(d) The designations made, and priorities established, by the Secretary under this section shall be final and not be subject to judicial review.

(e)(1) The designation of processing sites within one year after enactment under this section shall include, to the maximum extent practicable, the areas referred to in section 101(6)(B).

(2) Notwithstanding the one year limitation contained in this section, the Secretary may, after such one year period, include any area described in section 101(6)(B) as part of a processing site designated under this section if he determines such inclusion to be appropriate to carry out the purposes of this title.

STATE COOPERATIVE AGREEMENTS

42 USC 7913.

SEC. 103. (a) After notifying a State of the designation referred to in section 102 of this title, the Secretary subject to section 113, is authorized to enter into cooperative agreements with such State to perform remedial actions at each designated processing site in such State (other than a site located on Indian lands referred to in section 105). The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. The Secretary shall commence preparations for cooperative agreements with respect to each designated processing site as promptly as practicable following the designation of each site.

Terms and Conditions.

(b) Each cooperative agreement under this section shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited

to, a limitation on the use of Federal assistance to those costs which are directly required to complete the remedial action selected pursuant to section 108.

(c)(1) Except where the State is required to acquire the processing site as provided in subsection (a) of section 104, each cooperative agreement with a State under section 103 shall provide that the State shall obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary or any person designated by him to perform remedial action at such site. Written consent.

(2) Such written consent shall include a waiver by each such person on behalf of himself, his heirs, successors, and assigns— Waiver.

(A) releasing the United States of any liability or claim thereof by such person, his heirs, successors, and assigns concerning such remedial action, and

(B) holding the United States harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action.

(d) Each cooperative agreement under this section shall require the State to assure that the Secretary, the Commission, and the Administrator and their authorized representatives have a permanent right of entry at any time to inspect the processing site and the site provided pursuant to section 104(b)(1) in furtherance of the provisions of this title and to carry out such agreement and enforce this Act and any rules prescribed under this Act. Such right of entry under this section or section 106 into an area described in section 101(6)(B) shall terminate on completion of the remedial action, as determined by the Secretary.

(e) Each agreement under this section shall take effect only upon the concurrence of the Commission with the terms and conditions thereof.

(f) The Secretary may, in any cooperative agreement entered into under this section or section 105, provide for reimbursement of the actual costs, as determined by the Secretary, of any remedial action performed with respect to so much of a designated processing site as is described in section 101(6)(B). Such reimbursement shall be made only to a property owner of record at the time such remedial action was undertaken and only with respect to costs incurred by such property owner. No such reimbursement may be made unless—

(1) such remedial action was completed prior to enactment of this Act, and unless the application for such reimbursement was filed by such owner within one year after an agreement under this section or section 105 is approved by the Secretary and the Commission, and

(2) the Secretary is satisfied that such action adequately achieves the purposes of this Act with respect to the site concerned and is consistent with the standards established by the Administrator pursuant to section 275(a) of the Atomic Energy Act of 1954. *Post*, p. 3039.

ACQUISITION AND DISPOSITION OF LANDS AND MATERIALS

SEC. 104. (a) Each cooperative agreement under section 103 shall require the State, where determined appropriate by the Secretary with the concurrence of the Commission, to acquire any designated process- 42 USC 7914.

ing site, including where appropriate any interest therein. In determining whether to require the State to acquire a designated processing site or interest therein, consideration shall be given to the prevention of windfall profits.

Residual radioactive material, removal.

(b)(1) If the Secretary with the concurrence of the Commission determines that removal of residual radioactive material from a processing site is appropriate, the cooperative agreement shall provide that the State shall acquire land (including, where appropriate, any interest therein) to be used as a site for the permanent disposition and stabilization of such residual radioactive materials in a safe and environmentally sound manner.

(2) Acquisition by the State shall not be required under this subsection if a site located on land controlled by the Secretary or made available by the Secretary of the Interior pursuant to section 106 (a)(2) is designated by the Secretary, with the concurrence of the Commission, for such disposition and stabilization.

(c) No State shall be required under subsection (a) or (b) to acquire any real property or improvement outside the boundaries of—

(1) that portion of the processing site which is described in section 101(6)(A), and

(2) the site used for disposition of the residual radioactive materials.

(d) In the case of each processing site designated under this title other than a site designated on Indian land, the State shall take such action as may be necessary, and pursuant to regulations of the Secretary under this subsection, to assure that any person who purchases such a processing site after the removal of radioactive materials from such site shall be notified in an appropriate manner prior to such purchase, of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site. The Secretary shall issue appropriate rules and regulations to require notice in the local land records of the residual radioactive materials which were located at any processing site and notice of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place.

Notification.

Rules and regulations.

(e)(1) The terms and conditions of any cooperative agreement with a State under section 103 shall provide that in the case of any lands or interests therein acquired by the State pursuant to subsection (a), the State, with the concurrence of the Secretary and the Commission, may—

(A) sell such lands and interests,

(B) permanently retain such land and interests in lands (or donate such lands and interests therein to another governmental entity within such State) for permanent use by such State or entity solely for park, recreational, or other public purposes, or

(C) transfer such lands and interests to the United States as provided in subsection (f).

No lands may be sold under subparagraph (A) without the consent of the Secretary and the Commission. No site may be sold under subparagraph (A) or retained under subparagraph (B) if such site is used for the disposition of residual radioactive materials.

(2) Before offering for sale any lands and interests therein which comprise a processing site, the State shall offer to sell such lands and interests at their fair market value to the person from whom the State acquired them.

(f) (1) Each agreement under section 103 shall provide that title to—

(A) the residual radioactive materials subject to the agreement, and

(B) any lands and interests therein which have been acquired by the State, under subsection (a) or (b), for the disposition of such materials,

shall be transferred by the State to the Secretary when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the requirements imposed pursuant to this title. No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of this Act other than payments for any administrative and legal costs incurred in carrying out such transfer.

(2) Custody of any property transferred to the United States under this subsection shall be assumed by the Secretary or such Federal agency as the President may designate. Notwithstanding any other provision of law, upon completion of the remedial action program authorized by this title, such property and minerals shall be maintained pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The Commission may, pursuant to such license or by rule or order, require the Secretary or other Federal agency having custody of such property and minerals to undertake such monitoring, maintenance, and emergency measures necessary to protect public health and safety and other actions as the Commission deems necessary to comply with the standards of section 275(a) of the Atomic Energy Act of 1954. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring and emergency measures under this subsection, but shall take no other action pursuant to such license, rule or order with respect to such property and minerals unless expressly authorized by Congress after the date of enactment of this Act. The United States shall not transfer title to property or interest therein acquired under this subsection to any person or State, except as provided in subsection (h). *Post*, p. 3039.

(g) Each agreement under section 103 which permits any sale described in subsection (e) (1) (A) shall provide for the prompt reimbursement to the Secretary from the proceeds of such sale. Such reimbursement shall be in an amount equal to the lesser of—

(1) that portion of the fair market value of the lands or interests therein which bears the same ratio to such fair market value as the Federal share of the costs of acquisition by the State to such lands or interest therein bears to the total cost of such acquisition, or

(2) the total amount paid by the Secretary with respect to such acquisition.

The fair market value of such lands or interest shall be determined by the Secretary as of the date of the sale by the State. Any amounts received by the Secretary under this title shall be deposited in the Treasury of the United States as miscellaneous receipts. Fair market value.

(h) No provision of any agreement under section 103 shall prohibit the Secretary of the Interior, with the concurrence of the Secretary of Energy and the Commission, from disposing of any subsurface mineral rights by sale or lease (in accordance with laws of the United States applicable to the sale, lease, or other disposal of such rights) which are associated with land on which residual radioactive materials are disposed and which are transferred to the United States as required under this section if the Secretary of the Interior takes such action as the Commission deems necessary pursuant to a license issued by the Commission to assure that the residual radioactive materials will not be disturbed by reason of any activity carried on following such disposition. If any such materials are disturbed by any such activity, the Secretary of the Interior shall insure, prior to the disposition of the minerals, that such materials will be restored to a safe and environmentally sound condition as determined by the Commission, and that the costs of such restoration will be borne by the person acquiring such rights from the Secretary of the Interior or from his successor or assign.

INDIAN TRIBE COOPERATIVE AGREEMENTS

42 USC 7915.

SEC. 105. (a) After notifying the Indian tribe of the designation pursuant to section 102 of this title, the Secretary, in consultation with the Secretary of the Interior, is authorized to enter into a cooperative agreement, subject to section 113, with any Indian tribe to perform remedial action at a designated processing site located on land of such Indian tribe. The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. In performing any remedial action under this section and in carrying out any continued monitoring or maintenance respecting residual radioactive materials associated with any site subject to a cooperative agreement under this section, the Secretary shall make full use of any qualified members of Indian tribes resident in the vicinity of any such site. Each such agreement shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act. Such terms and conditions shall require the following:

Terms and conditions.

(1) The Indian tribe and any person holding any interest in such land shall execute a waiver (A) releasing the United States of any liability or claim thereof by such tribe or person concerning such remedial action and (B) holding the United States harmless against any claim arising out of the performance of any such remedial action.

(2) The remedial action shall be selected and performed in accordance with section 108 by the Secretary or such person as he may designate.

(3) The Secretary, the Commission, and the Administrator and their authorized representatives shall have a permanent right of entry at any time to inspect such processing site in furtherance of the provisions of this title, to carry out such agreement, and to enforce any rules prescribed under this Act.

Each agreement under this section shall take effect only upon concurrence of the Commission with the terms and conditions thereof.

(b) When the Secretary with the concurrence of the Commission determines removal of residual radioactive materials from a process-

ing site on lands described in subsection (a) to be appropriate, he shall provide, consistent with other applicable provisions of law, a site or sites for the permanent disposition and stabilization in a safe and environmentally sound manner of such residual radioactive materials. Such materials shall be transferred to the Secretary (without payment therefor by the Secretary) and permanently retained and maintained by the Secretary under the conditions established in a license issued by the Commission, subject to section 104(f)(2) and (h).

Transfer to Secretary of the Interior.

ACQUISITION OF LAND BY SECRETARY

SEC. 106. Where necessary or appropriate in order to consolidate in a safe and environmentally sound manner the location of residual radioactive materials which are removed from processing sites under cooperative agreements under this title, or where otherwise necessary for the permanent disposition and stabilization of such materials in such manner— 42 USC 7916.

(1) the Secretary may acquire land and interests in land for such purposes by purchase, donation, or under any other authority of law or

(2) the Secretary of the Interior may make available public lands administered by him for such purposes in accordance with other applicable provisions of law.

Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.

Consultation.

FINANCIAL ASSISTANCE

SEC. 107. (a) In the case of any designated processing site for which an agreement is executed with any State for remedial action at such site, the Secretary shall pay 90 per centum of the actual cost of such remedial action, including the actual costs of acquiring such site (and any interest therein) or any disposition site (and any interest therein) pursuant to section 103 of this title, and the State shall pay the remainder of such costs from non-Federal funds. The Secretary shall not pay the administrative costs incurred by any State to develop, prepare, and carry out any cooperative agreement executed with such State under this title, except the proportionate share of the administrative costs associated with the acquisition of lands and interests therein acquired by the State pursuant to this title. 42 USC 7917.

(b) In the case of any designated processing site located on Indian lands, the Secretary shall pay the entire cost of such remedial action.

REMEDIAL ACTION

SEC. 108. (a)(1) The Secretary or such person as he may designate shall select and perform remedial actions at designated processing sites and disposal sites in accordance with the general standards prescribed 42 USC 7918.

by the Administrator pursuant to section 275 a. of the Atomic Energy Act of 1954. The State shall participate fully in the selection and performance of a remedial action for which it pays part of the cost. Such remedial action shall be selected and performed with the concurrence of the Commission and in consultation, as appropriate, with the Indian tribe and the Secretary of the Interior.

Post, p. 3039.

(2) The Secretary shall use technology in performing such remedial action as will insure compliance with the general standards promulgated by the Administrator under section 275 a. of the Atomic Energy Act of 1954 and will assure the safe and environmentally sound stabilization of residual radioactive materials, consistent with existing law. No such remedial action may be undertaken under this section before the promulgation by the Administrator of such standards.

Evaluation.

(b) Prior to undertaking any remedial action at a designated site pursuant to this title, the Secretary shall request expressions of interest from private parties regarding the remilling of the residual radioactive materials at the site and, upon receipt of any expression of interest, the Secretary shall evaluate among other things the mineral concentration of the residual radioactive materials at each designated processing site to determine whether, as a part of any remedial action program, recovery of such minerals is practicable. The Secretary, with the concurrence of the Commission, may permit the recovery of such minerals, under such terms and conditions as he may prescribe to carry out the purposes of this title. No such recovery shall be permitted unless such recovery is consistent with remedial action. Any person permitted by the Secretary to recover such mineral shall pay to the Secretary a share of the net profits derived from such recovery, as determined by the Secretary. Such share shall not exceed the total amount paid by the Secretary for carrying out remedial action at such designated site. After payment of such share to the United States under this subsection, such person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from such recovery, as determined by the Secretary. The person recovering such minerals shall bear all costs of such recovery. Any person carrying out mineral recovery activities under this paragraph shall be required to obtain any necessary license under the Atomic Energy Act of 1954 or under State law as permitted under section 274 of such Act.

42 USC 2011 note.
42 USC 2021.

RULES

42 USC 7919.

SEC. 109. The Secretary may prescribe such rules consistent with the purposes of this Act as he deems appropriate pursuant to title V of the Department of Energy Organization Act.

42 USC 7191.

ENFORCEMENT

42 USC 7920.

SEC. 110. (a)(1) Any person who violates any provision of this title or any cooperative agreement entered into pursuant to this title or any rule prescribed under this Act concerning any designated processing site, disposition site, or remedial action shall be subject to an assessment by the Secretary of a civil penalty of not more than $1,000 per day per violation. Such assessment shall be made by order after notice and an opportunity for a public hearing, pursuant to section 554 of title 5, United States Code.

Notice, hearing opportunity.

(2) Any person against whom a penalty is assessed under this section may, within sixty calendar days after the date of the order of

the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct. 5 USC 500 *et seq.* Jurisdiction.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review. Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this section. 42 USC 7172.

(4) No civil penalty may be assessed against the United States or any State or political subdivision of a State or any official or employee of the foregoing.

(5) Nothing in this section shall prevent the Secretary from enforcing any provision of this title or any cooperative agreement or any such rule by injunction or other equitable remedy.

(b) Subsection (a) shall not apply to any licensing requirement under the Atomic Energy Act of 1954. Such licensing requirements shall be enforced by the Commission as provided in such Act. 42 USC 2011 note.

PUBLIC PARTICIPATION

SEC. 111. In carrying out the provisions of this title, including the designation of processing sites, establishing priorities for such sites, the selection of remedial actions, and the execution of cooperative agreements, the Secretary, the Administrator, and the Commission shall encourage public participation and, where appropriate, the Secretary shall hold public hearings relative to such matters in the States where processing sites and disposal sites are located. 42 USC 7921.

TERMINATION; AUTHORIZATION

SEC. 112. (a) The authority of the Secretary to perform remedial action under this title shall terminate on the date seven years after the date of promulgation by the Administrator of general standards applicable to such remedial action unless such termination date is specifically extended by an Act of Congress enacted after the date of enactment of this Act. 42 USC 7922.

(b) The amounts authorized to be appropriated to carry out the purposes of this title by the Secretary, the Administrator, the Commission, and the Secretary of the Interior shall not exceed such amounts as are established in annual authorization Acts for fiscal year 1979 and each fiscal year thereafter applicable to the Department of Energy. Any sums appropriated for the purposes of this title shall be available until expended.

LIMITATION

SEC. 113. The authority under this title to enter into contracts or other obligations requiring the United States to make outlays may 42 USC 7923.

be exercised only to the extent provided in advance in annual authorization and appropriation Acts.

REPORTS TO CONGRESS

42 USC 7924.

SEC. 114. (a) Beginning on January 1, 1980, and each year thereafter until January 1, 1986, the Secretary shall submit a report to the Congress with respect to the status of the actions required to be taken by the Secretary, the Commission, the Secretary of the Interior, the Administrator, and the States and Indian tribes under this Act and any amendments to other laws made by this Act. Each report shall—

(1) include data on the actual and estimated costs of the program authorized by this title;

(2) describe the extent of participation by the States and Indian tribes in this program;

(3) evaluate the effectiveness of remedial actions, and describe any problems associated with the performance of such actions; and

(4) contain such other information as may be appropriate.

Such report shall be prepared in consultation with the Commission, the Secretary of the Interior, and the Administrator and shall contain their separate views, comments, and recommendations, if any. The Commission shall submit to the Secretary and Congress such portion of the report under this subsection as relates to the authorities of the Commission under title II of this Act.

(b) Not later than July 1, 1979, the Secretary shall provide a report to the Congress which identifies all sites located on public or acquired lands of the United States containing residual radioactive materials and other raidoactive waste (other than waste resulting from the production of electric energy) and specifies which Federal agency has jurisdiction over such sites. The report shall include the identity of property and other structures in the vicinity of such site that are contaminated or may be contaminated by such materials and the actions planned or taken to remove such materials. The report shall describe in what manner such sites are adequately stabilized and otherwise controlled to prevent radon diffusion from such sites into the environment and other environmental harm. If any site is not so stabilized or controlled, the report shall describe the remedial actions planned for such site and the time frame for performing such actions. In preparing the reports under this section, the Secretary shall avoid duplication of previous or ongoing studies and shall utilize all information available from other departments and agencies of the United States respecting the subject matter of such report. Such agencies shall cooperate with the Secretary in the preparation of such report and furnish such information as available to them and necessary for such report.

Cooperation.

(c) Not later than January 1, 1980, the Administrator, in consultation with the Commission, shall provide a report to the Congress which identifies the location and potential health, safety, and environmental hazards of uranium mine wastes together with recommendations, if any, for a program to eliminate these hazards.

(d) Copies of the reports required by this section to be submitted to the Congress shall be separately submitted to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce

of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) The Commission, in cooperation with the Secretary, shall ensure that any relevant information, other than trade secrets and other proprietary information otherwise exempted from mandatory disclosure under any other provision of law, obtained from the conduct of each of the remedial actions authorized by this title and the subsequent perpetual care of those residual radioactive materials is documented systematically, and made publicly available conveniently for use.

ACTIVE OPERATIONS; LIABILITY FOR REMEDIAL ACTION

SEC. 115. (a) No amount may be expended under this title with respect to any site licensed by the Commission under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act at which production of any uranium product from ores (other than from residual radioactive materials) takes place. 42 USC 7925. 42 USC 2011 note. 42 USC 2021.

(b) In the case of each processing site designated under this title, the Attorney General shall conduct a study to determine the identity and legal responsibility which any person (other than the United States, a State, or Indian tribe) who owned or operated or controlled (as determined by the Attorney General) such site before the date of the enactment of this Act may have under any law or rule of law for reclamation or other remedial action with respect to such site. The Attorney General shall publish the results of such study, and provide copies thereof to the Congress, as promptly as practicable following the date of the enactment of this Act. The Attorney General, based on such study, shall, to the extent he deems it appropriate and in the public interest, take such action under any provision of law in effect when uranium was produced at such site to require payment by such person of all or any part of the costs incurred by the United States for such remedial action for which he determines such person is liable. Study.

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION DEFINITION

SEC. 201. Section 11e. of the Atomic Energy Act of 1954, is amended to read as follows: 42 USC 2014.

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content." "Byproduct material."

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.— 42 USC 2113.

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11e. 42 USC 2002, 2111. *Supra.*

(2), shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material, as defined in section 11 e. (2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection b. (1) to acquire land used for the disposal of byproduct material.

Ante, p. 3033.

Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs.

Rule, regulation or order.

"(b)(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 11 e. (2), pursuant to such license shall be transferred to—

"(A) the United States, or

"(B) the State in which such land is located, at the option of such State.

"(2) Unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 84(b) in such manner as will protect the public health, safety, and the environment.

"(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

"(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such

custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

"(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

"(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State. 42 USC 2092.

"(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act. *Post*, p. 3039.

"(6) The transfer of title to land or byproduct materials, as defined in section 11 e. (2), to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer. *Ante*, p. 3033.

"(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978. *Ante*, p. 3025.

"(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

"c. Upon termination on any license to which this section applies, the Commission shall determine whether or not the licensee has com-

plied with all applicable standards and requirements under such license.".

Effective date. 42 USC 2113 note.

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954, is amended by inserting the following new item after the item relating to section 82:

"Sec. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

42 USC 2201.

SEC. 203. Section 161 of the Atomic Energy Act of 1954, is amended by adding the following new subsection at the end thereof:

42 USC 2231.

"x. Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure—

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11 e. (2), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

Ante, p. 3033.

"(2) that—

"(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.".

COOPERATION WITH STATES

42 USC 2021.

SEC. 204. (a) Section 274 b. of the Atomic Energy Act of 1954, is amended by adding "as defined in section 11 e. (1)" after the words

"byproduct materials" in paragraph (1) by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11 e. (2);". *Ante*, p. 3033.

(b) Section 274 d. (2) of such Act is amended by inserting the following before the word "compatible": "in accordance with the requirements of subsection o. and in all other respects". 42 USC 2021.

(c) Section 274 n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.". "Agreement."

(d) Section 274 j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.". Review.

(e)(1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of byproduct material, as defined in section 11 e. (2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and *Ante*, p. 3033.

"(3) procedures which— *Post*, p. 3039.

"(A) in the case of licenses, provide procedures under State law which include—

"(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

"(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 11 e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.".

Ante, p. 3033.

42 USC 2201.

42 USC 2021.

(f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11 e. (2).".

Ante, p. 3033.

42 USC 2021 note.

(g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

42 USC 2021 note.

(h) (1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) of such Act, may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.— 42 USC 2114.

"a. The Commission shall insure that the management of any byproduct material, as defined in section 11 e. (2), is carried out in such manner as— 42 USC 2014.

"(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and *Infra.*

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended. 42 USC 6901 note.

"b. In carrying out its authority under this section, the Commission is authorized to— Rule, regulation or order.

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to 42 USC 2111. comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.". Civil penalty. *Ante,* p. 3033. 42 USC 2282.

(b) The first sentence of section 81 of the Atomic Energy Act of 1954, is amended to read as follows: "No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.". 42 USC 2111. 42 USC 2112.

(c) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83: *Supra.*

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. (a) Chapter 19 of the Atomic Energy Act of 1954, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.— 42 USC 2022.

Rule.

"a. As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. The Administrator may periodically revise any standard promulgated pursuant to this subsection.

Ante, p. 3025.

Ante, p. 3022.

42 USC 6901 note.

Rule.

"b. (1) As soon as practicable, but not later than eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material.

Ante, p. 3033.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided, however*, That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11 e. (2) or any revision thereof.

42 USC 6921.

Ante, p. 3036.

Publication in Federal Register. Notice, hearing opportunity.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

Consultation.

Judicial review.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing

a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

5 USC 701 *et seq.*

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards promulgated pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsecton o. of such section.

42 USC 2021.

"e. Nothing in this Act applicable to byproduct material, as defined in section 11 e. (2) of this Act, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

Ante, p. 3033.
42 USC 7401 note.

(b) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

33 USC 1251 note.
42 USC 2018 *et seq.*

"Sec. 275. Health and environmental standards for uranium mill tailings.".

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of the Atomic Energy Act of 1954, to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

42 USC 2014 note.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954.

42 USC 2113 note.

42 USC 2011 note.

TITLE III—STUDY AND DESIGNATION OF TWO MILL TAILINGS SITES IN NEW MEXICO

STUDY

42 USC 7941.

SEC. 301. The Commission, in consultation with the Attorney General and the Attorney General of the State of New Mexico, shall conduct a study to determine the extent and adequacy of the authority of the Commission and the State of New Mexico to require, under the Atomic Energy Act of 1954 (as amended by title II of this Act) or under State authority as permitted under section 274 of such Act or under other provision of law, the owners of the following active uranium mill sites to undertake appropriate action to regulate and control all residual radioactive materials at such sites to protect public health, safety, and the environment: the former Homestake-New Mexico Partners site near Milan, New Mexico, and the Anaconda carbonate process tailings site near Bluewater, New Mexico. Such study shall be completed and a report thereof submitted to the Congress and to the Secretary within one year after enactment of this Act, together with such recommendations as may be appropriate. If the Commission determines that such authority is not adequate to regulate and control such materials at such sites in the manner provided in the first sentence of this section, the Commission shall include in the report a statement of the basis for such determination. Nothing in this Act shall be construed to prevent or delay action by a State as permitted under section 274 of the Atomic Energy Act of 1954 or under any other provision of law or by the Commission to regulate such residual radioactive materials at such sites prior to completion of such study.

42 USC 2021.

Report to Congress.

DESIGNATION BY SECRETARY

42 USC 7942.

SEC. 302. (a) Within ninety days from the date of his receipt of the report and recommendations submitted by the Commission under section 301, notwithstanding the limitations contained in section 101(6)(A) and in section 115(a), if the Commission determines, based on such study, that such sites cannot be regulated and controlled by the State or the Commission in the manner described in section 301, the Secretary may designate either or both of the sites referred to in section 301 as a processing site for purposes of title I. Following such designation, the Secretary may enter into cooperative agreements with New Mexico to perform remedial action pursuant to such title concerning only the residual radioactive materials at such site resulting from uranium produced for sale to a Federal agency prior to January 1, 1971, under contract with such agency. Any such designation shall be submitted by the Secretary, together with his estimate of the cost of carrying out such remedial action at the designated site, to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

Submittal to congressional committees.

(b)(1) No designation under subsection (a) shall take effect before the expiration of one hundred and twenty calendar days (not including any day in which either House of Congress is not in session

because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after receipt by such Committees of such designation.

(c) Except as otherwise specifically provided in subsection (a), any remedial action under title I with respect to any sites designated under this title shall be subject to the provisions of title I (including the authorization of appropriations referred to in section 112(b)).

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1480, Pt. I (Comm. on Interior and Insular Affairs) and Pt. II (Comm. on Interstate and Foreign Commerce).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Oct. 3, considered and passed House.

Oct. 13, considered and passed Senate, amended.

Oct. 14, House concurred in Senate amendment with amendments.

Oct. 15, Senate concurred in House amendments.

Public Law 95-605
95th Congress

An Act

Nov. 8, 1978
[S. 2774]

To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes.

Toiyabe National Forest, Nev. Boundaries extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in the protection and management of the various resources of the lands, including the protection, improvement, and maintenance of the watershed, wildlife, recreation, and natural environment values thereof, situated in the Lake Tahoe Basin, and to promote the management and protection of such lands under principles of multiple use and sustained yield, the boundaries of the Toiyabe National Forest are hereby extended to include the area described in section 2 hereof. Subject to any valid claims now existing and hereafter maintained, any lands of the United States within such area are hereby added to such National Forest and shall be subject to law and regulations applicable to the National Forests.

SEC. 2. This Act shall be applicable to the following lands:

(a) a tract of land referred to as the "Whittell property", situated in section 10, lot 2, township 13 north, range 18 east, Mount Diablo Meridian, Nevada, containing 34.4 acres more or less.

SEC. 3. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 7 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 2 of this Act. In addition, the Act of August 5, 1970 (Public Law 91-372) is hereby amended to remove the limitation on expenditures of $12,500,000 as it applies to the area described in the Act of August 5, 1970 (84 Stat. 694).

16 USC 460*l*-9.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1614 accompanying H.R. 13221 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1298 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Oct. 3, H.R. 13221 considered and passed House.
Oct. 9, considered and passed Senate.
Oct. 14, Considered and passed House.

Public Law 95-606
95th Congress

An Act

To promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes.

Nov. 8, 1978
[S. 2727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amateur Sports Act of 1978".

Amateur Sports Act of 1978.
36 USC 371 note.

OLYMPIC COMMITTEE REORGANIZATION

SECTION 1. (a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), hereinafter in this Act referred to as "the Act", is amended in the first section—

36 USC 371.

(1) by striking out "That the following persons, to wit:" and inserting in lieu thereof the following:

"TITLE I—CORPORATION

"SEC. 101. The following persons, to wit:";

(2) in the first sentence by striking out "corporation" before the period and inserting in lieu thereof "Corporation"; and

(3) by amending the last sentence thereof to read as follows: "The Corporation shall maintain its principal offices and national headquarters in such place in the United States as is determined by the Corporation, and may hold its annual and special meetings in such places as the Corporation shall determine.".

(b) The Act is further amended by striking out sections 2 through 12 and inserting in lieu thereof the following:

36 USC 372–382.

"SEC. 102. A majority of the persons named in section 101 of this Act, or their successors, are hereby authorized to meet to complete the organization of the Corporation by the adoption of a constitution and bylaws, the election of officers, and by doing all things necessary to carry into effect the provisions of this Act.

36 USC 372.

"SEC. 103. As used in this Act, the term—

Definitions.
36 USC 373.

"(1) 'amateur athlete' means any athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes;

"(2) 'amateur athletic competition' means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete;

"(3) 'amateur sports organization' means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States which sponsors or arranges any amateur athletic competition;

"(4) 'Corporation' means the United States Olympic Committee;

"(5) 'international amateur athletic competition' means any amateur athletic competition between any athlete or athletes repre-

senting the United States, either individually or as part of a team, and any athletic or athletes representing any foreign country;

"(6) 'national governing body' means an amateur sports organization which is recognized by the Corporation in accordance with section 201 of this Act; and

"(7) 'sanction' means a certificate of approval issued by a national governing body.

Objects and purposes.
36 USC 374.

"SEC. 104. The objects and purposes of the Corporation shall be to—

"(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

"(2) coordinate and develop amateur athletic activity in the United States directly relating to international amateur athletic competition, so as to foster productive working relationships among sports-related organizations;

"(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic Games and the Pan-American Games when held in the United States;

"(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

"(5) promote and support amateur athletic activities involving the United States and foreign nations;

"(6) promote and encourage physical fitness and public participation in amateur athletic activities;

"(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

"(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

"(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

"(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) encourage and provide assistance to amateur athletic activities for women;

"(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals; and

"(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented.

"SEC. 105. (a) The Corporation shall have perpetual succession and power to— 36 USC 375.

"(1) serve as the coordinating body for amateur athletic activity in the United States directly relating to international amateur athletic competition;

"(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization;

"(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games, and obtain, either directly or by delegation to the appropriate national governing body, amateur representation for such games;

"(4) recognize eligible amateur sports organizations as national governing bodies for any sport which is included on the program of the Olympic Games or the Pan-American Games;

"(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes which involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and which arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the Corporation;

"(6) sue and be sued;

"(7) make contracts;

"(8) acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

"(9) accept gifts, legacies, and devices in furtherance of its corporate purposes;

"(10) borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(11) provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the Corporation;

"(12) approve and revoke membership in the Corporation;

"(13) adopt and alter a corporate seal;

"(14) establish and maintain offices for the conduct of the affairs of the Corporation;

"(15) publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(16) do any and all acts and things necessary and proper to carry out the purposes of the Corporation.

"(b) The Corporation shall adopt and may amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Corporation may amend its constitution only if it—

"(1) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2); and

"(2) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

36 USC 376. "SEC. 106. (a) Eligibility for membership in the Corporation shall be determined in accordance with the constitution and bylaws of the Corporation.

"(b) In its constitution and bylaws, the Corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

"(1) amateur sports organizations recognized as national governing bodies in accordance with section 201 of this Act;

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;

"(3) amateur sports organizations which conduct a national program or regular national amateur athletic competition in two or more sports which are included on the program of the Olympic Games or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

"(4) individuals not affiliated or associated with any amateur sports organization who in the Corporation's judgment represent the interests of the American public in the activities of the Corporation.

36 USC 377. "SEC. 107. The Corporation shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

36 USC 378. "SEC. 108. The Corporation shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

36 USC 379. "SEC. 109. The Corporation may acquire any or all of the assets of the existing unincorporated association, known as 'The United States Olympic Association', upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such unincorporated association.

36 USC 380. "SEC. 110. (a) Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

"(1) the symbol of the International Olympic Committee, consisting of 5 interlocking rings;

"(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with 5 interlocking rings displayed on the chief;

"(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the Corporation; or

"(4) the words 'Olympic', 'Olympiad', 'Citius Altius Fortius', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; popularly known as the Trademark Act of 1946). However, any person who

15 USC 1051 note.

actually used the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a) (3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

"(b) The Corporation may authorize contributors and suppliers of goods or services to use the trade name of the Corporation as well as any trademark, symbol, insignia, or emblem of the International Olympic Committee or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation or United States Olympic or Pan-American team or team members.

"(c) The Corporation shall have exclusive right to use the name 'United States Olympic Committee'; the symbol described in subsection (a)(1); the emblem described in subsection (a)(2); and the words 'Olympic', 'Olympiad', 'Citius Altius Fortius' or any combination thereof subject to the preexisting rights described in subsection (a).

"SEC. 111. As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served. 36 USC 381.

"SEC. 112. The right to alter, amend, or repeal this Act at any time is hereby expressly reserved. 36 USC 382.

"SEC. 113. (a) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost. Reports to President and Congress. 36 USC 382a.

"(b) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the Speaker of the House of Representatives and to the President of the Senate a detailed report of those grants authorized to the Corporation pursuant to the provisions of section 211 of the Act and a full and complete statement of the expenditures of such funds made available. The report shall be referred to the Committee on Appropriations of each House and shall include a detailed and comprehensive description of those programs which the Corporation anticipate it will finance during the next fiscal year out of such funds made available pursuant to the provisions of section 211 of the Act. The Corporation shall continue to transmit the report required under this subsection (b) until the total sums made available under section 211 of the Act have been expended. Reports to Speaker of House and President of Senate.

"SEC. 114. In its constitution and bylaws, the Corporation shall establish and maintain provisions for the swift and equitable resolution of disputes involving any of its members and relating to the 36 USC 382b.

39-191 O—80 - pt. 3 - - 27 : QL3

opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Pan-American Games, world championship competition, or other such protected competition as defined in such constitution and bylaws.".

NATIONAL GOVERNING BODIES

SEC. 2. The Act, as amended by section 1 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

36 USC 391.

"SEC. 201. (a) For any sport which is included on the program of the Olympic Games or the Pan-American Games, the Corporation is authorized to recognize as a national governing body an amateur sports organization which files an application and is eligible for such recognition, in accordance with the provisions of subsection (b) of this section. The Corporation shall recognize only one national governing body for each sport for which an application is made and approved. Prior to the recognition of a national governing body under the authority granted under this title and in accordance with the procedures and requirements of this section, the Corporation shall hold a hearing open to the public on the application for such recognition. The Corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the Corporation's principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing.

Notice.

"(b) No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

"(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition, and has the managerial and financial capability to plan and execute its obligations;

"(2) submits an application for recognition, in such form as the Corporation shall require, as a national governing body and, upon application, submits a copy of its corporate charter and bylaws and any additional information as is considered necessary or appropriate by the Corporation;

"(3) agrees to submit, upon demand of the Corporation, to binding arbitration conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving its recognition as a national governing body, as provided for in section 205 of this title, or involving the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, as provided for in the Corporation's constitution and bylaws;

"(4) demonstrates that it is autonomous in the governance of its sport, in that it independently determines and controls all matters central to such governance, does not delegate such determination and control, and is free from outside restraint, and demonstrates that it is a member of no more than one international sports federation which governs a sport included on the program of the Olympic Games or the Pan-American Games;

"(5) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or to any amateur sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(6) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate;

"(7) is governed by a board of directors or other such governing board whose members are selected without regard to race, color, religion, national origin or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on such board of directors or other such governing board;

"(8) demonstrates that its board of directors or other such governing board includes among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition in the sport for which recognition is sought within the preceding 10 years, and that the membership and voting power held by such individuals is not less than 20 percent of such membership and voting power held in that board of directors or other such governing board;

"(9) provides for reasonable direct representation on its board of directors or other such governing board for any amateur sports organization which, in the sport for which recognition is sought, conducts, on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition, a national program or regular national amateur athletic competition, and ensures that such representation shall reflect the nature, scope, quality, and strength of the programs and competitions of such amateur sports organization in relation to all other such programs and competitions in such sport in the United States;

"(10) demonstrates that none of its officers are also officers of any other amateur sports organization which is recognized as a national governing body;

"(11) provides procedures for the prompt and equitable resolution of grievances of its members;

"(12) does not have eligibility criteria relating to amateur status which are more restrictive than those of the appropriate international sports federation; and

"(13) demonstrates, if it is an amateur sports organization seeking recognition as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under section 202 of this Act.

"(c)(1) Except as provided in paragraph (2), any amateur sports organization which on the date of enactment of this title is recognized by the Corporation to represent a particular sport shall be considered to be the national governing body for that sport. Such an organization

is exempt for a period of 2 years from the date of enactment of this title from meeting the requirements of subsection (b) of this section, and during the 2-year period shall take the necessary actions to meet such requirements if it desires to retain its recognition. After the expiration of the 2-year period, such an organization shall continue as the national governing body for that sport unless the Corporation determines that such organization is not in compliance with the requirements of subsection (b) of this section, in which event the Corporation shall—

"(A) suspend the recognition of such national governing body;

"(B) revoke the recognition of such national governing body; or

"(C) extend the 2-year period for not longer than 1 year, if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements.

If, at the end of the extension period referred to in subparagraph (C) of this paragraph, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body. Any such national governing body aggrieved by the Corporation's determination under this subsection may submit a demand for arbitration in accordance with section 205 (c) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the Corporation may suspend or revoke the recognition of a national governing body during the 2-year period if such suspension or revocation is for the same reason as the Corporation could have revoked or suspended such national governing body prior to the date of the enactment of this title.

"(d) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with subsection (a) of this section, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

36 USC 392.

"SEC. 202. (a) For the sport which it governs, a national governing body is under duty to—

"(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

"(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

"(3) keep amateur athletes informed of policy matters and reasonably reflect the views of such athletes in its policy decisions;

"(4) promptly review every request submitted by an amateur sports organization or person for a sanction (A) to hold an international amateur athletic competition in the United States; or (B) to sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, and determine whether to grant such sanction, in accordance with the provisions of subsection (b) of this section;

"(5) allow an amateur athlete to compete in any international amateur athletic competition conducted under its auspices or that of any other amateur sports organization or person, unless it

establishes that its denial was based on evidence that the organization or person conducting the competition did not meet the requirements stated in subsection (b) of this section;

"(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;

"(7) encourage and support amateur athletic sports programs for handicapped individuals and the participation of handicapped individuals in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals;

"(8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

"(9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

"(b) As a result of its review under subsection (a)(4) of this section, if a national governing body does not determine by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport, the national governing body shall promptly grant to an amateur sports organization or person a sanction to—

"(1) hold an international amateur athletic competition in the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) demonstrates that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition, and

"(C) submits to the national governing body an audited or notarized financial report of similar events, if any, conducted by the amateur sports organization or person; or

"(2) sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) submits a letter from the appropriate entity which will hold the international amateur athletic competition certifying that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition; and

"(C) submits a report of the most recent trip, if any, to a foreign country which the amateur sports organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition.

36 USC 393.

"SEC. 203. For the sport which it governs, a national governing body is authorized to—

"(1) represent the United States in the appropriate international sports federation;

"(2) establish national goals and encourage the attainment of those goals;

"(3) serve as the coordinating body for amateur athletic activity in the United States;

"(4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;

"(5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for the determination of eligibility standards for participation in such competitions, except for that amateur athletic competition specified in section 206 of this title;

"(6) recommend to the Corporation individuals and teams to represent the United States in the Olympic Games and the Pan-American Games; and

"(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than

the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

"SEC. 204. The Corporation may review all matters relating to the continued recognition of a national governing body and may take such action as it considers appropriate, including, but not limited to, placing conditions upon the continued recognition of the national governing body. Review. 36 USC 394.

"SEC. 205. (a) (1) Any amateur sports organization or person which belongs to or is eligible to belong to a national governing body may seek to compel such national governing body to comply with the requirements of sections 201(b) and 202 of this title by filing a written complaint with the Corporation. Such organization or person may take such action only after having exhausted all available remedies within such national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. The Corporation shall establish procedures for the filing and disposition of complaints received under this subsection. A copy of the complaint shall also be served on the applicable national governing body. Complaints. 36 USC 395. Filing procedures.

"(2) Within 30 days after the filing of the complaint, the Corporation shall determine whether the organization has exhausted its remedies within the applicable national governing body, as provided in paragraph (1) of this subsection. If the Corporation determines that any such remedies have not been exhausted, it may direct that such remedies be pursued before the Corporation will further consider the complaint.

"(3) (A) Within 90 days after the filing of a complaint under paragraph (1) of this subsection, if the Corporation determines that all such remedies have been exhausted, it shall hold a hearing to receive testimony for the purpose of determining if such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title. Hearing.

"(B) If the Corporation determines, as a result of the hearings conducted pursuant to this subsection, that such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title, it shall so notify the complainant and such national governing body.

"(C) If the Corporation determines, as a result of hearings conducted pursuant to this subsection, that such national governing body is not in compliance with the requirements of sections 201(b) and 202 of this title, it shall—

"(i) place such national governing body on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable such national governing body to comply with such requirements, or

"(ii) revoke the recognition of such national governing body.

"(D) If the Corporation places a national governing body on probation pursuant to this paragraph, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements. If, at the end of the period

allowed by the Corporation, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body.

"(b)(1) Any amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing with the Corporation a written application for such recognition. Such application shall be filed (A) within the 1-year period after the final day of any Olympic Games, in the case of a sport for which competition is held in the Olympic Games or in both the Olympic and Pan-American Games; or (B) within the 1-year period after the final day of any Pan-American Games, in the case of a sport for which competition is held in the Pan-American Games and not in the Olympic Games. If two or more organizations file applications for the same sport, such applications shall be considered in a single proceeding.

"(2) Any application filed under this subsection shall be filed with the Corporation by registered mail. The Corporation shall establish procedures for the filing and disposition of applications received under this subsection. A copy of any such application for recognition shall also be served on the applicable national governing body. The Corporation shall inform the applicant for recognition that its application has been received.

Hearing.

"(3) Within 180 days after receipt of an application filed under this subsection, the Corporation shall conduct a formal hearing to determine the merits of the application. The Corporation shall publish notice of the time and place of such hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. In the course of such hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their respective positions. During such hearing, the applicant amateur sports organization must establish by a preponderance of the evidence that it meets the criteria for recognition as a national governing body under section 201(b) of this title, and that—

"(A) the national governing body does not meet the criteria of section 201(b) or 202; or

"(B) it more adequately meets the criteria of section 201(b), is capable of more adequately meeting the criteria of section 202, and provides or is capable of providing a more effective national program of competition, than the national governing body in the sport for which it seeks recognition.

"(4) Within 30 days of the close of the hearing required under this subsection, the Corporation shall—

"(A) uphold the right of the national governing body to continue as the national governing body for its sport;

"(B) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

"(C) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

"(D) decide to place the national governing body on probation of not to exceed 180 days, pending the compliance of the national governing body, if such national governing body would have

retained recognition except for a minor deficiency in one of the requirements of section 201(b) or 202 of this title.

If the national governing body does not comply within the prescribed time period, the Corporation shall revoke the recognition of the national governing body and either recognize the applicant as the national governing body, or declare a vacancy in the national governing body for that sport.

"(5) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with this subsection, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"(c)(1) The right to review by any party aggrieved by a determination of the Corporation under the requirements of this section or section 201(c) shall be to any regional office of the American Arbitration Association. Such demand for arbitration shall be submitted within 30 days of the determination of the Corporation. Upon receipt of such a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the Corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand, except that—

"(A) the arbitration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding mutually agree to the use of another site; and

"(C) the arbitration hearing shall be open to the public.

"(2) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this Act prior to making a final award, if mutually agreed to by the parties to the proceeding and achieved in a manner not inconsistent with the constitution and bylaws of the Corporation.

"(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding. The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(4) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties.

"(5) Final decision of the arbitrators shall be binding upon the involved parties, if such award is not inconsistent with the constitution and bylaws of the Corporation.

"(6) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before a final decision is made, except that, if any contesting party makes such a motion, all parties to the decision must agree to reopen

the hearings if such reopening would result in the arbitrators' decision being delayed beyond the specific period agreed upon at the beginning of the arbitration proceedings.

36 USC 396.

"SEC. 206. Any amateur sports organization which conducts amateur athletic competition, participation in which is restricted to a specific class of amateur athletes (such as high school students, college students, members of the Armed Forces, or similar groups or categories), shall have exclusive jurisdiction over such competition. If such an amateur sports organization wishes to conduct international amateur athletic competition to be held in the United States, or sponsor international amateur athletic competition to be held outside the United States, it shall obtain a sanction from the appropriate national governing body.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1627 (Comm. on the Judiciary).
SENATE REPORT No. 95-770 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed Senate.
Sept. 26, considered and failed of passage in House.
Oct. 11, 13, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 8, Presidential statement.

Public Law 95-607
95th Congress

An Act

To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.

Nov. 8, 1978
[S. 2981]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Transportation Act, amendment.

TITLE I—LOCAL RAIL SERVICE ASSISTANCE

SHORT TITLE

Local Rail Service Assistance Act of 1978.
49 USC 1651 note.

SEC. 101. This title may be cited as the "Local Rail Service Assistance Act of 1978".

EXPANSION OF ASSISTANCE

SEC. 102. Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended—

(1) in paragraph (2), by striking out "purchasing a line of railroad or other rail properties" and inserting in lieu thereof "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein,";

(2) in paragraph (3), by striking out "and" immediately after the semicolon;

(3) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.".

COST SHARING

SEC. 103. Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State

Federal share.

State share.

salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 104. Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period beginning October 1, 1978, and ending September 30, 1979, each State which is eligible to receive rail service assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated.

"(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

"(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail

service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section).

Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

"(3)(A) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

"(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979. Reallocation of funds.

"(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.". State agreements.

PLANNING ASSISTANCE

SEC. 105. Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.". *Ante*, p. 3060. *Infra.*

STATE ELIGIBILITY

SEC. 106. (a) Paragraph (2) of section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)(1)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding immediately before the semicolon at the end thereof the following: ", and (B) such State plan includes, as

Ante, p. 3059.

soon as practicable after the date of enactment of the Local Rail Service Assistance Act of 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after such date of enactment and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section".

49 USC 1654 note.

(b) During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section, the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project.

PROJECT ELIGIBILITY

SEC. 107. Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(C) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)), except that a line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior year;

"(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

"(C) an application for a certificate of abandonment or discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

"(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(E) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)).

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

"(4) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

"(B) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), except that a line of railroad or related project which was eligible for assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(5) On or before August 1 of each year, each common carrier by railroad subject to part I of the Interstate Commerce Act shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.". *Ante*, p. 1337.

REHABILITATION ASSISTANCE

SEC. 108. Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (o) as subsection (p), and by inserting immediately after subsection (n) the following new subsection:

"(o) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

"(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

"(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended—

(1) in subsection (g), subsection (m)(1), and the first sentence of subsection (p) (as redesignated by section 108 of this title), by striking out "(o)" each place it appears and inserting in lieu thereof "(p)"; and

Ante, p. 3063.

(2) by amending the third sentence of subsection (p) (as so redesignated) to read as follows: "In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section.".

45 USC 762.
Infra.

Repeal.

(b)(1) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

(2) The table of contents for title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out "Sec. 810. Rail bank.".

EFFECTIVE DATE

49 USC 1654 note.

SEC. 110. The provisions of this title shall take effect on October 1, 1978.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 201. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by striking out the comma at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(2) by adding immediately after paragraph (4) (B) the following new subparagraph:

"(C) offers a rail service continuation payment, pursuant to subsection (c) (2) (A) of this section and regulations issued by the Office pursuant to section 205 (d) (5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303 (b) (2) of this title or subsection (c) (2) (B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 17 (a) (2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613 (a) (2)),"; and

45 USC 715.

45 USC 743.

(3) by adding at the end thereof the following new paragraphs:

"(7) (A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c) (2) (A) of this section and under regulations issued by the Office pursuant to section 205 (d) (5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206 (c) (1) (C) and 206 (c) (1) (D) of this Act and to the Corporation pursuant to section 303 (b) (1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

45 USC 716.

45 USC 743.

"(B) As used in this paragraph, the term 'additional rail passenger service' means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303 (b) (1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

"Additional rail passenger service."

"(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

39-194 O—80—pt 3——28 QL3

Study.

"(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 303 (b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

45 USC 743.

Report to Congress.

TITLE III—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976; RELATED PROVISIONS

INCREASE IN FUNDING LIMITATION ON PURCHASE OF TRUSTEE CERTIFICATES; EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

SEC. 301. (a) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (d)(3), by striking out the last sentence; and

(2) in subsection (e), by striking out "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title,".

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (7 U.S.C. 827 (a) and (d)) are amended by striking out "1978" and inserting in lieu thereof "1979".

45 USC 827.

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "March 31" each place it appears and inserting in lieu thereof "September 30".

SECURITY FOR TRUSTEE CERTIFICATES

SEC. 302. Section 505(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(2)) is amended—

(1) in the last sentence of subparagraph (B), by striking out "No certificate" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, no certificate"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term 'senior debt' means— 11 USC 205. "Senior debt."

"(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

"(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.".

FRA REVIEW

SEC. 303. The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement. 45 USC 825 note.

TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

RENEWAL

SEC. 401. (a) Section 15(8)(c) of the Interstate Commerce Act (49 U.S.C. 15(8)(c)) is amended—

(1) in clause (i), by striking out "within 2 years after the date of the enactment of this subdivision" and inserting in lieu thereof "prior to July 1, 1980";

(2) in clause (ii), by inserting "and" after the semicolon; and

(3) by striking out clauses (iii) and (iv) and inserting in lieu thereof a new clause (iii) to read as follows:

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.".

(b) The last sentence of section 15(8)(d) of the Interstate Commerce Act (49 U.S.C. 25(8)(d)) is amended by striking out "clauses (iii) or (iv)" and inserting in lieu thereof "clause (iii)". 49 USC 15.

CAR SERVICE

SEC. 402. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

Petition.
Notice
and hearing.

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1482 accompanying H.R. 11979 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-1159 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 23, considered and passed Senate.

Oct. 11, 13, H.R. 11979 considered and passed House; passage vacated, and S. 2981, amended, passed in lieu.

Oct. 15, Senate concurred in House amendments.

Public Law 95-608
95th Congress

An Act

To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

Nov. 8, 1978
[S. 1214]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1978".

Indian Child Welfare Act of 1978.
25 USC 1901 note.

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

25 USC 1901.

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

Congress responsibility for protection of Indians.

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

25 USC 1902.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

Definitions.
25 USC 1903.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689);

43 USC 1606.

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended;

43 USC 1602.

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

Indian tribes, exclusive jurisdiction over Indian child custody proceedings. 25 USC 1911.

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

Foster care placement, court proceedings. 25 USC 1912.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court

shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Parental rights, voluntary termination. 25 USC 1913.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

25 USC 1914.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of com-

petent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

Adoptive placement of Indian children. 25 USC 1915.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

Petition, return of custody. 25 USC 1916.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

Removal from foster care home.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

25 USC 1917.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement,

the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

Reassumption, jurisdiction over child custody proceedings. 25 USC 1918. 18 USC prec. 1151 note. 25 USC 1321. 28 USC 1360 note.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

States and Indian tribes, agreements. 25 USC 1919.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such

revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

Improper removal of child from custody.
25 USC 1920.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

25 USC 1921.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

Emergency removal of child.
25 USC 1922.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

Effective date.
25 USC 1923.

SEC. 113. None of the provisions of this title, except sections 101(a), 108, and 109, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

25 USC 1931.

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV–B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV–B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

42 USC 620, 1397.

Additional services.
25 USC 1932.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

Funds.
25 USC 1933.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended. 25 USC 13.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401). 25 USC 1934. 25 USC 1603.

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show— Final decree, information to be included. 25 USC 1951.

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. Effective date. Rules and regulations. 25 USC 1952.

TITLE IV—MISCELLANEOUS

Day schools.
25 USC 1961.

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

Report to congressional committees.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

Copies to each State.
25 USC 1962.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

25 USC 1963.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1386 accompanying H.R. 12533 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-597 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1978): Nov. 4, considered and passed Senate.
Vol. 124 (1978): Oct. 14, H.R. 12533 considered and passed House; passage vacated, and S. 1214, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.

Public Law 95-609
95th Congress

An Act

To extend provisions of the Noise Control Act of 1972 for one year, and for other purposes.

Nov. 8, 1978
[S. 3083]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Quiet Communities Act of 1978".

Quiet Communities Act of 1978. 42 USC 4901 note.

SEC. 2. Section 14 of the Noise Control Act of 1972 is amended to read as follows:

42 USC 4913.

"QUIET COMMUNITIES, RESEARCH, PUBLIC INFORMATION

"SEC. 14. To promote the development of effective State and local noise control programs, to provide an adequate Federal noise control research program designed to meet the objectives of this Act, and to otherwise carry out the policy of this Act, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

"(a) develop and disseminate information and educational materials to all segments of the public on the public health and other effects of noise and the most effective means for noise control, through the use of materials for school curricula, volunteer organizations, radio and television programs, publication, and other means;

"(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

"(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decision-making, with special emphasis on the nonauditory effects of noise;

"(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under sections 6, 7, and 8 of this Act;

42 USC 4905, 4906 note, 4907.

"(3) investigation, development, and demonstration of monitoring equipment and other technology especially suited for use by State and local noise control programs;

"(4) investigation of the economic impact of noise on property and human activities; and

"(5) investigation and demonstration of the use of economic incentives (including emission charges) in the control of noise;

"(c) administer a nationwide Quiet Communities Program which shall include, but not be limited to—

"(1) grants to States, local governments, and authorized regional planning agencies for the purpose of—

"(A) identifying and determining the nature and extent of the noise problem within the subject jurisdiction;

"(B) planning, developing, and establishing a noise control capacity in such jurisdiction, including purchasing initial equipment;

"(C) developing abatement plans for areas around major transportation facilities (including airports, highways, and rail yards) and other major stationary sources of noise, and, where appropriate, for the facility or source itself; and,

"(D) evaluating techniques for controlling noise (including institutional arrangements) and demonstrating the best available techniques in such jurisdiction;

"(2) purchase of monitoring and other equipment for loan to State and local noise control programs to meet special needs or assist in the beginning implementation of a noise control program or project;

"(3) development and implementation of a quality assurance program for equipment and monitoring procedures of State and local noise control programs to help communities assure that their data collection activities are accurate;

"(4) conduct of studies and demonstrations to determine the resource and personnel needs of States and local governments required for the establishment and implementation of effective noise abatement and control programs; and

"(5) development of educational and training materials and programs, including national and regional workshops, to support State and local noise abatement and control programs;

except that no actions, plans or programs hereunder shall be inconsistent with existing Federal authority under this Act to regulate sources of noise in interstate commerce;

"(d) develop and implement a national noise environmental assessment program to identify trends in noise exposure and response, ambient levels, and compliance data and to determine otherwise the effectiveness of noise abatement actions through the collection of physical, social, and human response data;

"(e) establish regional technical assistance centers which use the capabilities of university and private organizations to assist State and local noise control programs;

"(f) provide technical assistance to State and local governments to facilitate their development and enforcement of noise control, including direct onsite assistance of agency or other personnel with technical expertise, and preparation of model State or local legislation for noise control; and

"(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act.".

42 USC 3001 note.

SEC. 3. The fourth sentence of section 611(c)(1) of the Federal Aviation Act, as amended by section 7 of the Noise Control Act of 1972, is amended by striking "a reasonable time" and inserting in lieu thereof "ninety days", and by adding before the period "and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations".

49 USC 1431.
42 USC 4906 note.

SEC. 4. Section 11(a) of the Noise Control Act of 1972 is amended by inserting "(1)" after "(a)" and by adding the following new paragraph: 42 USC 4910.

"(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be subject to a civil penalty not to exceed $10,000 per day of such violation". Penalty.

SEC. 5. Section 6 of the Noise Control Act of 1972 is amended by adding the following subsection: 42 USC 4905.

"(f) At any time after the promulgation of regulations respecting a product under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more stringent standard under subsection (c) of this section is necessary to protect the public health and welfare. The Administration shall publish notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition respond by (1) publication of proposed revised regulations in accordance with subsection (c)(3) of this section, or (2) publication in the Federal Register of a decision not to publish such proposed revised regulations at that time, together with a detailed explanation for such decision.". Notice, publication in Federal Register.

SEC. 6. Section 19 of the Noise Control Act of 1972 is amended to read as follows: 42 USC 4918.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out this Act (other than for research and development) $15,000,000 for the fiscal year ending September 30, 1979.".

SEC. 7. (a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended by deleting the hyphen between the words "solid" and "waste" in the last line. 42 USC 6901.

(b) Section 1004 of the Solid Waste Disposal Act is amended by— 42 USC 6903.

(1) revising paragraph (8) by striking out everything after "improvement of land";

(2) revising paragraph (10) by striking out "disposal" and inserting in lieu thereof "management";

(3) by revising paragraph (29) to read as follows:

"(29) The term 'solid waste management facility' includes— "Solid waste management facility."

"(A) any resource recovery system or component thereof,

"(B) any system, program, or facility for resource conservation, and

"(C) any facility for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.".

(c) Section 1008(a)(3) of the Solid Waste Disposal Act is amended by striking out "title IV" and inserting in lieu thereof "subtitle D". 42 USC 6907.

(d) Section 1008(b) of the Solid Waste Disposal Act is amended by striking ", pursuant to this section" and by inserting after "suggested guidelines" each time it appears the phrase "or proposed regulations under this Act".

(e) Section 2003 of the Solid Waste Disposal Act is amended by inserting "Federal agencies," after "to provide". 42 USC 6913.

42 USC 6922. (f) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (5) by striking out the semicolon after "subtitle" and substituting a comma, and by striking out "and" and inserting in lieu thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); and"; and 33 USC 1411.

(2) revising paragraph (6) by adding a close parenthesis after "subtitle" the first time it appears.

42 USC 6923. (g) Section 3003 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(4) by striking out the period after "subtitle" and substituting a comma, and by adding at the end thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."; and

(2) revising subsection (b) by striking out "subtitle" after "the regulations promulgated by the Administrator under this" and inserting in lieu thereof "section".

42 USC 6925. (h) Section 3005(a) of the Solid Waste Disposal Act is amended by inserting "treatment, storage, or" after "and upon and after such date the".

42 USC 6926. (i) Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out "required for" wherever it appears in the subsection and inserting in lieu thereof "of"; and

(2) inserting the word "may" immediately after "3005," and before "submit".

42 USC 6927. (j) Section 3007(a)(1) of the Solid Waste Disposal Act is amended by striking out "or disposed of" and inserting in lieu thereof "disposed of, or transported from".

42 USC 6928. (k) Section 3008 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (d)(1) to read as follows:

"(1) transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),"; and

(2) revising subsection (d)(2) to read as follows:

"(2) treats, stores, or disposes of any hazardous waste identified or listed under this subtitle without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."

42 USC 6947. (l) Section 4007(C) of the Solid Waste Disposal Act is amended by redesignating subsection "(C)" as "(c)".

42 USC 6961. (m) Section 6001 of the Solid Waste Disposal Act is amended by inserting "or management" between "disposal" and "of solid waste".

42 USC 6962. (n) Section 6002 of the Solid Waste Disposal Act is amended by—

(1) deleting "(A)" after "(1)" in subsection (c) and changing "(B)" and "(C)" to "(2)" and "(3)", respectively; and changing "(i)", "(ii)", and "(iii)" to "(A)", "(B)", and "(C)", respectively;

(2) in subsection (c)(3) as redesignated, striking "Contracting" and inserting in lieu thereof "After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting"; and

(3) inserting in the second sentence of subsection (e) after "containing such materials" the phrase "and with respect to certification by vendors of the percentage of recovered materials used,".

(o) Section 6004 of the Solid Waste Disposal Act is amended by— 42 USC 6964.

(1) revising subsection (a)(1)(A) by striking out "disposal" and inserting in lieu thereof "management";

(2) revising subsection (a)(1)(B) by striking out "disposal" and inserting in lieu thereof "management"; and

(3) revising subsection (b) by striking out "Secretary" and inserting in lieu thereof "Administrator".

(p) Section 7002 of the Solid Waste Disposal Act is amended by— 42 USC 6972.

(1) revising subsection (c) by striking out "section 212" and inserting in lieu thereof "subtitle C"; and

(2) revising subsection (e) by striking out "requiring" and inserting in lieu thereof "require".

(q) Section 7003 of the Solid Waste Disposal Act is amended by striking out "for" before "contributing to the alleged disposal". 42 USC 6973.

(r) Section 7007 of the Solid Waste Disposal Act is amended by— 42 USC 6977.

(1) revising subsection (b)(1)(A) by striking out "disposal" and inserting "management"; and by striking out "resources" and inserting "resource";

(2) revising subsection (b)(1)(B) by striking out "disposal" and inserting "management"; and

(3) revising subsection (c)(3) by striking out "disposal" and inserting "management" in lieu thereof.

(s) Section 8001(a) of the Solid Waste Disposal Act is amended by— 42 USC 6981.

(1) revising paragraph (2) by striking out "disposal" and inserting "management" in lieu thereof; and

(2) revising paragraph (13) by inserting "treatment," after "for purpose of".

(t) Section 8002 of the Solid Waste Disposal Act is amended by— 42 USC 6982.

(1) revising paragraph (1) of subsection (g) by inserting a comma between "shale" and "liquefaction";

(2) revising paragraph (1) of subsection (j) by inserting "the Secretary of Energy, the Chairman of the Council of Economic Advisors," before "and a representative of the Office of Management and Budget,";

(3) revising paragraph (2) of subsection (j) by striking "(2)(D)" and inserting "(1)(D)" in lieu thereof;

(4) revising paragraph (3) of subsection (j) by striking "(2)(D)" and inserting "(1)" in lieu thereof; and

(5) revising subsection (1) by striking out "required under subsection (a), (h), (i) and (j)" and inserting in lieu thereof "required under subsections (a), (h), and (i)".

(u) Section 8003(a)(3) of the Solid Waste Disposal Act is amended by striking out "discarded materials" and inserting "solid waste" in lieu thereof. 42 USC 6983.

42 USC 6984.

(v) Section 8004(a)(1) of the Solid Waste Disposal Act is amended by striking out "discarded material" and inserting "solid waste" in lieu thereof.

Aircraft noise effects, joint study.
49 USC 1431 note.

SEC. 8. (a) The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly study the aircraft noise effects from an airport on communities located in a State other than the State in which the airport is located. The criteria to be used in selecting the airport to be studied shall include:

(1) the airport shall be operated by a State, a unit of general purpose local government of a State, or a special purpose entity constituted for the purpose of operating an airport, and

(2) the airport shall have a point on the airport boundary within one nautical mile from a State boundary, and

(3) the airport shall have had in excess of sixty thousand scheduled air carrier departures during the preceding calendar year.

(b) The study shall be conducted in cooperation with the airport operator, appropriate Federal, State, and local officials, and the appropriate Metropolitan Planning Organization.

Report to Congress.

(c) The Secretary and the Administrator shall prepare and submit to Congress a report within nine months of the conclusion of the study, but no later than twenty-four months after enactment of this section.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1171 accompanying H.R. 12647 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-875 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 19, considered and passed Senate.
Oct. 10, H.R. 12647 considered and passed House, passage vacated, and S. 3083, amended, passed in lieu.
Oct. 13, Senate concurred in House amendments.

Public Law 95-610
95th Congress

An Act

To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes.

Nov. 8, 1978
[S. 274]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Armed Forces, union organizations, prohibition. 10 USC 975 note.

SECTION 1. (a) The Congress makes the following findings:

(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

(2) Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

(b) The purpose of this Act is to promote the readiness of the armed forces to defend the United States.

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

10 USC 975.

"(a) In this section:

Definitions.

"(1) 'Member of the armed forces' means (A) a member of the armed forces who is serving on active duty, or (B) a member of a Reserve component while performing inactive-duty training.

"(2) 'Military labor organization' means any organization that engages in or attempts to engage in—

"(A) negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

"(B) representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

"(C) striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(i) negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

"(ii) recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

"(iii) make any change with respect to the terms or conditions of military service of individual members of the armed forces.

"(3) 'Civilian officer or employee' means an employee, as such term is defined in section 2105 of title 5.

"(b) It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization—

"(1) to join or maintain membership in such organization; or

"(2) to attempt to enroll any other member of the armed forces as a member of such organization.

"(c) It shall be unlawful for any person—

"(1) to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or

"(2) to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members;

"(3) to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(A) negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces,

"(B) recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

"(C) make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or

"(4) to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d).

"(d) It shall be unlawful for any military labor organization to represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

"(e) No member of the armed forces, and no civilian officer or employee, may—

"(1) negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or

"(2) permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d).

Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

"(f) Whoever violates subsection (b), (c), or (d) shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000. Penalties.

"(g) Nothing in this section shall limit the right of any member of the armed forces—

"(1) to join or maintain membership in any organization or association not constituting a 'military labor organization' as defined in subsection (a) (2) of this section;

"(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

"(3) to seek or receive information or counseling from any source;

"(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

"(5) to petition the Congress for redress of grievances; or

"(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-894, Pt. I (Comm. on Armed Services) and Pt. II (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-411 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 16, considered and passed Senate.
Vol. 124 (1978): Sept. 26, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.

Public Law 95-611
95th Congress

An Act

To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.

Nov. 8, 1978
[H.R. 10898]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

United States Railway Association. Appropriation authorization.

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1979, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $27,200,000. Sums appropriated under this subsection are authorized to remain available until expended.".

Membership, terms of office.

SEC. 2. Section 201(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(e)) is amended by adding at the end thereof the following new sentence: "Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors have been appointed and qualified.".

SEC. 3. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

"(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of the date of enactment of this sentence, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this Act, to be desirable; and

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $2,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and such railroad has in effect an employee stock ownership plan which has been approved by the Association.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1979.".

(b) Section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 211(d)(1) of the Regional Rail Reorganization Act of 1973, to maintain rail services in the region (as such term is defined in section 102(15) of such Act). The Secretary may not make any waiver under the preceding sentence after December 31, 1979.".

45 USC 702.

SEC. 4. (a) Section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)(C)) is amended by striking out "900 days" and inserting in lieu thereof "3 years".

45 USC 716 note.

(b) The amendment made by this Act shall be effective on January 2, 1974.

SEC. 5. Section 17(9)(f)(i) of the Interstate Commerce Act (49 U.S.C. 17(9)(f)(i)) is amended to read as follows:

"(i) a majority of the Commissioners, by public vote, agree to such further extension; and".

Investigation and study.
43 USC 975 note.

SEC. 6. (a) The Secretary of Transportation shall conduct an investigation and study for purposes of determining equitable rates to be charged for the rental of Alaska Railroad lands. In carrying out such investigation and study, the Secretary shall consider—

(1) the per centum increase in such rates proposed after 1977 as compared with rates in effect on January 1, 1977;

(2) the services and the quality thereof provided by the rentors of such land and the services and the quality thereof received by such rentors from such railroad;

(3) the burden on commerce which may result from such proposed rate increase; and

(4) such other factors as may be appropriate.

Report to Congress.

The Secretary shall report the results of such investigation and study to the Congress not later than one year after the date of enactment of this Act.

(b) Prior to 180 days after the date on which the Secretary's report pursuant to subsection (a) is received by the Congress, rental charges on lands rented by the Alaska Railroad shall not be increased by more than 100 per centum of the amount charged for such land on January 1, 1977.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1198 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 17, considered and passed House.
Sept. 14, considered and passed Senate, amended.
Oct. 13, House concurred in certain Senate amendments; in Nos. 3 and 5 with amendments.
Oct. 15, Senate concurred in House amendment to Senate amendments.

Public Law 95-612
95th Congress

An Act

To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes.

Nov. 8, 1978
[S. 2093]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by—

Exchange Stabilization Fund.

(1) striking out "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking out the second and third sentences; and

(3) amending the fourth sentence to read as follows: "The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided*, That the fund shall not be available for the payment of administrative expenses.".

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following new subsection:

31 USC 822a.

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended.".

22 USC 1131.

SEC. 3. (a)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS–16, GS–17, and GS–18, no more than 61 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

5 USC 5108 note.
5 USC 5101 *et seq.*

(2) A person may be appointed to a position placed at GS–16, GS–17, or GS–18 under the authority of paragraph (1) only if such person, immediately before the effective date of this Act, held a position or has reemployment rights to a position—

(A) the duties of which were comparable to those of the position to which he is to be appointed; and

(B) for which the compensation derived from the stabilization fund established under section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a).

Appointments made under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS–16, GS–17, and GS–18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to such position under paragraph (2) leaves such position.

(b) The first sentence of section 5108(a) of title 5, United States Code, is amended by striking out "3301" and inserting in lieu thereof "3362".

(c) For purposes of determining the aggregate number of positions which may be placed in GS–16, GS–17, or GS–18 under sections 5108(a) of title 5, United States Code, a position established under subsection (a) shall be deemed a GS–16 position.

SEC. 4. Section 51 of the Act of December 30, 1970 (84 Stat. 1659; 22 U.S.C. 276c–2), is amended by—

(1) amending the first sentence to read:

"Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States.";

(2) striking from the second sentence the words "the fund established pursuant to section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a))" and inserting in lieu thereof "funds appropriated to the Department of the Treasury"; and

(3) striking out the last sentence of the section.

Appropriation authorization.

SEC. 5. There are authorized to be appropriated not to exceed $24,000,000 for fiscal year 1979, including sums for official functions and reception and representation expenses, to carry out the international affairs functions of the Department of the Treasury.

SEC. 6. Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following:

Financial statement, submittal to congressional committees.

"(2) Within 30 days after the close of each calendar month beginning after the effective date of this paragraph, the Secretary of the Treasury shall provide to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a detailed financial statement of the fund respecting all agreements entered into or renewed, all transactions occurring during such month, and all liabilities projected to occur.".

Effective date. 31 USC 822a note.

SEC. 7. This Act shall take effect on October 1, 1978, or on such later date as funds are made available pursuant to appropriations Acts authorized by section 5 of this Act.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95–1126 (Comm. on Banking, Finance, and Urban Affairs).
SENATE REPORT No. 95–661 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):

Mar. 8, considered and passed Senate.
May 16, considered and passed House, amended.
June 23, Senate agreed to House amendment with amendments.
Oct. 10, House concurred in Senate amendments with an amendment.
Oct. 11, House vacated proceedings of Oct. 10; concurred in certain Senate amendments; in No. 1 with an amendment.
Oct. 13, Senate concurred in House amendments.

Public Law 95-613
95th Congress

An Act

To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act.

Nov. 8, 1978
[S. 2522]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1001(a) of the Public Health Service Act is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

Public Health Service Act, amendment.
42 USC 300.

(2) Section 1006 is amended by adding at the end thereof the following new subsection:

42 USC 300a-4.

"(d)(1) A grant may be made or a contract entered into under section 1001 or 1005 only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this title and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

42 USC 300, 300a-3.

"(2) In the case of any grant or contract under section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available.".

(b)(1) Section 1001(c) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for the fiscal year ending September 30, 1981".

42 USC 300a-1.

(3) Section 1004(b)(1) of such Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$105,000,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; 1980, and $138,900,000 for the fiscal year ending September 30, 1981".

42 USC 300a-2.

(4) Section 1005(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

42 USC 300a-3.

42 USC 300c-11.

SEC. 2. Section 1121(b)(5) of the Public Health Service Act is amended (A) by striking out "and" after "1977,". and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1191 accompanying H.R. 12370 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-822 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 7, considered and passed Senate.
Sept. 25, H.R. 12370 considered and failed of passage in House.
Oct. 11, 13, H.R. 12370 considered and passed House; passage vacated and S. 2522, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.

Public Law 95-614
95th Congress

An Act

To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.

Nov. 8, 1978
[S. 553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

Cibola National Forest, N. Mex. Boundary extension.

A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.41 feet; thence north 0 degrees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between sections 13 and 14 on the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant; consisting of 7,461.34 acres, more or less: *Provided, however,* That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 460l–9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

16 USC 460*l*–9.

SEC. 3. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

Appropriation authorization.

SEC. 4. Effective October 1, 1979, there are authorized to be appropriated not more than $12,000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1668 accompanying H.R. 10679 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-516 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 28, considered and passed Senate.

Vol. 124 (1978): Oct. 3, H.R. 10679 considered and passed House; passage vacated, and S. 553, amended, passed in lieu.

Oct. 13, Senate concurred in House amendment with an amendment.

Oct. 15, House concurred in Senate amendment.

Public Law 95-615
95th Congress

An Act

To change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes.

Nov. 8, 1978
[H.R. 9251]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Treatment Extension Act of 1977.
26 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Treatment Extension Act of 1977".

26 USC 62 note.

SEC. 2. COMMUTING EXPENSES.

With respect to transportation costs paid or incurred after December 31, 1976, and before April 30, 1978, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 to transportation expenses in traveling between a taxpayer's residence and place of work shall be determined—

26 USC 62, 162, 262, 3101, 3303, 3401.

(1) without regard to Revenue Ruling 76-453 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules in effect before Revenue Ruling 76-453.

26 USC 61 note.

SEC. 3. FRINGE BENEFITS.

No regulations shall be issued in final form on or after October 1, 1977, and before July 1, 1978, providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Internal Revenue Code of 1954.

26 USC 61.

SEC. 4. CHANGES IN TREATMENT OF INCOME EARNED ABROAD.

(a) IN GENERAL.—Subsection (d) of section 1011 of the Tax Reform Act of 1976 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

26 USC 911 note.

(b) TRANSITIONAL RULE.—If for any taxable year beginning in 1977—

(1) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1954, and

26 USC 911.

(2) such individual chooses to take to any extent the benefits of section 901 of such Code.

26 USC 901.

then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.

26 USC 63.

SEC. 5. SALARY REDUCTION PENSION PLANS, CASH AND DEFERRED PROFIT-SHARING PLANS, AND CAFETERIA PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

26 USC 401 note.

(1) by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1980", and

(2) by striking out "December 31, 1977" in subsection (d) and inserting in lieu thereof "December 31, 1979".

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SEC. 6. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

26 USC 117 note. Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxmethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483), is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 7. EXTENSION OF 5-YEAR AMORTIZATION FOR LOW-INCOME HOUSING.

(a) IN GENERAL.—Subsection (k) of section 167 of the Internal 26 USC 167. Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 203 of the 26 USC 167 note. Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

26 USC 382, 383. **SEC. 8. RULES FOR CARRYOVERS WHERE LOSS CORPORATIONS ARE ACQUIRED (SECTIONS 382 AND 383 OF THE INTERNAL REVENUE CODE OF 1954).**

26 USC 382 note, 383 note. Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980".

SEC. 201. SHORT TITLE, ETC.

Foreign Earned Income Act of 1978. (a) SHORT TITLE.—This Act may be cited as the "Foreign Earned Income Act of 1978".

26 USC 1 note. (b) AMENDMENTS OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1.

SEC. 202. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS.

26 USC 911. (a) SECTION 911 EXCLUSION.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) GENERAL RULE.—In the case of an individual described in *Post*, p. 3100. section 913(a) who, because of his employment, resides in a camp located in a hardship area, the following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—If such individual is described in section 913(a)(1), amounts received from sources within a foreign country or countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the period of bona fide residence. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—If such individual is described in section 913(a)(2), amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed as a deduction from his gross income or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses)". 26 USC 217.

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows: 26 USC 911.

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(B) CAMP.—For purposes of this section, an individual shall not be considered to reside in a camp because of his employment unless the camp constitutes substandard lodging which is—

"(i) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(ii) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(iii) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees.

"(C) HARDSHIP AREA.—For purposes of this section, the term 'hardship area' has the same meaning as in section 913(h).". *Post*, p. 3100.

(c) BUSINESS PREMISES OF THE EMPLOYER.—Subsection (c) of section 911 (relating to special rules) is amended by inserting after paragraph (6) the following new paragraph: 26 USC 911.

"(7) BUSINESS PREMISES OF THE EMPLOYER.—In the case of an individual residing in a camp who elects the exclusion provided in this section for a taxable year, the camp shall be considered to be part of the business premises of the employer for purposes of section 119 for such taxable year." 26 USC 119.

(d) SECTION NOT TO APPLY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) SECTION NOT TO APPLY.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply for the taxable year."

26 USC 911.

(2) CONFORMING AMENDMENT.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(e) REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(f) CLERICAL AMENDMENTS.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS."

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned by individuals in certain camps."

26 USC 911.

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

26 USC 901.

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

26 USC 43, 1302, 1304, 1402, 6012, 6091.

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned by employees in certain camps".

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

26 USC 911.

(a) ALLOWANCE OF DEDUCTION.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

26 USC 913.

"SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who is—

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—A citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—A citizen or resident of the United States and who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,

there shall be allowed as a deduction for such taxable year or for any taxable year which contains part of such period, the sum of the amounts set forth in subsection (b).

"(b) AMOUNTS.—The amounts referred to in this subsection are:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(5) The qualified hardship area deduction.

"(c) DEDUCTION NOT TO EXCEED NET FOREIGN SOURCE EARNED INCOME.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in

which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and 26 USC 119.

"(ii) the allocable deductions.

"(2) ALLOCABLE DEDUCTIONS DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than the deduction allowed by this section.

"(d) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other methods) so prescribed shall be revised at least once during each calendar year.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) COMPUTATION ON DAILY BASIS.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) BASIS OF COMPARISON.—The differential prescribed for any foreign place—

"(i) shall vary depending on the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) shall reflect the costs of living of a family whose income is equal to the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS–14. 5 USC 5332 note.

"(D) STATE DEPARTMENT'S INDEX MAY BE TAKEN INTO ACCOUNT.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.—Except as provided in subsection (i)(1)(A)(ii) an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(e) QUALIFIED HOUSING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

26 USC 163, 164, 216.

"(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'base housing amount' means 20 percent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified school expenses,

"(IV) the qualified home leave travel expenses, and

"(V) the qualified hardship area deduction.

"(B) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—If, because of adverse living conditions, the individual maintains a household for his spouse and dependents at a foreign place other than his tax home which is in addition to the household he maintains as his tax home, and if his tax home is in a hardship area as defined in subsection (h), the base housing amount for the household maintained at his tax home shall be zero.

"(4) PERIODS TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (i)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

26 USC 119.

"(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (i)(1)(B)(iii)).

"(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (b) with respect to more than

one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(f) QUALIFIED SCHOOLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) EXPENSES INCLUDED.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) ROOM, BOARD, AND TRAVEL ALLOWED IN CERTAIN CASES.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) DETERMINATION OF REASONABLE EXPENSES.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) PERIOD TAKEN INTO ACCOUNT.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(g) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to—

"(A) the individual's present (or, if none, most recent) principal residence in the United States, or

"(B) if subparagraph (A) does not apply to the individual, the nearest port of entry in the continental United States (excluding Alaska)

and return.

"(2) ONE TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(h) QUALIFIED HARDSHIP AREA DEDUCTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified hardship area deduction' means an amount computed on a daily basis at an annual rate of $5,000 for days during which the individual's tax home is in a hardship area.

"(2) HARDSHIP AREA DEFINED.—For purposes of this section, the term 'hardship area' means any foreign place designated by the Secretary of State as a hardship post where extraordinarily difficult living conditions, notably unhealthful conditions, or excessive physical hardships exist and for which a post differential of 15 percent or more—

"(A) is provided under section 5925 of title 5, United States Code, or

"(B) would be so provided if officers and employees of the Government of the United States were present at that place.

"(i) SPECIAL RULES WHERE INDIVIDUAL MAINTAINS SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS BECAUSE OF ADVERSE LIVING CONDITIONS AT TAX HOME.—

"(1) IN GENERAL.—For any period during which an individual maintains a qualified second household—

"(A) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(i) ALLOWANCE DETERMINED BY REFERENCE TO LOCATION OF QUALIFIED SECOND HOUSEHOLD.—Paragraph (1) of subsection (d) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

26 USC 119.

"(ii) DISREGARD OF SECTION 119 RULE.—Subparagraph (E) of subsection (d)(2) shall not apply with respect to the spouse and dependents.

"(B) QUALIFIED HOUSING EXPENSES.—

"(i) EXPENSES WITH RESPECT TO QUALIFIED SECOND HOUSEHOLD TAKEN INTO ACCOUNT.—For purposes of subsection (e), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (e)(2) if the individual resided at such household.

"(ii) SEPARATE APPLICATION OF SUBSECTION (e).—Subsection (e) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (e)(3)(A)(ii).

"(iii) CERTAIN RULES NOT TO APPLY.—Paragraphs (4)(A)(ii) and (5) of subsection (e) shall not apply with respect to housing expenses for the qualified second household.

"(C) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

"(i) IN GENERAL.—The requirement of subsection (j)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (f), and paragraph (1) of subsection (g), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) DEFINITION OF QUALIFIED SECOND HOUSEHOLD.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(j) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof. 26 USC 911.

"(B) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States. 26 USC 162.

"(C) RESIDENCE AT TAX HOME.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) ADVERSE LIVING CONDITIONS.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) UNITED STATES.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States. 26 USC 638.

"(2) LIMITATION TO COACH OR ECONOMY FARE.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—Except as provided in subsection (i)(1)(C)(i), amounts may be taken into account under subsection (f) with respect to any dependent of the individual, and under subsection (g) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(k) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

26 USC 151.

"(2) as an exclusion, or

26 USC 44A.

"(3) as a credit under section 44A (relating to household and dependent care services),

any amount to the extent that such amount is taken into account under subsection (d), (e), (f), or (g).

26 USC 911.

"(l) APPLICATION WITH SECTION 911.—An individual shall not be allowed the deduction allowed by subsection (a) for any taxable year with respect to which he elects the exclusion provided in section 911.

"(m) REGULATIONS.— The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns.".

(b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

26 USC 62.

"(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913."

Ante, p. 3100.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

SEC. 204. MOVING EXPENSES.

26 USC 217.

(a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) SPECIAL RULES FOR FOREIGN MOVES.—

"(1) INCREASE IN LIMITATIONS.—In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) ALLOWANCE OF CERTAIN STORAGE FEES.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) FOREIGN MOVE.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEDENTS WHO WERE WORKING ABROAD.—

"(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply.

"(2) QUALIFIED RETIREE MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) QUALIFIED SURVIVOR MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense.".

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended— 26 USC 119.

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) MEALS AND LODGING FURNISHED TO EMPLOYEE, HIS SPOUSE, AND HIS DEPENDENTS, PURSUANT TO EMPLOYMENT.—There shall".

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE. 26 USC 1034.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(j)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

26 USC 3401. (a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

Ante, p. 3100.

26 USC 6091. (b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

26 USC 912. 26 USC 6011. (c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

Report to congressional committees. 26 USC 911 note. (a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

26 USC 911, 912, 913.

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES. 26 USC 911 note.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c) the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) WAGE WITHHOLDING.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

(c) ELECTION OF PRIOR LAW.—

(1) A taxpayer may elect not to have the amendments made by this title apply with respect to any taxable year beginning after December 31, 1977, and before January 1, 1979.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year beginning after December 31, 1977.

SEC. 210. APPLICATION OF TITLE I.

(a) IN GENERAL.—Title I of this Act (other than sections 4 and 5 thereof) shall cease to have effect on the day after the date of the enactment of this Act. 26 USC 61 note.

(b) SPECIAL RULE FOR SECTION 5.—Section 5 of this Act shall not apply with respect to any type of plan for any period for which rules for that type of plan are provided by the Revenue Act of 1978. 26 USC 401 note. *Ante*, p. 2763.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-697 (Comm. on Ways and Means) and No. 95-1798 (Comm. of Conference).
SENATE REPORT No. 95-746 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 25, considered and passed House.
Vol. 124 (1978): May 11, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment No. 3 with amendments, disagreed to other Senate amendments.
Sept. 28, Senate disagreed to House amendment.
Oct. 15, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

Public Law 95-616
95th Congress

An Act

Nov. 8, 1978
[H.R. 2329]

To improve the administration of fish and wildlife programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Improvement Act of 1978".

Fish and Wildlife Improvement Act of 1978.
16 USC 742a note.

SEC. 2. FISH AND WILDLIFE COOPERATIVE UNITS ASSISTANCE.

The first section of the Act of September 2, 1960 (74 Stat. 733; 16 U.S.C. 753a) is amended—

(1) by striking out "technical personnel" and inserting in lieu thereof "scientific personnel"; and

(2) by inserting immediately after "respective units," the following: "to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection".

16 USC 742*l*.

SEC. 3. ENFORCEMENT AUTHORITY FOR THE PROTECTION OF FISH AND WILDLIFE RESOURCES.

(a) LAW ENFORCEMENT TRAINING PROGRAM.—(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1980 such funds as may be necessary to carry out the purposes of subsection (b), and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b)(1) (A) and (C).

(b) LAW ENFORCEMENT COOPERATIVE AGREEMENT.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and

wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5, United States Code; 5 USC 8191.

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28, United States Code;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18, United States Code.

(c) DISPOSAL OF ABANDONED OR FORFEITED PROPERTY.—Notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(d) DISCLAIMER.—Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to the date of enactment of this Act.

(e) REFUGE RECREATION ACT.—Section 4 of the Act of September 28, 1962 (76 Stat. 654, 16 U.S.C. 460k-3), is amended by adding at the end thereof the following new sentence: "The provisions of this Act and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(f) NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.—The final sentence of section (4)(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended to read as follows: "Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law.".

(g) BEAR RIVER MIGRATORY BIRD REFUGE.—Section 6(b) of the Act of April 23, 1928 (45 Stat. 449; 16 U.S.C. 690e) is amended by striking at the end thereof the term "and disposed of as directed by the court having jurisdiction." and inserting in lieu thereof the term "and disposed of as directed by the Secretary of the Interior, in accordance with law.".

(h) MIGRATORY BIRD TREATY ACT.—(1) The final sentence of section 5 of the Migratory Bird Treaty Act (16 U.S.C. 706) is amended

to read as follows: "All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.".

Regulations. 16 USC 712.

(2) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

Regulations.

(3) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

(i) MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.—The final sentence of section 6 of the Act of March 16, 1934 (48 Stat. 452, 16 U.S.C. 718f) is amended to read as follows: "Any bird or part thereof taken or possessed contrary to this Act shall, when seized, be disposed of by the Secretary in accordance with law.".

(j) TITLE 18.—(1) Section 3112 of title 18, United States Code, is amended by striking out "court" and inserting in lieu thereof "Secretary".

(2) Section 1114 of such title 18 is amended by inserting immediately before "or of the Department of Labor" the following: ", the Department of Commerce,".

SEC. 4. FISH AND WILDLIFE ACT OF 1956.

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) is amended—

(1) by striking out paragraphs (4) and (5), and inserting in lieu thereof the following:

"(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.";

(2) by inserting "and" immediately after the semicolon at the end of paragraph (3); and

(3) by adding at the end thereof the following two new subsections:

"(b)(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

"(2) Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

"(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

"(c)(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, United States Code, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

"(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence of such volunteers.

"(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

"(4) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this subsection shall be considered a Federal employee.

"(5) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term 'employees' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply. 5 USC 8101.

"(6) There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1980, 1981, and 1982.". Appropriation authorization.

SEC. 5. MIGRATORY BIRD CONSERVATION ACT.

(a) Section 5 of the Migratory Bird Conservation Act (16 U.S.C. 715d) is amended to read as follows:

"SEC. 5. The Secretary of the Interior may—

"(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

"(2) acquire, by gift or devise, any area or interests therein; which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this Act (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this Act.".

(b) Section 10(a) of such Act (16 U.S.C. 715i(a)) is amended by striking out "Mexico and Canada" and inserting in lieu thereof "Mexico, Canada, Japan, and the Union of Soviet Socialist Republics".

(c) Section 11 of such Act (16 U.S.C. 715j) is amended by inserting "and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.)" after "this Act", by striking out "and" after "(39 Stat. 1702)" and inserting in lieu thereof a comma, and by inserting immediately before the period at the end thereof a comma and the following: "the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976".

SEC. 6. NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)(1)(A)) is amended by striking out "; and" at the end thereof and inserting in lieu thereof "unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species; and".

SEC. 7. MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.

(a) Section 2 of the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718b) is amended by striking out "September" in the sixth sentence thereof and inserting in lieu thereof "June".

16 USC 718c.

(b) Section 3 of such Act is amended by inserting immediately after "treaty" the following: "or convention".

SEC. 8. CRAB ORCHARD NATIONAL WILDLIFE REFUGE.

The second sentence of section 2 of the Act of August 5, 1947 (61 Stat. 770; 16 U.S.C. 666g), is amended to read as follows: "Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s).".

SEC. 9. BALD EAGLE PROTECTION ACT.

Section 2 of the Act of June 8, 1904 (16 U.S.C. 668a) is amended by deleting the period at the end thereof and adding the following: "*Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden

eagle nests which interfere with resource development or recovery operations.".

SEC. 10. WATERFOWL HABITAT CONSERVATION IN THE SAN JOAQUIN VALLEY.

(a) The Act of August 27, 1954 (68 Stat. 879) is amended by deleting the last sentence of section 6 and inserting in lieu thereof the following: "If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis— 16 USC 695i.

"(a) the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the 'Service'), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

"(b) the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in section 6(a) of this Act to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

"(c) any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to this Act shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by this Act, the rights of use of any facilities referred to in subsection (b), and the rights to all water contracted for by the organization or agency pursuant to this Act shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

"(d) in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.".

(b) The Act of August 27, 1954 (68 Stat. 879), is further amended by adding at the end thereof the following new section:

16 USC 695j-1.

"SEC. 8. The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of this Act.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-29 (Comm. on Merchant Marine and Fisheries) and No. 95-1730 (Comm. of Conference).

SENATE REPORTS: No. 95-1175 (Comm. on Environment and Public Works) and No. 95-1277 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Feb. 28, considered and failed of passage in House.

Vol. 124 (1978): Jan. 19, considered and passed House.

Sept. 25, considered and passed Senate, amended.

Sept. 26, passage vitiated; reconsidered and passed Senate, amended.

Oct. 15, House agreed to conference report; receded from disagreement and concurred in Senate amendment No. 32 with amendments; Senate agreed to conference report, and concurred in House amendments to Senate amendment No. 32; receded from Senate amendment No. 33.

Public Law 95-617
95th Congress

An Act

To suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics.

Nov. 9, 1978
[H.R. 4018]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Utility Regulatory Policies Act of 1978.
16 USC 2601 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Utility Regulatory Policies Act of 1978".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Relationship to antitrust laws.

TITLE I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

Subtitle A—General Provisions

Sec. 101. Purposes.
Sec. 102. Coverage.
Sec. 103. Federal contracts.

Subtitle B—Standards for Electric Utilities

Sec. 111. Consideration and determination respecting certain ratemaking standards.
Sec. 112. Obligations to consider and determine.
Sec. 113. Adoption of certain standards.
Sec. 114. Lifeline rates.
Sec. 115. Special rules for standards.
Sec. 116. Reports respecting standards.
Sec. 117. Relationship to State law.

Subtitle C—Intervention and Judicial Review

Sec. 121. Intervention in proceedings.
Sec. 122. Consumer representation.
Sec. 123. Judicial review and enforcement.
Sec. 124. Prior and pending proceedings.

Subtitle D—Administrative Provisions

Sec. 131. Voluntary guidelines.
Sec. 132. Responsibilities of Secretary of Energy.
Sec. 133. Gathering information on costs of service.
Sec. 134. Relationship to other authority.

Subtitle E—State Utility Regulatory Assistance

Sec. 141. Grants to carry out titles I and III.
Sec. 142. Authorizations.
Sec. 143. Conforming amendments.

TITLE II—CERTAIN FEDERAL ENERGY REGULATORY COMMISSION AND DEPARTMENT OF ENERGY AUTHORITIES

Sec. 201. Definitions.
Sec. 202. Interconnection.
Sec. 203. Wheeling.
Sec. 204. General provisions regarding certain interconnection and wheeling authority.
Sec. 205. Pooling.
Sec. 206. Continuance of service.
Sec. 207. Consideration of proposed rate increases.
Sec. 208. Automatic adjustment clauses.
Sec. 209. Reliability.
Sec. 210. Cogeneration and small power production.
Sec. 211. Interlocking directorates.
Sec. 212. Public participation before Federal Energy Regulatory Commission.
Sec. 213. Conduit hydroelectric facilities.
Sec. 214. Prior action; effect on other authorities.

TITLE III—RETAIL POLICIES FOR NATURAL GAS UTILITIES

Sec. 301. Purposes; coverage.
Sec. 302. Definitions.
Sec. 303. Adoption of certain standards.
Sec. 304. Special rules for standards.
Sec. 305. Federal participation.
Sec. 306. Gas utility rate design proposals.
Sec. 307. Judicial review and enforcement.
Sec. 308. Relationship to other applicable law.
Sec. 309. Reports respecting standards.
Sec. 310. Prior and pending proceedings.
Sec. 311. Relationship to other authority.

TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

Sec. 401. Establishment of program.
Sec. 402. Loans for feasibility studies.
Sec. 403. Loans for project costs.
Sec. 404. Loan rates and repayment.
Sec. 405. Simplified and expeditious licensing procedures.
Sec. 406. New impoundments.
Sec. 407. Authorizations.
Sec. 408. Definitions.

TITLE V—CRUDE OIL TRANSPORTATION SYSTEMS

Sec. 501. Findings.
Sec. 502. Statement of purposes.
Sec. 503. Definitions.
Sec. 504. Applications for approval of proposed crude oil transportation systems.
Sec. 505. Review schedule.
Sec. 506. Environmental impact statements.
Sec. 507. Decision of the President.
Sec. 508. Procedures for waiver of Federal law.
Sec. 509. Expedited procedures for issuance of permits: enforcement of rights-of-way.
Sec. 510. Negotiations with the Government of Canada.
Sec. 511. Judicial review.
Sec. 512. Authorization for appropriation.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Study concerning electric rates of State utility agencies.
Sec. 602. Seasonal diversity electricity exchange.
Sec. 603. Utility regulatory institute.
Sec. 604. Coal research laboratories.
Sec. 605. Conserved natural gas.
Sec. 606. Voluntary conversion of natural gas users to heavy fuel oil users.
Sec. 607. Emergency conversion of utilities and other facilities.
Sec. 608. Natural gas transportation policies.

SEC. 2. FINDINGS. 16 USC 2601.

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,

(2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,

(3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,

(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,

(5) a program to encourage the development of crude oil transportation systems, and

(6) the establishment of certain other authorities as provided in title VI of this Act.

SEC. 3. DEFINITIONS. 16 USC 2602.

As used in this Act, except as otherwise specifically provided—

(1) The term "antitrust laws" includes the Sherman Antitrust Act (15 U.S.C. 1 and following), the Clayton Act (15 U.S.C. 12 and following), the Federal Trade Commission Act (15 U.S.C. 14 and following), the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(2) The term "class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(6) The term "evidentiary hearing" means—

(A) in the case of a State agency, a proceeding which (i) is open to the public, (ii) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (iii) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (iv) is subject to judicial review;

(B) in the case of a Federal agency, a proceeding conducted as provided in sections 554, 556, and 557 of title 5, United States Code; and

(C) in the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which con-

forms, to the extent appropriate, with the requirements of subparagraph (A).

(7) The term "Federal agency" means an executive agency (as defined in section 105 of title 5 of the United States Code).

(8) The term "load management technique" means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

(9) The term "nonregulated electric utility" means any electric utility other than a State regulated electric utility.

(10) The term "rate" means (A) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(11) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(12) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(13) The term "sale" when used with respect to electric energy includes any exchange of electric energy.

(14) The term "Secretary" means the Secretary of Energy.

(15) The term "State" means a State, the District of Columbia, and Puerto Rico.

(16) The term "State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

(17) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(18) The term "State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

16 USC 2603.

SEC. 4. RELATIONSHIP TO ANTITRUST LAWS.

Nothing in this Act or in any amendment made by this Act affects—

(1) the applicability of the antitrust laws to any electric utility or gas utility (as defined in section 302), or

Post, p. 3150.

(2) any authority of the Secretary or of the Commission under any other provision of law (including the Federal Power Act and the Natural Gas Act) respecting unfair methods of competition or anticompetitive acts or practices.

16 USC 791a, 15 USC 717w.

TITLE I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

Subtitle A—General Provisions

16 USC 2611.

SEC. 101. PURPOSES.

The purposes of this title are to encourage—

(1) conservation of energy supplied by electric utilities;

(2) the optimization of the efficiency of use of facilities and resources by electric utilities; and

(3) equitable rates to electric consumers.

SEC. 102. COVERAGE. 16 USC 2612.

(a) VOLUME OF TOTAL RETAIL SALES.—This title applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(b) EXCLUSION OF WHOLESALE SALES.—The requirements of this title do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of electric energy for purposes of resale.

(c) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each electric utility to which this title applies during such calendar year. Promptly after publication of such list each State regulatory authority shall notify the Secretary of each electric utility on the list for which such State regulatory authority has ratemaking authority.

SEC. 103. FEDERAL CONTRACTS. 16 USC 2613.

Notwithstanding the limitation contained in section 102(b), no contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into or renewed after the date of the enactment of this Act may contain any provision which will have the effect of preventing the implementation of any requirement of subtitle B or C. Any provision in any such contract which has such effect shall be null and void.

Subtitle B—Standards For Electric Utilities

SEC. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS. 16 USC 2621.

(a) CONSIDERATION AND DETERMINATION.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.—(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be— Notice and hearing.

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in subsection (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.—(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

Federal standards.

(d) ESTABLISHMENT.—The following Federal standards are hereby established:

(1) COST OF SERVICE.—Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a).

(2) DECLINING BLOCK RATES.—The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) TIME-OF-DAY RATES.—The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b).

(4) SEASONAL RATES.—The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) INTERRUPTIBLE RATES.—Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) LOAD MANAGEMENT TECHNIQUES.—Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

16 USC 2622.

SEC. 112. OBLIGATIONS TO CONSIDER AND DETERMINE.

(a) REQUEST FOR CONSIDERATION AND DETERMINATION.—Each State regulatory authority (with respect to each electric utility for which

it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 111 with respect to any standard established by section 111(d) in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 121) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 111(d), a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after the date of the enactment of this Act, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 124, with the requirements of this title; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) TIME LIMITATIONS.—(1) Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by section 111(d).

(2) Not later than three years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by section 111(d).

(c) FAILURE TO COMPLY.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 111 with respect to each standard established by section 111(d) in the first rate proceeding commenced after the date three years after the date of enactment of this Act respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) with respect to such standard.

SEC. 113. ADOPTION OF CERTAIN STANDARDS. 16 USC 2623.

(a) ADOPTION OF STANDARDS.—Not later than two years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title. is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

Federal standards.

(b) ESTABLISHMENT.—The following Federal standards are hereby established:

(1) MASTER METERING.—To the extent determined appropriate under section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this title.

(2) AUTOMATIC ADJUSTMENT CLAUSES.—No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e).

(3) INFORMATION TO CONSUMERS.—Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f).

(4) PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE.—No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 115(g).

(5) ADVERTISING.—No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h).

(c) PROCEDURAL REQUIREMENTS.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a), shall (1) adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

16 USC 2624.

SEC. 114. LIFELINE RATES.

(a) LOWER RATES.—No provision of this title prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 111(d)(1).

(b) DETERMINATION.—If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) in effect two years after the date of the enactment of this Act, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) PRIOR PROCEEDINGS.—Section 124 shall not apply to the requirements of this section.

SEC. 115. SPECIAL RULES FOR STANDARDS. 16 USC 2625.

(a) COST OF SERVICE.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) TIME-OF-DAY RATES.—In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

(c) LOAD MANAGEMENT TECHNIQUES.—In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) MASTER METERING.—Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) AUTOMATIC ADJUSTMENT CLAUSES.—(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

Definition.

(3) As used in this subsection and section 113(b), the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) INFORMATION TO CONSUMERS.—(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE.—The procedures for termination of service referred to in section 113(b)(4) are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) ADVERTISING.—(1) For purposes of this section and section 113(b)(5)— Definitions.

(A) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 113(b)(5), the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act, *Post*, p. 3209.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

16 USC 2626.

SEC. 116. REPORTS RESPECTING STANDARDS.

(a) STATE AUTHORITIES AND NONREGULATED UTILITIES.—Not later than one year after the date of the enactment of this Act and annually thereafter for ten years, each State regulatory authority (with respect to each State regulated electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by sections 111(d) and 113(b). Such report shall include a summary of the determinations made and actions taken with respect to each such standard on a utility-by-utility basis.

(b) SECRETARY.—Not later than eighteen months after the date of the enactment of this Act and annually thereafter for ten years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a),

(2) his analysis of such reports, and

(3) his actions under this title, and his recommendations for such further Federal actions, including any legislation, regarding retail electric utility rates (and other practices) as may be necessary to carry out the purposes of this title.

16 USC 2627.

SEC. 117. RELATIONSHIP TO STATE LAW.

(a) REVENUE AND RATE OF RETURN.—Nothing in this title shall authorize or require the recovery by an electric utility of revenues, or of a rate of return, in excess of, or less than, the amount of revenues or the rate of return determined to be lawful under any other provision of law.

(b) STATE AUTHORITY.—Nothing in this title prohibits any State regulatory authority or nonregulated electric utility from adopting, pursuant to State law, any standard or rule affecting electric utilities which is different from any standard established by this subtitle.

(c) FEDERAL AGENCIES.—With respect to any electric utility which is a Federal agency, and with respect to the Tennessee Valley Authority when it is treated as a State regulatory authority as provided in section 3(17), any reference in section 111 or 113 to State law shall be treated as a reference to Federal law.

Subtitle C—Intervention and Judicial Review

16 USC 2631.

SEC. 121. INTERVENTION IN PROCEEDINGS.

(a) AUTHORITY TO INTERVENE AND PARTICIPATE.—In order to initiate and participate in the consideration of one or more of the standards established by subtitle B or other concepts which contribute to the achievement of the purposes of this title, the Secretary, any affected electric utility, or any electric consumer of an affected electric utility may intervene and participate as a matter of right in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design which is conducted by a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by a nonregulated electric utility.

(b) ACCESS TO INFORMATION.—Any intervenor or participant in a proceeding described in subsection (a) shall have access to informa-

tion available to other parties to the proceeding if such information is relevant to the issues to which his intervention or participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State regulatory authority (in the case of proceedings concerning electric utilities for which it has ratemaking authority) or by the nonregulated electric utility (in the case of a proceeding conducted by a nonregulated electric utility).

(c) EFFECTIVE DATE; PROCEDURES.—Any intervention or participation under this section, in any proceeding commenced before the date of the enactment of this Act but not completed before such date, shall be permitted under this section only to the extent such intervention or participation is timely under otherwise applicable law.

SEC. 122. CONSUMER REPRESENTATION. 16 USC 2632.

(a) COMPENSATION FOR COSTS OF PARTICIPATION OR INTERVENTION.—(1) If no alternative means for assuring representation of electric consumers is adopted in accordance with subsection (b) and if an electric consumer of an electric utility substantially contributed to the approval, in whole or in part, of a position advocated by such consumer in a proceeding concerning such utility, and relating to any standard set forth in subtitle B, such utility shall be liable to compensate such consumer (pursuant to paragraph (2)) for reasonable attorneys' fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of such position in such proceeding (including fees and costs of obtaining judicial review of any determination made in such proceeding with respect to such position).

(2) A consumer entitled to fees and costs under paragraph (1) may collect such fees and costs from an electric utility by bringing a civil action in any State court of competent jurisdiction, unless the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility) or nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has adopted a reasonable procedure pursuant to which such authority or nonregulated electric utility—

(A) determines the amount of such fees and costs, and

(B) includes an award of such fees and costs in its order in the proceeding.

(3) The procedure adopted by such State regulatory authority or nonregulated utility under paragraph (2) may include a preliminary proceeding to require that—

(A) as a condition of receiving compensation under such procedure such consumer demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship for such consumer, and

(B) persons with the same or similar interests have a common legal representative in the proceeding as a condition to receiving compensation.

(b) ALTERNATIVE MEANS.—Compensation shall not be required under subsection (a) if the State, the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility), or the nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has provided an alternative means for providing adequate compensation to persons—

(1) who have, or represent, an interest—

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(2) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) TRANSCRIPTS.—The State regulatory authority or nonregulated electric utility, as the case may be, shall make transcripts of the proceeding available, at cost of reproduction, to parties or intervenors in any ratemaking proceeding, or other regulatory proceeding relating to rates or rate design, before a State regulatory authority or nonregulated electric utility.

(d) FEDERAL AGENCIES.—Any claim under this section against any Federal agency shall be subject to the availability of appropriated funds.

(e) RIGHTS UNDER OTHER AUTHORITY.—Nothing in this section affects or restricts any rights of any participant or intervenor in any proceeding under any other applicable law or rule of law.

16 USC 2633.

SEC. 123. JUDICIAL REVIEW AND ENFORCEMENT.

(a) LIMITATION OF FEDERAL JURISDICTION.—Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of subtitle A or B or of this subtitle except for—

(1) an action over which a court of the United States has jurisdiction under subsection (b) or (c) (2); and

(2) review of any action in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28 of the United States Code.

(b) ENFORCEMENT OF INTERVENTION RIGHT.—(1) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene and participate under section 121(a), and such court shall have jurisdiction to grant appropriate relief.

(2) If any electric utility or electric consumer having a right to intervene under section 121(a) is denied such right by any State court, such electric utility or electric consumer may bring an action in the appropriate United States district court to require the State regulatory authority or nonregulated electric utility to permit such intervention and participation, and such court shall have jurisdiction to grant appropriate relief.

(3) Nothing in this subsection prohibits any person bringing any action under this subsection in a court of the United States from seeking review and enforcement at any time in any State court of any rights he may have with respect to any motion to intervene or participate in any proceeding.

(c) REVIEW AND ENFORCEMENT.—(1) Any person (including the Secretary) may obtain review of any determination made under subtitle A or B or under this subtitle with respect to any electric utility (other than a utility which is a Federal agency) in the appropriate State court if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if State law otherwise permits such review. Any person (including the Secretary) may bring an action to enforce the requirements of this title in the appropriate State court, except that no such action may be brought in a State court with respect to a utility which is a Federal agency. Such review or

action in a State court shall be pursuant to any applicable State procedures.

(2) Any person (including the Secretary) may obtain review in the appropriate court of the United States of any determination made under subtitle A or B or this subtitle by a Federal agency if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if otherwise applicable law permits such review. Such court shall have jurisdiction to grant appropriate relief. Any person (including the Secretary) may bring an action to enforce the requirements of subtitle A or B or this subtitle with respect to any Federal agency in the appropriate court of the United States and such court shall have jurisdiction to grant appropriate relief.

(3) In addition to his authority to obtain review under paragraph (1) or (2), the Secretary may also participate as an amicus curiae in any review by any court of an action arising under the provisions of subtitle A or B or this subtitle.

(d) OTHER AUTHORITY OF THE SECRETARY.—Nothing in this section prohibits the Secretary from—

(1) intervening and participating in any proceeding, or

(2) intervening and participating in any review by any court of any action

under section 204 of the Energy Conservation and Production Act. 42 USC 6804.

SEC. 124. PRIOR AND PENDING PROCEEDINGS. 16 USC 2634.

For purposes of subtitles A and B, and this subtitle, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before the date of the enactment of this Act and actions taken before such date in such proceedings shall be treated as complying with the requirements of subtitles A and B, and this subtitle if such proceedings and actions substantially conform to such requirements. For purposes of subtitles A and B, and this subtitle, any such proceeding or action commenced before the date of enactment of this Act, but not completed before such date, shall comply with the requirements of subtitles A and B, and this subtitle, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 121(c).

Subtitle D—Administrative Provisions

SEC. 131. VOLUNTARY GUIDELINES. 16 USC 2641.

The Secretary may prescribe voluntary guidelines respecting the standards established by sections 111(d) and 113(b). Such guidelines may not expand the scope or legal effect of such standards or establish additional standards respecting electric utility rates.

SEC. 132. RESPONSIBILITIES OF SECRETARY OF ENERGY. 16 USC 2642.

(a) AUTHORITY.—The Secretary may periodically notify the State regulatory authorities, and electric utilities identified pursuant to section 102(c), of— Notification.

(1) load management techniques and the results of studies and experiments concerning load management techniques;

(2) developments and innovations in electric utility ratemaking throughout the United States, including the results of studies and experiments in rate structure and rate reform;

(3) methods for determining cost of service; and

(4) any other data or information which the Secretary determines would assist such authorities and utilities in carrying out the provisions of this title.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide such technical assistance as he determines appropriate to assist the State regulatory authorities in carrying out their responsibilities under subtitle B and as is requested by any State regulatory authority relating to the standards established by subtitle B.

(c) APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of subsection (b) not to exceed $1,000,000 for each of the fiscal years 1979 and 1980.

16 USC 2643.

SEC. 133. GATHERING INFORMATION ON COSTS OF SERVICE.

(a) INFORMATION REQUIRED TO BE GATHERED.—Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 111(d)(2), such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) the costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) annual capital, operating, and maintenance costs—

(A) for transmission and distribution services, and

(B) for each type of generating unit: and

(4) costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) COMMISSION RULES.—The Commission shall, within 180 days after the date of enactment of this Act, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

Review.

(c) FILING AND PUBLICATION.—Not later than two years after the date of enactment of this Act, and periodically, but not less frequently than every two years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after the date of the enactment specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) ENFORCEMENT.—For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 enforceable under section 12 of such Act (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission. 15 USC 797.

SEC. 134. RELATIONSHIP TO OTHER AUTHORITY. 16 USC 2644.

Nothing in this title shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

Subtitle E—State Utility Regulatory Assistance

SEC. 141. GRANTS TO CARRY OUT TITLES I AND III.

Section 207 of title II of the Energy Conservation and Production Act is amended to read as follows: 42 USC 6807.

"STATE UTILITY REGULATORY ASSISTANCE

"SEC. 207. (a) The Secretary may make grants to State utility regulatory commissions and nonregulated electric utilities (as defined in the Public Utility Regulatory Policies Act of 1978) to carry out duties and responsibilities under titles I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978. No grant may be made under this section to any Federal agency. Grants. *Ante*, p. 3117. *Ante*, p. 3120, *post*, pp.3149, 3144.

"(b) Any requirements established by the Secretary with respect to grants under this section may be only such requirements as are necessary to assure that such grants are expended solely to carry out duties and responsibilities referred to in subsection (a) or such as are otherwise required by law.

"(c) No grant may be made under this section unless an application for such grant is submitted to the Secretary in such form and manner as the Secretary may require. The Secretary may not approve an application of a State utility regulatory commission or nonregulated electric utility unless such commission or nonregulated electric utility assures the Secretary that funds made available under this section will be in addition to, and not in substitution for, funds made available to such commission or nonregulated electric utility from other governmental sources.

"(d) The funds appropriated for purposes of this section shall be apportioned among the States in such manner that grants made under this section in each State shall not exceed the lesser of—

"(1) the amount determined by dividing equally among all States the total amount available under this section for such grants, or

"(2) the amount which the Secretary is authorized to provide pursuant to subsections (b) and (c) of this section for such State.".

SEC. 142. AUTHORIZATIONS.

Title II of the Energy Conservation and Production Act is amended by adding the following at the end thereof:

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6808. "SEC. 208. There are authorized to be appropriated—

"(1) not to exceed $40,000,000 for each of the fiscal years 1979 and 1980 to carry out section 207 (relating to State utility regulatory assistance);

"(2) not to exceed $10,000,000 for each of the fiscal years 1979 and 1980 to carry out section 205 (relating to State offices of consumer services); and

"(3) not to exceed $8,000,000 for the fiscal year 1979, and $10,000,000 for the fiscal year 1980 to carry out section 204(1)(B) (relating to innovative rate structures).".

SEC. 143. CONFORMING AMENDMENTS.

42 USC 6801 *et seq.* (a) ADMINISTRATOR.—Title II of the Energy Conservation and Production Act is amended by striking out "Administrator" in each place it appears and substituting "Secretary". Section 202(1) of the

42 USC 6802. Energy Conservation and Production Act is amended to read as follows:

"(b) DEFINITION.—

"(1) The term 'Secretary' means the Secretary of Energy.".

TITLE II—CERTAIN FEDERAL ENERGY REGULATORY COMMISSION AND DEPARTMENT OF ENERGY AUTHORITIES

SEC. 201. DEFINITIONS.

16 USC 796. Section 3 of the Federal Power Act is amended by inserting the following before the period at the end thereof:

"(17)(A) 'small power production facility' means a facility which—

"(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof; and

"(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;

"(B) 'primary energy source' means the fuel or fuels used for the generation of electric energy, except that such term does not include, as determined under rules prescribed by the Commission, in consultation with the Secretary of Energy—

"(i) the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and

"(ii) the minimum amounts of fuel required to alleviate or prevent—

"(I) unanticipated equipment outages, and

"(II) emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages;

"(C) 'qualifying small power production facility' means a small power production facility—

"(i) which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel

efficiency, and reliability) as the Commission may, by rule, prescribe; and

"(ii) which is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

"(D) 'qualifying small power producer' means the owner or operator of a qualifying small power production facility;

"(18)(A) 'cogeneration facility' means a facility which produces—

"(i) electric energy, and

"(ii) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes;

"(B) 'qualifying cogeneration facility' means a cogeneration facility which—

"(i) the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe; and

"(ii) is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

"(C) 'qualifying cogenerator' means the owner or operator of a qualifying cogeneration facility;

"(19) 'Federal power marketing agency' means any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy;

"(20) 'evidentiary hearings' and 'evidentiary proceeding' mean a proceeding conducted as provided in sections 554, 556, and 557 of title 5, United States Code;

"(21) 'State regulatory authority' has the same meaning as the term 'State commission', except that in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority (as defined in section 3 of the Public Utility Regulatory Policies Act of 1978), such term means the Tennessee Valley Authority;

"(22) 'electric utility' means any person or State agency which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency".

SEC. 202. INTERCONNECTION.

Part II of the Federal Power Act is amended by adding the following new section at the end thereof:

"CERTAIN INTERCONNECTION AUTHORITY

"SEC. 210. (a)(1) Upon application of any electric utility, Federal power marketing agency, qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring— 16 USC 824i.

"(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

"(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability,

"(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

"(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

"(2) Any State regulatory authority may apply to the Commission for an order for any action referred to in subparagraph (A), (B), (C), or (D) of paragraph (1). No such order may be issued by the Commission with respect to a Federal power marketing agency upon application of a State regulatory authority.

"(b) Upon receipt of an application under subsection (a), the Commission shall—

"(1) issue notice to each affected State regulatory authority, each affected electric utility, each affected Federal power marketing agency, each affected owner or operator of a cogeneration facility or of a small power production facility, and to the public.

"(2) afford an opportunity for an evidentiary hearing, and

"(3) make a determination with respect to the matters referred to in subsection (c).

"(c) No order may be issued by the Commission under subsection (a) unless the Commission determines that such order—

"(1) is in the public interest,

"(2) would—

"(A) encourage overall conservation of energy or capital,

"(B) optimize the efficiency of use of facilities and resources, or

"(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

Post, p. 3138.

"(3) meets the requirements of section 212.

"(d) The Commission may, on its own motion, after compliance with the requirements of paragraphs (1) and (2) of subsection (b), issue an order requiring any action described in subsection (a)(1) if the Commission determines that such order meets the requirements of subsection (c). No such order may be issued upon the Commission's own motion with respect to a Federal power marketing agency.

Definitions.

"(e)(1) As used in this section, the term 'facilities' means only facilities used for the generation or transmission of electric energy.

"(2) With respect to an order issued pursuant to an application of a qualifying cogenerator or qualifying small power producer under subsection (a)(1), the term 'facilities of such applicant' means the qualifying cogeneration facilities or qualifying small power production facilities of the applicant, as specified in the application. With respect to an order issued pursuant to an application under subsection (a)(2), the term 'facilities of such applicant' means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the application. With respect to an order issued by the Commission on its own motion under subsection (d), such term means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the proposed order.".

SEC. 203. WHEELING.

Part II of the Federal Power Act, as amended by section 202 of this Act, is further amended by adding the following new section at the end thereof:

"CERTAIN WHEELING AUTHORITY

"SEC. 211. (a) Any electric utility or Federal power marketing agency may apply to the Commission for an order under this subsection requiring any other electric utility to provide transmission services to the applicant (including any enlargement of transmission capacity necessary to provide such services). Upon receipt of such application, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such order if it finds that such order— 16 USC 824j.

"(1) is in the public interest,

"(2) would—

"(A) conserve a significant amount of energy,

"(B) significantly promote the efficient use of facilities and resources, or

"(C) improve the reliability of any electric utility system to which the order applies, and

"(3) meets the requirements of section 212. *Post*, p. 3138.

"(b) Any electric utility, or Federal power marketing agency, which purchases electric energy for resale from any other electric utility may apply to the Commission for an order under this subsection requiring such other electric utility to provide transmission services to the applicant (including any increase in transmission capacity necessary to provide such services). Upon receipt of an application under this subsection, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such an order if the Commission determines that—

"(1) such other electric utility has given actual or constructive notice that it is unwilling or unable to provide electric service to the applicant and has been requested by the applicant to provide the transmission services requested in the application under this subsection, and

"(2) such order meets the requirements of section 212.

"(c)(1) No order may be issued under subsection (a) unless the Commission determines that such order would reasonably preserve existing competitive relationships.

"(2) No order may be issued under subsection (a) or (b) which requires the electric utility subject to the order to transmit, during any period, an amount of electric energy which replaces any amount of electric energy—

"(A) required to be provided to such applicant pursuant to a contract during such period, or

"(B) currently provided to the applicant by the utility subject to the order pursuant to a rate schedule on file during such period with the Commission.

"(3) No order may be issued under the authority of subsection (a) or (b) which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

"(4) No order may be issued under subsection (a) or (b) which provides for the transmission of electric energy directly to an ultimate consumer.

"(d)(1) Any electric utility ordered under subsection (a) or (b) to provide transmission services may apply to the Commission for an

order permitting such electric utility to cease providing all, or any portion of, such services. After public notice, notice to each affected State regulatory authority, each affected Federal power marketing agency, and each affected electric utility, and after an opportunity for an evidentiary hearing, the Commission shall issue an order terminating or modifying the order issued under subsection (a) or (b), if the electric utility providing such transmission services has demonstrated, and the Commission has found, that—

"(A) due to changed circumstances, the requirements applicable, under this section and section 212, to the issuance of an order under subsection (a) or (b) are no longer met, or

Infra.

"(B) any transmission capacity of the utility providing transmission services under such order which was, at the time such order was issued, in excess of the capacity necessary to serve its own customers is no longer in excess of the capacity necessary for such purposes.

No order shall be issued under this subsection pursuant to a finding under subparagraph (A) unless the Commission finds that such order is in the public interest.

"(2) Any order issued under this subsection terminating or modifying an order issued under subsection (a) or (b) shall—

"(A) provide for any appropriate compensation, and

"(B) provide the affected electric utilities adequate opportunity and time to—

"(i) make suitable alternative arrangements for any transmission services terminated or modified, and

"(ii) insure that the interests of ratepayers of such utilities are adequately protected.

"(3) No order may be issued under this subsection terminating or modifying any order issued under subsection (a) or (b) if the order under subsection (a) or (b) includes terms and conditions agreed upon by the parties which—

"(A) fix a period during which transmission services are to be provided under the order under subsection (a) or (b), or

"(B) otherwise provide procedures or methods for terminating or modifying such order (including, if appropriate, the return of the transmission capacity when necessary to take into account an increase, after the issuance of such order, in the needs of the electric utility subject to such order for transmission capacity).

"(e) As used in this section, the term 'facilities' means only facilities used for the generation or transmission of electric energy.".

SEC. 204. GENERAL PROVISIONS REGARDING CERTAIN INTERCONNECTION AND WHEELING AUTHORITY.

(a) RESTRICTIONS AND OTHER PROVISIONS.—Part II of the Federal Power Act, as amended by sections 202 and 203 of this Act, is further amended by adding the following new section at the end thereof:

16 USC 824.

"PROVISIONS REGARDING CERTAIN ORDERS REQUIRING INTERCONNECTION OR WHEELING

16 USC 824k.

"SEC. 212. (a) No order may be issued by the Commission under section 210 or subsection (a) or (b) of section 211 unless the Commission determines that such order—

Ante, pp. 3135, 3137.

"(1) is not likely to result in a reasonably ascertainable uncompensated economic loss for any electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

"(2) will not place an undue burden on an electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

"(3) will not unreasonably impair the reliability of any electric utility affected by the order; and

"(4) will not impair the ability of any electric utility affected by the order to render adequate service to its customers.

The determination under paragraph (1) shall be based upon a showing of the parties. The Commission shall have no authority under section 210 or 211 to compel the enlargement of generating facilities. *Ante*, pp. 3135, 3137.

"(b) No order may be issued under section 210 or subsection (a) or (b) of section 211 unless the applicant for such order demonstrates that he is ready, willing, and able to reimburse the party subject to such order for—

"(1) in the case of an order under section 210, such party's share of the reasonably anticipated costs incurred under such order, and

"(2) in the case of an order under subsection (a) or (b) of section 211—

"(A) the reasonable costs of transmission services, including the costs of any enlargement of transmission facilities, and

"(B) a reasonable rate of return on such costs, as appropriate, as determined by the Commission.

"(c)(1) Before issuing an order under section 210 or subsection (a) or (b) of section 211, the Commission shall issue a proposed order and set a reasonable time for parties to the proposed interconnection or transmission order to agree to terms and conditions under which such order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them. Such proposed order shall not be reviewable or enforceable in any court. The time set for such parties to agree to such terms and conditions may be shortened if the Commission determines that delay would jeopardize the attainment of the purposes of any proposed order. Any terms and conditions agreed to by the parties shall be subject to the approval of the Commission.

"(2)(A) If the parties agree as provided in paragraph (1) within the time set by the Commission and the Commission approves such agreement, the terms and conditions shall be included in the final order. In the case of an order under section 210, if the parties fail to agree within the time set by the Commission or if the Commission does not approve any such agreement, the Commission shall prescribe such terms and conditions and include such terms and conditions in the final order.

"(B) In the case of any order applied for under section 211, if the parties fail to agree within the time set by the Commission, the Commission shall prescribe such terms and conditions in the final order.

"(d) If the Commission does not issue any order applied for under section 210 or 211, the Commission shall, by order, deny such application and state the reasons for such denial.

"(e) No provision of section 210 or 211 shall be treated—

"(1) as requiring any person to utilize the authority of such section 210 or 211 in lieu of any other authority of law, or

"(2) as limiting, impairing, or otherwise affecting any authority of the Commission under any other provision of law.

"(f)(1) No order under section 210 or 211 requiring the Tennessee Valley Authority (hereinafter in this subsection referred to as the

'TVA') to take any action shall take effect for 60 days following the date of issuance of the order. Within 60 days following the issuance by the Commission of any order under section 210 or of section 211 requiring the TVA to enter into any contract for the sale or delivery of power, the Commission may on its own motion initiate, or upon petition of any aggrieved person shall initiate, an evidentiary hearing to determine whether or not such sale or delivery would result in violation of the third sentence of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), hereinafter in this subsection referred to as the TVA Act.

"(2) Upon initiation of any evidentiary hearing under paragraph (1), the Commission shall give notice thereof to any applicant who applied for and obtained the order from the Commission, to any electric utility or other entity subject to such order, and to the public, and shall promptly make the determination referred to in paragraph (1). Upon initiation of such hearing, the Commission shall stay the effectiveness of the order under section 210 or 211 until whichever of the following dates is applicable—

Ante, pp. 2135, 2137.

"(A) the date on which there is a final determination (including any judicial review thereof under paragraph (3)) that no such violation would result from such order, or

"(B) the date on which a specific authorization of the Congress (within the meaning of the third sentence of section 15d(a) of the TVA Act) takes effect.

"(3) Any determination under paragraph (1) shall be reviewable only in the appropriate court of the United States upon petition filed by any aggrieved person or municipality within 60 days after such determination, and such court shall have jurisdiction to grant appropriate relief. Any applicant who applied for and obtained the order under section 210 or 211, and any electric utility or other entity subject to such order shall have the right to intervene in any such proceeding in such court. Except for review by such court (and any appeal or other review by an appellate court of the United States), no court shall have jurisdiction to consider any action brought by any person to enjoin the carrying out of any order of the Commission under section 210 or section 211 requiring the TVA to take any action on the grounds that such action requires a specific authorization of the Congress pursuant to the third sentence of section 15d(a) of the TVA Act.".

(b) APPLICATION OF FEDERAL POWER ACT.—(1) Section 201(b) of such Act is amended by inserting "(1)" after "(b)", by inserting "except as provided in paragraph (2)" after "but" in the first sentence thereof, and by adding the following at the end thereof:

16 USC 824.

Ante, p. 3138.

"(2) The provisions of sections 210, 211, and 212 shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this Act with respect to such provisions. Compliance with any order of the Commission under the provisions of section 210 or 211, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than the purposes specified in the preceding sentence.".

(2) Section 201(e) of such Act is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212)" after "under this part".

16 USC 824a–1.

SEC. 205. POOLING.

(a) STATE LAWS.—The Commission may, on its own motion, and shall, on application of any person or governmental entity, after

public notice and notice to the Governor of the affected State and after affording an opportunity for public hearing, exempt electric utilities, in whole or in part, from any provision of State law, or from any State rule or regulation, which prohibits or prevents the voluntary coordination of electric utilities, including any agreement for central dispatch, if the Commission determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area. No such exemption may be granted if the Commission finds that such provision of State law, or rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare, or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

(b) POOLING STUDY.—(1) The Commission, in consultation with the reliability councils established under section 202(a) of the Federal Power Act, the Secretary, and the electric utility industry shall study the opportunities for— 16 USC 824a.

(A) conservation of energy,

(B) optimization in the efficiency of use of facilities and resources, and

(C) increased reliability,

through pooling arrangements. Not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report containing the results of such study to the President and the Congress.

(2) The Commission may recommend to electric utilities that such utilities should voluntarily enter into negotiations where the opportunities referred to in paragraph (1) exist. The Commission shall report annually to the President and the Congress regarding any such recommendations and subsequent actions taken by electric utilities, by the Commission, and by the Secretary under this Act, the Federal Power Act, and any other provision of law. Such annual reports shall be included in the Commission's annual report required under the Department of Energy Organization Act. Report to President and Congress. 42 USC 7101 note.

SEC. 206. CONTINUANCE OF SERVICE.

(a) AMENDMENT OF FEDERAL POWER ACT.—Section 202 of the Federal Power Act is amended by adding the following new subsection at the end thereof: 16 USC 824a.

"(g) In order to insure continuity of service to customers of public utilities, the Commission shall require, by rule, each public utility to—

"(1) report promptly to the Commission and any appropriate State regulatory authorities any anticipated shortage of electric energy or capacity which would affect such utility's capability of serving its wholesale customers,

"(2) submit to the Commission, and to any appropriate State regulatory authority, and periodically revise, contingency plans respecting—

"(A) shortages of electric energy or capacity, and

"(B) circumstances which may result in such shortages, and

"(3) accommodate any such shortages or circumstances in a manner which shall—

"(A) give due consideration to the public health, safety, and welfare, and

"(B) provide that all persons served directly or indirectly by such public utility will be treated, without undue prejudice or disadvantage.".

16 USC 824a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not affect any proceeding of the Commission pending on the date of the enactment of this Act or any case pending on such date respecting a proceeding of the Commission.

SEC. 207. CONSIDERATION OF PROPOSED RATE INCREASES.

16 USC 824d.

(a) NOTICE PERIOD.—Section 205(d) of the Federal Power Act is amended by striking out "thirty" each place it appears and substituting "sixty".

16 USC 824d note.

(b) STUDY.—The chairman of the Federal Energy Regulatory Commission, in consultation with the Secretary, is directed to conduct a study of the legal requirements and administrative procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act for the purposes of (1) providing for expeditious handling of hearings consistent with due process, (2) preventing the imposition of successive rate increases before they have been determined by the Commission to be just and reasonable and otherwise lawful, and (3) improving procedures designed to prohibit anticompetitive or unreasonable differences in wholesale and retail rates, or both. The chairman shall report to Congress within nine months from the date of enactment of this Act on the results of the study required under this section, on the administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid the purposes of this section.

Report to Congress.

SEC. 208. AUTOMATIC ADJUSTMENT CLAUSES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(f)(1) Not later than 2 years after the date of the enactment of this subsection and not less often than every 4 years thereafter, the Commission shall make a thorough review of automatic adjustment clauses in public utility rate schedules to examine—

"(A) whether or not each such clause effectively provides incentives for efficient use of resources (including economical purchase and use of fuel and electric energy), and

"(B) whether any such clause reflects any costs other than costs which are—

"(i) subject to periodic fluctuations and

"(ii) not susceptible to precise determinations in rate cases prior to the time such costs are incurred.

Such review may take place in individual rate proceedings or in generic or other separate proceedings applicable to one or more utilities.

"(2) Not less frequently than every 2 years, in rate proceedings or in generic or other separate proceedings, the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses.

"(3) The Commission may, on its own motion or upon complaint, after an opportunity for an evidentiary hearing, order a public utility to—

"(A) modify the terms and provisions of any automatic adjustment clause, or

"(B) cease any practice in connection with the clause,

if such clause or practice does not result in the economical purchase and use of fuel, electric energy, or other items, the cost of which is included in any rate schedule under an automatic adjustment clause.

"(4) As used in this subsection, the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include any rate which takes effect subject to refund and subject to a later determination of the appropriate amount of such rate.". "Automatic adjustment clause."

SEC. 209. RELIABILITY. 16 USC 824a-2.

(a) STUDY.—(1) The Secretary, in consultation with the Commission, shall conduct a study with respect to—

(A) the level of reliability appropriate to adequately serve the needs of electric consumers, taking into account cost effectiveness and the need for energy conservation,

(B) the various methods which could be used in order to achieve such level of reliability and the cost effectiveness of such methods, and

(C) the various procedures that might be used in case of an emergency outage to minimize the public disruption and economic loss that might be caused by such an outage and the cost effectiveness of such procedures.

Such study shall be completed and submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act. Before such submittal the Secretary shall provide an opportunity for public comment on the results of such study. Report to President and Congress.

(2) The study under paragraph (1) shall include consideration of the following:

(A) the cost effectiveness of investments in each of the components involved in providing adequate and reliable electric service, including generation, transmission, and distribution facilities, and devices available to the electric consumer;

(B) the environmental and other effects of the investments considered under subparagraph (A);

(C) various types of electric utility systems in terms of generation, transmission, distribution and customer mix, the extent to which differences in reliability levels may be desirable, and the cost-effectiveness of the various methods which could be used to decrease the number and severity of any outages among the various types of systems;

(D) alternatives to adding new generation facilities to achieve such desired levels of reliability (including conservation);

(E) the cost-effectiveness of adding a number of small, decentralized conventional and nonconventional generating units rather than a small number of large generating units with a similar total megawatt capacity for achieving the desired level of reliability; and

(F) any standards for electric utility reliability used by, or suggested for use by, the electric utility industry in terms of cost-effectiveness in achieving the desired level of reliability, including equipment standards, standards for operating procedures and training of personnel, and standards relating the number and severity of outages to periods of time.

(b) EXAMINATION OF RELIABILITY ISSUES BY RELIABILITY COUNCILS.—The Secretary, in consultation with the Commission, may, from time to time, request the reliability councils established under section 202(a) of the Federal Power Act or other appropriate persons (including Federal agencies) to examine and report to him concerning 16 USC 824a.

Report to Congress.

any electric utility reliability issue. The Secretary shall report to the Congress (in its annual report or in the report required under subsection (a) if appropriate) the results of any examination under the preceding sentence.

(c) DEPARTMENT OF ENERGY RECOMMENDATIONS.—The Secretary, in consultation with the Commission, and after opportunity for public comment, may recommend industry standards for reliability to the electric utility industry, including standards with respect to equipment, operating procedures and training of personnel, and standards relating to the level or levels of reliability appropriate to adequately and reliably serve the needs of electric consumers. The Secretary shall include in his annual report—

(1) any recommendations made under this subsection or any recommendations respecting electric utility reliability problems under any other provision of law, and

(2) a description of actions taken by electric utilities with respect to such recommendations.

16 USC 824a-3.

SEC. 210. COGENERATION AND SMALL POWER PRODUCTION.

(a) COGENERATION AND SMALL POWER PRODUCTION RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage cogeneration and small power production which rules require electric utilities to offer to—

(1) sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities and

(2) purchase electric energy from such facilities.

Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments. Such rules shall include provisions respecting minimum reliability of qualifying cogeneration facilities and qualifying small power production facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Such rules may not authorize a qualifying cogeneration facility or qualifying small power production facility to make any sale for purposes other than resale.

(b) RATES FOR PURCHASES BY ELECTRIC UTILITIES.—The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

(c) RATES FOR SALES BY UTILITIES.—The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to sell electric energy to any qualifying cogeneration facility or qualifying small power production facility, the rates for such sale—

(1) shall be just and reasonable and in the public interest, and

(2) shall not discriminate against the qualifying cogenerators or qualifying small power producers.

(d) DEFINITION.—For purposes of this section, the term "incremental cost of alternative electric energy" means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

(e) EXEMPTIONS.—(1) Not later than 1 year after the date of enactment of this Act and from time to time thereafter, the Commission shall, after consultation with representatives of State regulatory authorities, electric utilities, owners of cogeneration facilities and owners of small power production facilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments, prescribe rules under which qualifying cogeneration facilities and qualifying small power production facilities are exempted in whole or part from the Federal Power Act, from the Public Utility Holding Company Act, from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production. Rules. 16 USC 791a. 15 USC 79.

(2) No qualifying small power production facility which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), exceeds 30 megawatts may be exempted under rules under paragraph (1) from any provision of law or regulation referred to in paragraph (1), except that any qualifying small power production facility which produces electric energy solely by the use of biomass as a primary energy source, may be exempted by the Commission under such rules from the Public Utility Holding Company Act and from State laws and regulations referred to in such paragraph (1).

(3) No qualifying small power production facility or qualifying cogeneration facility may be exempted under this subsection from—

(A) any State law or regulation in effect in a State pursuant to subsection (f),

(B) the provisions of section 210, 211, or 212 of the Federal Power Act or the necessary authorities for enforcement of any such provision under the Federal Power Act, or *Ante*, pp. 3135, 3137, 3138.

(C) any license or permit requirement under part I of the Federal Power Act, any provision under such Act related to such a license or permit requirement, or the necessary authorities for enforcement of any such requirement.

(f) IMPLEMENTATION OF RULES FOR QUALIFYING COGENERATION AND QUALIFYING SMALL POWER PRODUCTION FACILITIES.—(1) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each State regulatory authority shall, after notice and opportunity for public hearing, implement such rule (or revised rule) for each electric utility for which it has ratemaking authority. Notice and hearing.

(2) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each nonregulated electric utility shall, after notice and opportunity for public hearing, implement such rule (or revised rule). Notice and hearing.

(g) JUDICIAL REVIEW AND ENFORCEMENT.—(1) Judicial review may

be obtained respecting any proceeding conducted by a State regulatory authority or nonregulated electric utility for purposes of implementing any requirement of a rule under subsection (a) in the same manner, and under the same requirements, as judicial review may be obtained under section 123 in the case of a proceeding to which section 123 applies.

(2) Any person (including the Secretary) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f). Any such action shall be brought only in the manner, and under the requirements, as provided under section 123 with respect to an action to which section 123 applies.

(h) COMMISSION ENFORCEMENT.—(1) For purposes of enforcement of any rule prescribed by the Commission under subsection (a) with respect to any operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under part II of the Federal Power Act, such rule shall be treated as a rule under the Federal Power Act. Nothing in subsection (g) shall apply to so much of the operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility as are subject to the jurisdiction of the Commission under part II of the Federal Power Act.

16 USC 824.

(2)(A) The Commission may enforce the requirements of subsection (f) against any State regulatory authority or nonregulated electric utility. For purposes of any such enforcement, the requirements of subsection (f)(1) shall be treated as a rule enforceable under the Federal Power Act. For purposes of any such action, a State regulatory authority or nonregulated electric utility shall be treated as a person within the meaning of the Federal Power Act. No enforcement action may be brought by the Commission under this section other than—

16 USC 791a.

(i) an action against the State regulatory authority or nonregulated electric utility for failure to comply with the requirements of subsection (f) or

(ii) an action under paragraph (1).

(B) Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as provided in subparagraph (A) of this paragraph. If the Commission does not initiate an enforcement action under subparagraph (A) against a State regulatory authority or nonregulated electric utility within 60 days following the date on which a petition is filed under this subparagraph with respect to such authority, the petitioner may bring an action in the appropriate United States district court to require such State regulatory authority or nonregulated electric utility to comply with such requirements, and such court may issue such injunctive or other relief as may be appropriate. The Commission may intervene as a matter of right in any such action.

(i) FEDERAL CONTRACTS.—No contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into after the date of the enactment of this Act may contain any provision which will have the effect of preventing the implementation of any rule under this section with respect to such utility. Any provision in any such contract which has such effect shall be null and void.

(j) DEFINITIONS.—For purposes of this section, the terms "small power production facility", "qualifying small power production facility", "qualifying small power producer", "primary energy source", "cogeneration facility", "qualifying cogeneration facility", and "qualifying cogenerator" have the respective meanings provided for such terms under section 3 (17) and (18) of the Federal Power Act. *Ante*, p. 3134.

SEC. 211. INTERLOCKING DIRECTORATES.

(a) AMENDMENT OF FEDERAL POWER ACT.—Section 305 of the Federal Power Act is amended by adding the following new subsection at the end thereof: 16 USC 825d.

"(c) (1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

"(2) The entities listed for purposes of paragraph (1) are as follows—

"(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

"(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

"(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

"(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

"(E) any entity referred to in subsection (b); and

"(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

"(3) For purposes of this subsection— Definitions.

"(A) The term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

"(B) The terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) EFFECTIVE DATE.—No person shall be required to file a statement under section 305(c)(1) of the Federal Power Act before April 16 USC 825d note.

30 of the second calendar year which begins after the date of the enactment of this Act and no public utility shall be required to publish a list under section 305(c)(2) of such Act before January 31 of such second calendar year.

SEC. 212. PUBLIC PARTICIPATION BEFORE FEDERAL ENERGY REGULATORY COMMISSION.

16 USC 791a note, 825r. 16 USC 825q.

The Federal Power Act is amended by redesignating sections 319 and 320 as 320 and 321, respectively, and by inserting the following new section after section 318:

"OFFICE OF PUBLIC PARTICIPATION

16 USC 825q-1.

"SEC. 319. (a)(1) There shall be an office in the Commission to be known as the Office of Public Participation (hereinafter in this section referred to as the 'Office').

"(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the Chairman with the approval of the Commission. The Director may be removed during his term of office by the Chairman, with the approval of the Commission, only for inefficiency, neglect of duty, or malfeasance in office.

"(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated at a rate not in excess of the maximum rate prescribed for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

5 USC 5332 note.

"(3) The Director may appoint, and assign the duties of, employees of such Office, and with the concurrence of the Commission he may fix the compensation of such employees and procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code.

"(b)(1) The Director shall coordinate assistance to the public with respect to authorities exercised by the Commission. The Director shall also coordinate assistance available to persons intervening or participating or proposing to intervene or participate in proceedings before the Commission.

"(2) The Commission may, under rules promulgated by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person. Such compensation may be paid only if the Commission has determined that—

"(A) the proceeding is significant, and

"(B) such person's intervention or participation in such proceeding without receipt of compensation constitutes a significant financial hardship to him.

"(3) Nothing in this subsection affects or restricts any rights of any intervenor or participant under any other applicable law or rule of law.

Appropriation authorization.

"(4) There are authorized to be appropriated to the Secretary of Energy to be used by the Office for purposes of compensation of persons under the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.".

SEC. 213. CONDUIT HYDROELECTRIC FACILITIES.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 30. (a) Except as provided in subsection (b) or (c), the Commission may grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order— 16 USC 823a.

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission may not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a) the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall be treated as a violation of a rule or order of the Commission under this Act.".

SEC. 214. PRIOR ACTION; EFFECT ON OTHER AUTHORITIES. 16 USC 824 note.

(a) PRIOR ACTIONS.—No provision of this title or of any amendment made by this title shall apply to, or affect, any action taken by the Commission before the date of the enactment of this Act.

(b) OTHER AUTHORITIES.—No provision of this title or of any amendment made by this title shall limit, impair or otherwise affect any authority of the Commission or any other agency or instrumentality of the United States under any other provision of law except as specifically provided in this title.

TITLE III—RETAIL POLICIES FOR NATURAL GAS UTILITIES

SEC. 301. PURPOSES; COVERAGE. 15 USC 3201.

(a) PURPOSES.—The purposes of this title are to encourage—

(1) conservation of energy supplied by gas utilities;

(2) the optimization of the efficiency of use of facilities and resources by gas utility systems; and

(3) equitable rates to gas consumers of natural gas.

(b) VOLUME OF TOTAL RETAIL SALES.—This title applies to each gas utility in any calendar year, and to each proceeding relating to each gas utility in such year, if the total sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(c) EXCLUSION OF WHOLESALE SALES.—The requirements of this title do not apply to the operations of a gas utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of natural gas for purposes of resale.

(d) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each gas utility to which this title applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each gas utility on the list for which such State regulatory authority has ratemaking authority.

15 USC 3202.

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term "gas consumer" means any person, State agency, or Federal agency, to which natural gas is sold other than for purposes of resale.

(2) The term "gas utility" means any person, State agency, or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

(3) The term "State regulated gas utility" means any gas utility with respect to which a State regulatory authority has ratemaking authority.

(4) The term "nonregulated gas utility" means any gas utility other than a State regulated gas utility.

(5) The term "rate" means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of natural gas to a gas consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of natural gas to a gas consumer.

(6) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(7) The term "sale", when used with respect to natural gas, includes an exchange of natural gas.

(8) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of natural gas by any gas utility (other than by such State agency).

15 USC 3203.

SEC. 303. ADOPTION OF CERTAIN STANDARDS.

Notice and hearing.

(a) ADOPTION OF STANDARDS.—Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall—

(1) adopt the standard established by subsection (b)(1) if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(2) if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) and (2) and any review of such determination in any court under section 307, the

purposes of this title supplement State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) ESTABLISHMENT.—The following Federal standards are hereby established: Federal standards.

(1) PROCEDURES FOR TERMINATION OF NATURAL GAS SERVICE.—No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in section 304(a).

(2) ADVERTISING.—No gas utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 304(b).

(c) PROCEDURAL REQUIREMENTS.—Each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility, within the 2-year period specified in subsection (a), shall adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, with respect to any such standard which is not adopted, such authority or nonregulated gas utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

SEC. 304. SPECIAL RULES FOR STANDARDS. 15 USC 3204.

(a) PROCEDURES FOR TERMINATION OF GAS SERVICE.—The procedures for termination of service referred to in section 303(b)(1) are procedures prescribed by the State regulatory authority (with respect to gas utilities for which it has ratemaking authority) or the nonregulated gas utility which provide that—

(1) no gas service to a gas consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to a gas consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to each gas utility for which it has ratemaking authority) or nonregulated gas utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(b) ADVERTISING.—(1) For purposes of this section and section 303— Definitions.

(A) The term "advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's gas consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of a gas utility or the selection or installa-

tion of any appliance or equipment designed to use such utility's service.

(2) For purposes of this section and section 303, the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs natural gas consumers how they can conserve natural gas or can reduce peak demand for natural gas,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act,

Post, p. 3209.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notification of hearings thereon.

15 USC 3205.

SEC. 305. FEDERAL PARTICIPATION.

(a) INTERVENTION.—In addition to the authorities vested in the Secretary pursuant to any other provision of law, the Secretary, on his own motion, may intervene as a matter of right in any proceeding before a State regulatory authority which relates to gas utility rates or rate design. Such intervention shall be solely for the purpose of advocating policies or methods which carry out the purposes set forth in section 301 of this title.

(b) RIGHTS.—The Secretary shall have the same rights as any other party to a proceeding before a State regulatory authority which relates to gas utility rates or rate design.

(c) NONREGULATED GAS UTILITIES.—The Secretary, on his own motion, may, to the same extent as provided in subsections (a) through (b), intervene as a matter of right in any proceeding which relates to rates or rate design of nonregulated gas utilities.

15 USC 3206.

SEC. 306. GAS UTILITY RATE DESIGN PROPOSALS.

Report to Congress.

(a) STUDY.—(1) the Secretary, in consultation with the Commission and, after affording an opportunity for consultation and comment by representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design within 18 months after the date of the enactment of this Act. Such study shall address the effect (both separately and in combination) of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The items referred to in paragraph (1) are as follows:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from gas utility designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) PROPOSALS.—Based upon the study prepared pursuant to subsection (a), the Secretary shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include any comments and recommendations of the Commission.

(c) TRANSMISSION TO CONGRESS.—The proposals prepared under subsection (b) shall be transmitted, together with any legislative recommendations, to each House of Congress not later than 6 months after the date of submission of the study under subsection (a). Such proposals shall be accompanied by an analyses of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of such proposals, and

(3) the effects of the proposals on other provisions of this Act on gas utility rate structures.

(d) PUBLIC PARTICIPATION.—The Secretary shall provide for public participation in the conduct of the study under subsection (a) and the preparation of proposals under subsection (b).

SEC. 307. JUDICIAL REVIEW AND ENFORCEMENT. 15 USC 3207.

(a) LIMITATION OF FEDERAL JURISDICTION.—(1) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of this title except for—

(A) an action over which a court of the United States has jurisdiction under paragraph (2), or

(B) review in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28 of the United States Code.

(2) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene under section 305 and such court shall have jurisdiction to grant appropriate relief.

(b) ENFORCEMENT.—(1) Any person may bring an action to enforce the requirements of this title in the appropriate State court. Such action in a State court shall be pursuant to applicable State procedures.

(2) Nothing in this title shall authorize the Secretary to appeal or otherwise seek judicial review of the decisions of a State regulatory authority or nonregulated gas utility or to become a party to any action to obtain such review or appeal. The Secretary may participate as an amicus curiae in any judicial review of an action arising under the provisions of this title.

SEC. 308. RELATIONSHIP TO OTHER APPLICABLE LAW. 15 USC 3208.

Nothing in this title prohibits any State regulatory authority or nonregulated gas utility from adopting, pursuant to State law, any standard or rule affecting gas utilities which is different from any standard established by this title.

SEC. 309. REPORTS RESPECTING STANDARDS. 15 USC 3209.

(a) STATE AUTHORITIES AND NONREGULATED UTILITIES.—Not later than 1 year after the date of the enactment of this Act and annually thereafter for 10 years, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority), and each nonregulated gas utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by this title. Such report shall include a summary of the determinations made and actions taken with respect to each of such standards on a utility-by-utility basis.

(b) SECRETARY.—Not later than 18 months after the date of the enactment of this Act and annually thereafter for 10 years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a),

(2) his analysis of such reports, and

(3) his actions under this title, and his recommendations for such further Federal actions, including any legislation, regarding retail gas utility rates (and other practices) as may be necessary to carry out the purposes of this title.

15 USC 3210. **SEC. 310. PRIOR AND PENDING PROCEEDINGS.**

For purposes of this title, proceedings commenced by any State regulatory authority (with respect to gas utilities for which it has rate-making authority) and any nonregulated gas utility before the date of the enactment of this Act and actions taken before such date in such proceedings shall be treated as complying with the requirements of this title if such proceedings and actions substantially conform to such requirements. For purposes of this title, any such proceeding or action commenced before the date of enactment of this Act but not completed before such date shall comply with the requirements of this title, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date.

15 USC 3211. **SEC. 311. RELATIONSHIP TO OTHER AUTHORITY.**

Nothing in this title shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

16 USC 2701. **SEC. 401. ESTABLISHMENT OF PROGRAM.**

The Secretary shall establish a program in accordance with this title to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

16 USC 2702. **SEC. 402. LOANS FOR FEASIBILITY STUDIES.**

(a) LOAN AUTHORITY.—The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) CANCELLATION.—The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power project would not be technically or economically feasible.

SEC. 403. LOANS FOR PROJECT COSTS. 16 USC 2703.

(a) AUTHORITY.—The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for period of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) PREFERENCE.—The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) INFORMATION.—Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974. 15 USC 796.

(d) JOINT PARTICIPATION.—In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

SEC. 404. LOAN RATES AND REPAYMENT. 16 USC 2704.

(a) INTEREST.—Each loan made pursuant to this title shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962-17(a)). Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 402) or

(2) 30 years (in the case of a loan under section 403).

(b) REPAYMENTS.—Amounts repaid on loans made pursuant to this title shall be deposited into the United States Treasury as miscellaneous receipts.

16 USC 2705.

SEC. 405. SIMPLIFIED AND EXPEDITIOUS LICENSING PROCEDURES.

(a) ESTABLISHMENT OF PROGRAM.—The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act for small hydroelectric power projects in connection with existing dams.

(b) PREREQUISITES.—Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project the Commission—

16 USC 791a.

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

42 USC 4321 note, 16 USC 661 note.

(c) FISH AND WILDLIFE FACILITIES.—The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

16 USC 1531 note.

16 USC 2706.

SEC. 406. NEW IMPOUNDMENTS.

Nothing in this title authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

16 USC 2707.

SEC. 407. AUTHORIZATIONS.

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 402, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 403, such funds to remain available until expended.

16 USC 2708.

SEC. 408. DEFINITIONS.

For purposes of this title, the term—

(1) "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

26 USC 103.

(4) "project costs" means the cost of acquisiiton or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization); 26 USC 501. 26 USC 513.

(6) "existing dam" means any dam, the construction of which was completed or on before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "municipality" has the meaning provided in section 3 of the Federal Power Act; and 16 USC 796.

(8) "person" has the meaning provided in section 3 of the Federal Power Act.

TITLE V—CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 501. FINDINGS. 43 USC 2001.

The Congress finds and declares that—

(1) a serious crude oil supply shortage may soon exist in portions of the United States;

(2) a large surplus of crude oil on the west coast of the United States is projected;

(3) any substantial curtailment of Canadian crude oil exports to the United States could create a severe crude oil shortage in the northern tier States;

(4) pending the authorization and completion of west-to-east crude oil delivery systems, Alaskan crude oil in excess of west coast needs will be transshipped through the Panama Canal at a high transportation cost;

(5) national security and regional supply requirements may be such that west-to-east crude delivery systems serving both the northern tier States and inland States, consistent with the requirements of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, are needed; 43 USC 1651 note.

(6) expeditious Federal and State decisions for west-to-east crude oil delivery systems are of the utmost priority; and

(7) resolution of the west coast crude oil surplus and the need for crude oil in northern tier States and inland States require the assignment and coordination of overall responsibility within the executive branch to permit expedited action on all necessary environmental assessments and decisions on permit applications concerning delivery systems.

SEC. 502. STATEMENT OF PURPOSES. 43 USC 2002.

The purposes of this title are—

(1) to provide a means for—

(A) selecting delivery systems to transport Alaskan and other crude oil to northern tier States and inland States, and

(B) resolving both the west coast crude oil surplus and the crude oil supply problems in the northern tier States;

(2) to provide an expedited procedure for acting on applications for all Federal permits, licenses, and approvals required for the construction and operation or any transportation system approved under this title and the Long Beach-Midland project; and

(3) to assure that Federal decisions with respect to crude oil transportation systems are coordinated with State decisions to the maximum extent practicable.

43 USC 2003. **SEC. 503. DEFINITIONS.**

As used in this title—

(1) The term "northern tier States" means the States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(2) The term "inland States" means those States in the United States other than northern tier States and the States of California, Alaska, and Hawaii.

(3) The term "crude oil transportation system" means a crude oil delivery system (including the location of such system) for transporting Alaskan and other crude oil to northern tier States and inland States, but such term does not include the Long Beach-Midland project.

(4) The term "Long Beach-Midland project" means the crude oil delivery system which was the subject of, and is generally described in, the "Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior in the Federal Register on June 1, 1977 (42 Fed. Reg. 28008).

(5) The term "Federal agency" means an Executive agency, as defined in section 105 of title 5, United States Code.

43 USC 2004. **SEC. 504. APPLICATIONS FOR APPROVAL OF PROPOSED CRUDE OIL TRANSPORTATION SYSTEMS.**

The following applications for construction and operation of a crude oil transportation system submitted to the Secretary of the Interior by an applicant are eligible for consideration under this title:

(1) Applications received by the Secretary before the 30th day after the date of the enactment of this Act.

(2) Applications received by the Secretary during the 60-day period beginning on the 30th day after the date of the enactment of this Act, if the Secretary determines that consideration and review of the proposal contained in such application is in the national interest and that such consideration and review could be completed within the time limits established under this title.

An application under this section may be accepted by the Secretary only if it contains a general description of the route of the proposed system and identification of the applicant and any other person who, at the time of filing, has a financial or other interest in the system or is a party to an agreement under which such person would acquire a financial or other interest in the system.

43 USC 2005. **SEC. 505. REVIEW SCHEDULE.**

(a) ESTABLISHMENT.—The Secretary of the Interior, after consultation with the heads of appropriate Federal agencies, shall establish an expedited schedule for conducting reviews and making recommendations concerning crude oil transportation systems proposed in

applications filed under section 504 and for obtaining information necessary for environmental impact statements required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to such proposed systems.

(b) ADDITIONAL INFORMATION.—(1) On his own initiative or at the request of the head of any Federal agency covered by the review schedule established under subsection (a), the Secretary of the Interior shall require that an applicant provide such additional information as may be necessary to conduct the review of the applicant's proposal. Such information may include—

(A) specific details of the route (and alternative routes) and identification of Federal lands affected by any such route;

(B) information necessary for environmental impact statements; and

(C) information necessary for the President's determination under section 507(a).

(2) If, within a reasonable time, an applicant does not—

(A) provide information required under this subsection, or

(B) comply with any requirement of section 304 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2765; 43 U.S.C. 1734),

the Secretary of the Interior may declare the application ineligible for consideration under this title. After making such a declaration, the Secretary of the Interior shall notify the applicant and the President of such ineligibility.

Notification to the President.

(c) RECOMMENDATIONS OF THE HEADS OF FEDERAL AGENCIES.—(1) Pursuant to the schedule established under subsection (a), heads of Federal agencies covered by such schedule shall conduct a review of a proposed crude oil transportation system eligible for consideration under this title and shall submit their recommendations concerning such systems (and the basis for such recommendations) to the Secretary of the Interior for submission to the President. After receipt of such recommendations and before their submission to the President, the Secretary of the Interior shall provide an opportunity for comments in accordance with paragraph (2). The Secretary of the Interior shall forward such comments to the President with the recommendations—

Crude oil transportation system, review.

(A) in the case of applications filed under section 504(1), on or before December 1, 1978, and

(B) in the case of applications filed under section 504(2), on or before the 60th day after December 1, 1978.

(2)(A) After receipt of recommendations under paragraph (1) the Secretary of the Interior shall provide appropriate means by which the Governor and any other official of any State and any official of any political subdivision of a State, may submit written comments concerning proposed crude oil transportation systems eligible for consideration under this title.

(B) After receipt of recommendations referred to in subparagraph (A), the Secretary of the Interior shall make such comments and recommendations available to the public and provide an opportunity for submission of written comments.

(d) REVIEW BY THE FEDERAL TRADE COMMISSION; EFFECT ON THE ANTITRUST LAWS.—(1) Promptly after he receives an application for a proposed crude oil transportation system eligible for consideration under this title, the Secretary of the Interior shall submit to the Federal Trade Commission a copy of such application and such other information as the Commission may reasonably require. The Com-

Report to President.

mission may prepare and submit to the President a report on the impact of implementation of such application upon competition and restraint of trade and on whether such implementation would be inconsistent with the antitrust laws. Such report shall be made available to the public. Nothing in this subsection shall be construed to prevent the President from making his decision under section 507(a) in the absence of such report.

(2) Nothing in this title shall bar the Attorney General or any other appropriate officer or agent of the United States from challenging any anticompetitive act or practice related to the ownership, construction, or operation of any crude oil transportation system approved under this title. The approval of any such system under this title shall not be deemed to convey to any person immunity from civil or criminal liability or to create defenses to actions under the antitrust laws and shall not modify or abridge any private right of action under such laws.

(e) FILING AND REVIEW OF PERMITS, RIGHTS-OF-WAY APPLICATIONS, ETC., NOT AFFECTED.—Nothing in this title shall be construed to prevent the acceptance and review by any Federal agency of any application for any Federal permit, right-of-way, or other authorizations under other provisions of law for a crude oil transportation system eligible for consideration under this title; except that any determination with respect to such an application may be made only in accordance with the provisions of section 509(a).

43 USC 2006.

SEC. 506. ENVIRONMENTAL IMPACT STATEMENTS.

(a) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS.—Any Federal agency required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) to issue an environmental impact statement concerning a proposed crude oil transportation system eligible for consideration under this title shall, in preparing such statement, utilize, to the maximum extent practicable and consistent with such Act, appropriate data, analyses, conclusions, findings, and decisions regarding environmental impacts developed or made by any other Federal or State agency.

Submittal to President.

(b) FILING OF ENVIRONMENTAL IMPACT STATEMENTS.—On or before December 1, 1978, all environmental impact statements concerning proposed crude oil transportation systems eligible for consideration under this title and required under section 102 of the National Environmental Policy Act of 1969 shall be completed, made available for public review and comment, revised to the extent appropriate in light of such comment, and submitted to the President and the Council on Environmental Quality; except that in the case of any environmental impact statement concerning any crude oil transportation system which is eligible for consideration and which was filed under section 504(2) of this title, such actions may be taken not later than 60 days after December 1, 1978.

(c) REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—Promptly after receiving an environmental impact statement referred to in subsection (b) for a crude oil transportation system, the Council on Environmental Quality shall submit to the President a report on the Council's opinion concerning such statement and concerning other matters related to the environmental impact of such system.

43 USC 2007.

SEC. 507. DECISION OF THE PRESIDENT.

(a) DECISION CONCERNING APPROVAL OR DISAPPROVAL OF PROPOSED SYSTEMS.—(1) After reviewing all the information submitted to him concerning the various proposed crude oil transportation systems eligi-

ble for consideration under this title (including environmental impact statements, comments, reports, recommendations, and other information submitted to him at any time before he makes his decision) and after consulting the Secretaries of Energy, the Interior, and Transportation, the President shall decide which, if any, of such systems shall be approved for the purposes of section 508 (relating to procedures for waiver of law), section 509 (relating to expedited procedures for issuance of permits), section 510 (relating to negotiations with the Government of Canada), and section 511 (relating to judicial review). A decision approving a crude oil transportation system may include such modifications and alterations in such system as the President finds appropriate. The President shall issue his decision within 45 days after receiving recommendations and comments submitted to him under section 505(c), except that the President, for such period as he deems necessary, but not to exceed 60 days, may delay his decision and its issuance if he determines that additional time is otherwise necessary to enable him to make a decision. If the President so delays his decision, he shall promptly notify the House of Representatives and the Senate of such delay and shall submit a full explanation of the basis for such delay. Notification.

(2) Any decision made under this subsection approving a system proposed under this title shall include a determination that construction and operation of such system is in the national interest and shall be based upon the criteria specified in subsection (b).

(b) CRITERIA.—(1) The criteria for making a decision under this subsection shall include findings of—

(A) environmental impacts of the proposed systems and the capability of such systems to minimize environmental risks resulting from transportation of crude oil;

(B) the amount of crude oil available to northern tier States and inland States and the projected demand in those States under each of such systems;

(C) transportation costs and delivered prices of crude oil by region under each of such systems;

(D) construction schedules for each of such systems and possibilities for delay in such schedules;

(E) feasibility of financing for each of such systems;

(F) capital and operating costs of each of such systems, including an analysis of the reliability of cost estimates and the risk of cost overruns;

(G) net national economic costs and benefits of each such system;

(H) the extent to which each system complies with the provisions of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act; 43 USC 1651 note.

(I) the effect of each such system on international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(J) impact upon competition by each system;

(K) degree of safety and efficiency of design and operation of each system;

(L) potential for interruption of deliveries of crude oil from the west coast under each such system;

(M) capacity and cost of expanding such system to transport additional volumes of crude oil in excess of initial system capacity;

(N) national security considerations under each such system;

(O) relationship of each such system to national energy policy; and

(P) such other factors as the President deems appropriate.

(2) The period of time for which such findings shall be made shall be the useful life of the crude oil transportation system involved.

(c) PUBLICATION OF FINDINGS AND DECISION.—The President shall make available to the public at the time of issuance of a decision under this section a written statement setting forth findings with respect to each of the criteria specified in subsection (b) and describing the nature and route of crude oil transportation systems, if any, which are approved in the decision. If the President's decision is to approve a system, each statement shall set forth his reasons for approving such system over other proposed systems (if any) eligible for consideration under this title. Such statement along with notification of such decision shall be published in the Federal Register.

Publication in Federal Register.

43 USC 2008.

SEC. 508. PROCEDURES FOR WAIVER OF FEDERAL LAW.

(a) WAIVER OF PROVISIONS OF FEDERAL LAW.—The President may identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the antitrust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation of any such system approved under section 507 or of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal.

(b) JOINT RESOLUTION.—The resolving clause of the joint resolution referred to in subsection (a) is as follows: "That the House of Representatives and Senate approve the waiver of the provisions of law ( ) as proposed by the President, submitted to the Congress on , 19 .". The first blank space therein being filled with the citation to the provisions of law proposed to be waived by the President and the second blank space therein being filled with the date on which the President submits his decision to wave such provisions of law to the House of Representatives and the Senate. Rules and procedures for consideration of any such joint resolution shall be governed by section 8 (c) and (d) of the Alaskan Natural Gas Transportation Act, other than paragraph (2) of section 8(d), except that for the purposes of this subsection, the phrase "a waiver of provisions of law" shall be substituted in section 8(d) each place where the phrase "an Alaska natural gas transportation system" appears.

15 USC 719f.

43 USC 2009.

SEC. 509. EXPEDITED PROCEDURES FOR ISSUANCE OF PERMITS: ENFORCEMENT OF RIGHTS-OF-WAY.

(a) EXPEDITED PROCEDURES FOR APPROVED SYSTEMS.—After issuance of a decision by the President approving any crude oil transportation system, all Federal officers and agencies shall expedite, to the maximum extent practicable, consistent with applicable provisions of law, all actions necessary to determine whether to issue, administer, or enforce rights-of-way across Federal lands and to issue Federal permits in connection with, or otherwise to authorize, construction and operation of such system. Any such action shall be

consistent with applicable provisions of law. After taking any such action, such officer or agency shall publish notification of the taking of such action in the Federal Register. Publication in Federal Register.

(b) EXPEDITED PROCEDURES FOR LONG BEACH-MIDLAND PROJECT.—All decisions regarding issuance of Federal permits, rights-of-way, and leases and other Federal authorizations necessary for construction and operation of the Long Beach-Midland project shall be consistent with applicable provisions of Federal law, except that such decisions shall be made within 30 days after the date this title becomes effective. The President may extend the date by which such decisions, under the preceding sentence, are to be made to a date not later than 90 days after the effective date of this title. Notification of the making of such decisions shall be published in the Federal Register. Nothing in this section affects any decision made before the date of the enactment of this title. Publication in Federal Register.

(c) LAW GOVERNING RIGHTS-OF-WAY.—Rights-of-way over any Federal land with respect to an approved crude oil transportation system or the Long Beach-Midland project shall be governed by the provisions of section 28 of the Act of February 25, 1920, commonly referred to as the Mineral Leasing Act of 1920 (30 U.S.C. 185), other than subsection (w) (2) of such section.

SEC. 510. NEGOTIATIONS WITH THE GOVERNMENT OF CANADA. 43 USC 2010.

With respect to any crude oil transportation system approved under section 507(a) all or any part of which is to be located in Canada, the President of the United States is authorized and requested to enter into negotiations with the Government of Canada to determine what measures can be taken to expedite the granting of approvals by the Government of Canada for construction or operation of such system, and he is authorized and requested to explore the possibility of further exchanges of crude oil supplies between the United States and Canada.

SEC. 511. JUDICIAL REVIEW. 43 USC 2011.

(a) NOTICE.—The President or any other Federal officer shall cause notice to be published in the Federal Register and in newspapers of general circulation in the areas affected whenever he makes any decision described in subsection (b). Publication in Federal Register.

(b) REVIEW OF CERTAIN FEDERAL ACTIONS.—Any action seeking judicial review of an action or decision of the President or any other Federal officer taken or made after the date of the enactment of this Act concerning the approval or disapproval of a crude oil transportation system or the issuance of necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of the Long Beach-Midland project or a crude oil transportation system approved under section 507(a) may only be brought within 60 days after the date on which notification of the action or decision of such officer is published in the Federal Register, or in newspapers of general circulation in the areas affected, whichever is later.

(c) JURISDICTION OF COURTS.—An action under subsection (b) shall be barred unless a petition is filed within the time specified. Any such petition shall be filed in the appropriate United States district court. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. Notwithstanding the amount in controversy, such court shall have jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided and to provide appropriate relief. No State or local court shall have jurisdiction of any such claim whether in a proceeding instituted before, on, or after the date this title becomes effective. Any such proceeding shall be assigned for

hearing at the earliest possible date and shall be expedited by such court. No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization in connection with a crude oil transportation system approved under section 507(a) or the Long Beach-Midland project, except as part of a final judgment entered in a case involving a claim filed pursuant to this section.

43 USC 2012.

SEC. 512. AUTHORIZATION FOR APPROPRIATION.

There are authorized to be appropriated to the Secretary of the Interior to carry out his responsibilities under this title not to exceed $500,000 for the fiscal year ending on September 30, 1978, and not to exceed $1,000,000 for the fiscal year ending on September 30, 1979.

TITLE VI—MISCELLANEOUS PROVISIONS

16 USC 2621 note.

SEC. 601. STUDY CONCERNING ELECTRIC RATES OF STATE UTILITY AGENCIES.

(a) STUDY AND REPORT.—The Secretary, in consultation with the Commission and appropriate State regulatory authorities and other persons, shall conduct a study concerning the effects of provisions of Federal law on rate established by State utility agencies. The Secretary shall submit a report to Congress containing the results of such study not later than 1 year after the date of the enactment of this Act.

Submittal to Congress.

"State utility agency."

(b) DEFINITION.—The term "State utility agency" means an agency of a State (not including any political subdivision or agency thereof or any public power district) which is an electric utility.

16 USC 824a-4.

SEC. 602. SEASONAL DIVERSITY ELECTRICITY EXCHANGE.

(a) AUTHORITY.—The Secretary may acquire rights-of-way by purchase, including eminent domain, through North Dakota, South Dakota, and Nebraska for transmission facilities for the seasonal diversity exchange of electric power to and from Canada if he determines—

(1) after opportunity for public hearing—

(A) that the exchange is in the public interest and would further the purposes referred to in section 101 (1) and (2) of this Act and that the acquisition of such rights-of-way and the construction and operation of such transmission facilities for such purposes is otherwise in the public interest,

Ante, p. 3120.

(B) that a permit has been issued in accordance with subsection (b) for such construction, operation, maintenance, and connection of the facilities at the border for the transmission of electric energy between the United States and Canada as is necessary for such exchange of electric power, and

(C) that each affected State has approved the portion of the transmission route located in each State in accordance with applicable State law, or if there is no such applicable State law in such State, the Governor has approved such portion; and

(2) after consultation with the Secretary of the Interior and the heads of other affected Federal agencies, that the Secretary of the Interior and the heads of such other agencies concur in writing in the location of such portion of the transmission facilities as crosses Federal land under the jurisdiction of such Secretary or such other Federal agency, as the case may be.

Cooperation and technical assistance.

The Secretary shall provide to any State such cooperation and technical assistance as the State may request and as he determines appropriate in the selection of a transmission route. If the transmission route

approved by any State does not appear to be feasible and in the public interest, the Secretary shall encourage such State to review such route and to develop a route that is feasible and in the public interest. Any exercise by the Secretary of the power of eminent domain under this section shall be in accordance with other applicable provisions of Federal law. The Secretary shall provide public notice of his intention to acquire any right-of-way before exercising such power of eminent domain with respect to such right-of-way. Notice.

(b) PERMIT.—Notwithstanding any transfer of functions under the first sentence of section 301(b) of the Department of Energy Organization Act, no permit referred to in subsection (a)(1)(B) may be issued unless the Commission has conducted hearings and made the findings required under section 202(e) of the Federal Power Act and under the applicable execution order respecting the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country. Any finding of the Commission under an applicable executive order referred to in this subsection shall be treated for purposes of judicial review as an order issued under section 202(e) of the Federal Power Act. 42 USC 7151. 16 USC 824a.

(c) TIMELY ACQUISITION BY OTHER MEANS.—The Secretary may not acquire any rights-of-day under this section unless he determines that the holder or holders of a permit referred to in subsection (a)(1)(B) are unable to acquire such rights-of-way under State condemnation authority, or after reasonable opportunity for negotiation, without unreasonably delaying construction, taking into consideration the impact of such delay on completion of the facilities in a timely fashion.

(d) PAYMENTS BY PERMITTEES.—(1) The property interest acquired by the Secretary under this section (whether by eminent domain or other purchase) shall be transferred by the Secretary to the holder of a permit referred to in subsection (b) if such holder has made payment to the Secretary of the entire costs of the acquisition of such property interest, including administrative costs. The Secretary may accept, and expend, for purposes of such acquisition, amounts from any such person before acquiring a property interest to be transferred to such person under this section.

(2) If no payment is made by a permit holder under paragraph (1), within a reasonable time, the Secretary shall offer such rights-of-way to the original owner for reacquisition at the original price paid by the Secretary. If such original owner refuses to reacquire such property after a reasonable period, the Secretary shall dispose of such property in accordance with applicable provisions of law governing disposal of property of the United States.

(e) FEDERAL LAW GOVERNING FEDERAL LANDS.—This section shall not affect any Federal law governing Federal lands.

(f) REPORTS.—The Secretary shall report annually to the Congress on the actions, if any, taken pursuant to this section. Report to Congress.

SEC. 603. UTILITY REGULATORY INSTITUTE. 16 USC 2645.

(a) MATCHING GRANTS.—The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to— Grants.

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) FEDERAL SHARE.—Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a):

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) RESTRICTIONS.—Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

SEC. 604. COAL RESEARCH LABORATORIES.

(a) DESIGNATION.—So much of section 801 of the Surface Mining Control and Reclamation Act of 1977 as precedes subsection (b) of paragraph (2) thereof is amended to read as follows: 30 USC 1311.

"ESTABLISHMENT OF UNIVERSITY COAL RESEARCH LABORATORIES

"SEC. 801. (a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

"(b) In making designations under this section, the Administrator shall consider the following criteria:

"(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 806 of such Act is amended to read as follows: 30 USC 1316.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. (a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed $7,500,000 for the fiscal year 1980 and for each fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

"(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed $2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title.". 30 USC 1311.

(c) CONFORMING AMENDMENT.—Title VIII of such Act is amended by striking out the terms "Administrator" and "Administrator, ERDA" in each place they appear and substituting "Secretary of Energy" in each such place. 30 USC 1311.

SEC. 605. CONSERVED NATURAL GAS. 15 USC 717x.

(a) GENERAL RULE.—(1) For purposes of determining the natural gas entitlement of any local distribution company under any curtailment plan, if the Commission revises any base period established under such plan, the volumes of natural gas which such local distribution company demonstrates—

(A) were sold by the local distribution company, for a priority use immediately before the implementation of conservation measures, and

(B) were conserved by reason of the implementation of such conservation measures,

shall be treated by the Commission following such revision as continuing to be used for the priority use referred to in subparagraph (A).

(2) The Commission shall, by rule, prescribe methods for measurement of volumes of natural gas to which subparagraphs (A) and (B) of paragraph (1) apply.

(b) CONDITIONS, LIMITATIONS, ETC.—Subsection (a) shall not limit or otherwise affect any provision of any curtailment plan, or any other provision of law or regulation, under which natural gas may be diverted or allocated to respond to emergency situations or to protect public health, safety, and welfare.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "conservation measures" means such energy conservation measures, as determined by the Commission, as were implemented after the base period established under the curtailment plan in effect on the date of the enactment of this Act.

(2) The term "local distribution company" means any person engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(3) The term "curtailment plan" means a plan (including any modification of such plan required by the Natural Gas Policy Act of 1978) in effect under the Natural Gas Act which provides for recognizing and implementing priorities of service during periods of curtailed deliveries. *Post*, p. 3350. 15 USC 717w.

SEC. 606. VOLUNTARY CONVERSION OF NATURAL GAS USERS TO HEAVY FUEL OIL. 15 USC 717y.

(a) IN GENERAL.—(1) In order to facilitate voluntary conversion of facilities from the use of natural gas to the use of heavy petroleum fuel oil, the Commission shall, by rule, provide a procedure for the approval by the Commission of any transfer to any person described in paragraph 2(B) (i), (ii), or (iii) of contractual interests involving the receipt of natural gas described in paragraph 2(A).

(2)(A) The rule required under paragraph (1) shall apply to—

(i) natural gas—

(I) received by the user pursuant to a contract entered into before September 1, 1977, not including any renewal or exten-

sion thereof entered into on or after such date other than any such extension or renewal pursuant to the exercise by such user of an option to extend or renew such contract;

(II) other than natural gas the sale for resale or the transportation of which was subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as of September 1, 1977;

15 USC 717w.

(III) which was used as a fuel in any facility in existence on September 1, 1977.

(ii) natural gas subject to a prohibition order issued under section 607.

(B) The rule required under paragraph (1) shall permit the transfer of contractual interests—

(i) to any interstate pipeline;

(ii) to any local distribution company served by an interstate pipeline; and

(iii) to any person served by an interstate pipeline for a high priority use by such person.

(3) The rule required under paragraph (1) shall provide that any transfer of contractual interests pursuant to such rule shall be under such terms and conditions as the Commission may prescribe. Such rule shall include a requirement for refund of any consideration, received by the person transferring contractual interests pursuant to such rule, to the extent such consideration exceeds the amount by which the costs actually incurred, during the remainder of the period of the contract with respect to which such contractual interests are transferred, in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility exceeds the price under such contract for natural gas, subject to such contract, delivered during such period.

(4) In prescribing the rule required under paragraph (1), and in determining whether to approve any transfer of contractual interests, the Commission shall consider whether such transfer of contractual interests is likely to increase demand for imported refined petroleum products.

(b) COMMISSION APPROVAL.—(1) No transfer of contractual interests authorized by the rule required under subsection (a)(1) may take effect unless the Commission issues a certificate of public convenience and necessity for such transfer if such natural gas is to be resold by the person to whom such contractual interests are to be transferred. Such certificate shall be issued by the Commission in accordance with the requirements of this subsection and those of section 7 of the Natural Gas Act, and the provisions of such Act applicable to the determination of satisfaction of the public convenience and necessity requirements of such section.

15 USC 717f.

(2) The rule required under subsection (a)(1) shall set forth guidelines for the application on a regional or national basis (as the Commission determines appropriate) of the criteria specified in subsection (e) (2) and (3) to determine the maximum consideration permitted as just compensation under this section.

(c) RESTRICTIONS ON TRANSFERS UNENFORCEABLE.—Any provision of any contract, which provision prohibits any transfer of any contractual interests thereunder, or any commingling or transportation of natural gas subject to such contract with natural gas the sale for resale or transportation of which is subject to the jurisdiction of the Commission under the Natural Gas Act, or terminates such contract on the basis of any such transfer, commingling, or transportation, shall be unenforceable in any court of the United States and in any court

of any State if applied with respect to any transfer approved under the rule required under subsection (a)(1).

(d) CONTRACTUAL OBLIGATIONS UNAFFECTED.—The person acquiring contractual interests transferred pursuant to the rule required under subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This section shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "natural gas" has the same meaning as provided by section 2(5) of the Natural Gas Act. 15 USC 717a.

(2) The term "just compensation", when used with respect to any contractual interests pursuant to the rule required under subsection (a)(1), means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (not including capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility, exceeds

(B) the price under such contract for natural gas, subject to such contract, delivered during such period.

For purposes of subparagraph (A), the reasonable costs directly associated with the use of heavy petroleum fuel oil as a fuel shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises containing such facility, which assets were directly associated with the use of natural gas and are not usable in connection with the use of such heavy petroleum fuel oil.

(3) The term "just compensation", when used with respect to any intrastate pipeline which would have transported or distributed natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), means an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), to the extent such loss—

(A) is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to the rule required under subsection (a)(1); and

(B) is not offset by—

(i) a reduction in expenses associated with such discontinuation; and

(ii) revenues derived from other transportation or distribution which would not have occurred if such contractual interests had not been transferred.

(4) The term "contractual interests" means the right to receive natural gas under contract as affected by an applicable curtailment plan filed with the Commission or the appropriate State regulatory authority.

(5) The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act. 15 USC 717w.

(6) The term "high-priority use" means any use of natural gas (other than its use for the generation of steam for industrial purposes or electricity) identified by the Commission as a high priority use for which the Commission determines a substitute fuel is not reasonably available.

(7) The term "heavy petroleum fuel oil" means number 4, 5, or 6 fuel oil which is domestically refined.

(8) The term "local distribution company" means any person, other than any intrastate pipeline or any interstate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(9) The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(10) The term "facility" means any electric powerplant, or major fuel burning installation, as such terms are defined in the Powerplant and Industrial Fuel Use Act of 1978.

Post, p. 3289.

(11) The term "curtailment plan" means a plan (including any modification of such plan required by the Natural Gas Policy Act of 1978), in effect under the Natural Gas Act or State law, which provides for recognizing and implementing priorities of service during periods of curtailed deliveries by any local distribution company, intrastate pipeline, or interstate pipeline.

(12) The term "interstate commerce" has the same meaning as such term has under the Natural Gas Act.

15 USC 717w.

(f) COORDINATION WITH THE NATURAL GAS ACT.—(1) Consideration in any transfer of contractual interests pursuant to the rule required under subsection (a)(1) of this section shall be deemed just and reasonable for purposes of sections 4 and 5 of the Natural Gas Act if such consideration does not exceed just compensation.

15 USC 717c, 717d.

(2) No person shall be subject to the jurisdiction of the Commission under the Natural Gas Act as a natural gas-company (within the meaning of such Act) or to regulation as a common carrier under any provision of Federal or State law solely by reason of making any sale, or engaging in any transportation, of natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1).

15 USC 717w.

(3) Nothing in this section shall exempt from the jurisdiction of the Commission under the Natural Gas Act any transportation in interstate commerce of natural gas, any sale in interstate commerce for resale of natural gas, or any person engaged in such transportation or such sale to the extent such transportation, sale, or person is subject to the jurisdiction of the Commission under such Act without regard to the transfer of contractual interests pursuant to the rule required under subsection (a)(1).

(4) Nothing in this section shall exempt any person from any obligation to obtain a certificate of public convenience and necessity for the sale in interstate commerce for resale or the transportation in interstate commerce of natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1).

(g) VOLUME LIMITATION.—No supplier of natural gas under any contract, with respect to which contractual interests have been transferred pursuant to the rule required under subsection (a)(1), shall be

required to supply natural gas during any relevant period in volume amounts which exceed the lesser of—

(1) the volume determined by reference to the maximum delivery obligations specified in such contract;

(2) the volume which such supplier would have been required to supply, under the curtailment plan in effect for such supplier, to the person, who transferred contractual interests pursuant to the rule required under subsection (a)(1), if no such transfer had occurred; and

(3) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests.

SEC. 607. EMERGENCY CONVERSION OF UTILITIES AND OTHER FACILITIES. 15 USC 717z.

(a) PRESIDENTIAL DECLARATION.—The President may declare a natural gas supply emergency (or extend a previously declared emergency) if he finds that—

(1) a severe natural gas shortage, endangering the supply of natural gas for high-priority uses, exists or is imminent in the United States or in any region thereof; and

(2) the exercise of authorities under this section is reasonably necessary, having exhausted other alternatives (not including section 303 of the Natural Gas Policy Act of 1978) to the maximum extent practicable, to assist in meeting natural gas requirements for such high-priority uses. *Post*, p. 3383.

(b) LIMITATION.—(1) Any declaration of a natural gas supply emergency (or extension thereof) under subsection (a), shall terminate at the earlier of—

(A) the date on which the President finds that any shortage described in subsection (a) does not exist or is not imminent; or

(B) 120 days after the date of such declaration of emergency (or extension thereof).

(2) Nothing in this subsection shall prohibit the President from extending, under subsection (a), any emergency (or extension thereof) previously declared under subsection (a), upon the expiration of such declaration of emergency (or extension thereof) under paragraph (1)(B).

(c) PROHIBITIONS.—During a natural gas emergency declared under this section, the President may, by order, prohibit the burning of natural gas by any electric powerplant or major fuel-burning installation if the President determines that—

(1) such powerplant or installation had on September 1, 1977 (or at any time thereafter) the capability to burn petroleum products without damage to its facilities or equipment and without interference with operational requirements;

(2) significant quantities of natural gas which would otherwise be burned by such powerplant or installation could be made available before the termination of such emergency to any person served by an interstate pipeline for use by such person in a high-priority use; and

(3) petroleum products will be available for use by such powerplant or installation throughout the period the order is in effect.

(d) LIMITATIONS.—The President may specify in any order issued under this section the periods of time during which such order will be in effect and the quantity (or rate of use) of natural gas that may be burned by an electric powerplant or major fuel-burning installation during such period, including the burning of natural gas by an electric powerplant to meet peak load requirements. No such order may continue in effect after the termination or expiration of such natural gas supply emergency.

(e) EXEMPTION FOR SECONDARY USES.—The President shall exempt from any order issued under this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by an electric powerplant or major fuel-burning installation.

(f) EXEMPTION FOR AIR-QUALITY EMERGENCIES.—The President shall exempt any electric powerplant or major fuel-burning installation in whole or in part, from any order issued under this section for such period and to such extent as the President determines necessary to alleviate any imminent and substantial endangerment to the health of persons within the meaning of section 303 of the Clean Air Act.

42 USC 1857h-1.

(g) LIMITATION ON INJUNCTIVE RELIEF.—(1) Except as provided in paragraph (2), no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued under this section unless such relief is in connection with a final judgment entered with respect to such order.

(2)(A) On the petition of any person aggrieved by an order issued under this section, the United States District Court for the District of Columbia may, after an opportunity for a hearing before such court and on an appropriate showing, issue a preliminary injunction temporarily enjoining, in whole or in part, the implementation of such order.

(B) For purposes of this paragraph, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States, except that no writ of subpena under the authority of this section shall issue for witnesses outside of the District of Columbia at a greater distance than 100 miles from the place of holding court unless the permission of the District Court for the District of Columbia has been granted after proper application and cause shown.

(h) DEFINITIONS.—For purposes of this section—

(1) The terms "electric powerplant", "powerplant", "major fuel-burning installation", and "installation" shall have the same meanings as such terms have under section 103 of the Powerplant and Industrial Fuel Use Act of 1978.

Post, p. 3292.

(2) The term "petroleum products" means crude oil, or any product derived from crude oil other than propane.

(3) The term "high priority use" means any—

(A) use of natural gas in a residence;

(B) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; or

(C) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

(4) The term "Mcf", when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(i) USE OF CERTAIN TERMS.—In applying the provisions of this section in the case of natural gas subject to a prohibition order issued under this section, the term "petroleum products" (as defined in subsection (h)(2) of this section) shall be substituted for the term "heavy petroleum fuel oil" (as defined in section 606(e)(7)) if the person subject to any order under this section demonstrates to the Commission that the acquisition and use of heavy petroleum fuel oil is not technically or economically feasible.

SEC. 608. NATURAL GAS TRANSPORTATION POLICIES.

(a) IN GENERAL.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end thereof the following:

"(2) The Commission may issue a certificate of public convenience and necessity to a natural-gas company for the transportation in interstate commerce of natural gas used by any person for one or more high-priority uses, as defined, by rule, by the Commission, in the case of—

"(A) natural gas sold by the producer to such person; and

"(B) natural gas produced by such person.".

(b) CONFORMING AMENDMENT.—(1) Subsection (c) of section 7 of the Natural Gas Act (15 U.S.C. 717f(c)) is amended—

(A) by striking out "(c)" and inserting in lieu thereof "(c)(1)(A)", and

(B) by inserting "(B)" immediately before "In all other cases" where such term appears in the second undesignated paragraph of such subsection.

(2) Subsection (e) of section 7 of the Natural Gas Act (15 U.S.C. 717f(d)) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-429 (Comm. on Ways and Means), No. 95-543, Vols. I and II, accompanying H.R. 8444 (ad hoc Comm. on Energy), and No. 95-1750 (Comm. of Conference).

SENATE REPORTS: No. 95-442 accompanying S. 2114 (Comm. on Energy and Natural Resources) and No. 95-1292 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, H.R. 4018 considered and passed House.
Aug. 1-5, H.R. 8444 considered and passed House.
Oct. 5, S. 2114 considered in Senate.
Oct. 6, H.R. 4018 considered and passed Senate, amended, in lieu of S. 2114 and pt. 5 of title I of H.R. 8444.
Oct. 13, House concurred in Senate amendment with an amendment.

Vol. 124 (1978): Oct. 9, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-618
95th Congress

An Act

Nov. 9, 1978
[H.R. 5263]

To provide tax incentives for the production and conservation of energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

Energy Tax Act of 1978
Bicycle parts, duty suspension.
19 USC 1202 app.

(1) by inserting ", and parts thereof" immediately after "Generator lighting sets for bicycles"; and

(2) by striking out "12/31/76" and inserting in lieu thereof "6/30/80".

26 USC 1 note.

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Energy Tax Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—RESIDENTIAL ENERGY CREDIT

Sec. 101. Residential energy credit.

TITLE II—TRANSPORTATION

PART I—GAS GUZZLER TAX

Sec. 201. Gas guzzler tax.

PART II—MOTOR FUELS

Sec. 221. Exemption from motor fuels excise taxes for certain alcohol fuels.
Sec. 222. Denial of credit or refund for nonbusiness nonhighway use of gasoline, special motor fuels, and lubricating oil.

PART III—PROVISIONS RELATED TO BUSES

Sec. 231. Removal of excise tax on buses.
Sec. 232. Removal of excise tax on bus parts.
Sec. 233. Removal of excise tax on fuel, oil, and tires used in connection with intercity, local, and school buses.

PART IV—INCENTIVES FOR VAN POOLING

Sec. 241. Full investment credit for certain commuter vehicles.
Sec. 242. Exclusion from gross income of value of qualified transportation provided by employer.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

Sec. 301. Changes in business investment credit.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Treatment of intangible drilling costs for purposes of the minimum tax.
Sec. 402. Option to deduct intangible drilling costs in the case of geothermal deposits.
Sec. 403. Depletion for geothermal deposits and natural gas from geopressurized brine.
Sec. 404. Rerefined lubricating oil.

TITLE I—RESIDENTIAL ENERGY CREDIT

SEC. 101. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT. 26 USC 44C.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowed with respect to such return is less than $10.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43. 26 USC 31, 39, 43.

"(6) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (5) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYOVER TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURES.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) CERTAIN LABOR COSTS INCLUDED.—The term 'renewable energy source expenditure' includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a primary function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system, which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weatherstripping of an exterior door or window,

"(vii) a meter which displays the cost of energy usage, or

"(viii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling, transmits or uses—

"(i) solar energy, energy derived from the geothermal deposits (as defined in section 613(e)(3)), or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

Post, p. 3203.

"(ii) wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) REGULATIONS.—

"(A) CRITERIA; CERTIFICATION PROCEDURES.—The Secretary shall by regulations—

"(i) establish the criteria which are to be used in (I) prescribing performance and quality standards under paragraphs (3), (4), and (5), or (II) specifying any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i), and

"(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this section, as insulation, an energy-conserving component, or renewable energy source property.

"(B) CONSULTATION.—Performance and quality standards regulations and other regulations shall be prescribed by the Secretary under paragraphs (3), (4), and (5) and under this paragraph only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal officers.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) RENEWABLE ENERGY SOURCE EXPENDITURES.—In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(D) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this subparagraph, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

26 USC 1034.

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to

the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation. 26 USC 216.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences. 26 USC 528.

"(4) 1977 EXPENDITURES ALLOWED FOR 1978.—

"(A) NO CREDIT FOR TAXABLE YEARS BEGINNING BEFORE 1978.—No credit shall be allowed under this section for any taxable year beginning before January 1, 1978.

"(B) 1977 EXPENDITURES ALLOWED FOR 1978.—In the case of the taxpayer's first taxable year beginning after December 31, 1977, this section shall be applied by taking into account the period beginning April 20, 1977, and ending on the last day of such first taxable year.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43." 26 USC 56. 26 USC 31, 39, 43.

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph: 26 USC 1016.

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;". *Ante*, p. 3175.

26 USC 6096.

(4) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

26 USC 44C note.

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

TITLE II—TRANSPORTATION

PART I—GAS GUZZLER TAX

SEC. 201. GAS GUZZLER TAX.

(a) GENERAL RULE.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

26 USC 4064.

"SEC. 4064. GAS GUZZLER TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 15	0
At least 14 but less than 15	$200
At least 13 but less than 14	300
Less than 13	550

"(2) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 17	0
At least 16 but less than 17	$200
At least 15 but less than 16	350
At least 14 but less than 15	450
At least 13 but less than 14	550
Less than 13	650

"(3) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 18.5	0
At least 17.5 but less than 18.5	$200
At least 16.5 but less than 17.5	350
At least 15.5 but less than 16.5	450
At least 14.5 but less than 15.5	600
At least 13.5 but less than 14.5	750
At least 12.5 but less than 13.5	950
Less than 12.5	1,200

"(4) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19	0
At least 18 but less than 19	$350
At least 17 but less than 18	500
At least 16 but less than 17	650
At least 15 but less than 16	800
At least 14 but less than 15	1,000
At least 13 but less than 14	1,250
Less than 13	1,550

"(5) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19.5	0
At least 18.5 but less than 19.5	$450
At least 17.5 but less than 18.5	600
At least 16.5 but less than 17.5	750
At least 15.5 but less than 16.5	950
At least 14.5 but less than 15.5	1,150
At least 13.5 but less than 14.5	1,450
At least 12.5 but less than 13.5	1,750
Less than 12.5	2,150

"(6) In the case of a 1985 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 21	0
At least 20 but less than 21	$500
At least 19 but less than 20	600
At least 18 but less than 19	800
At least 17 but less than 18	1,000
At least 16 but less than 17	1,200
At least 15 but less than 16	1,500
At least 14 but less than 15	1,800
At least 13 but less than 14	2,200
Less than 13	2,650

"(7) In the case of a 1986 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	0
At least 21.5 but less than 22.5	$500
At least 20.5 but less than 21.5	650
At least 19.5 but less than 20.5	850
At least 18.5 but less than 19.5	1,050
At least 17.5 but less than 18.5	1,300
At least 16.5 but less than 17.5	1,500
At least 15.5 but less than 16.5	1,850
At least 14.5 but less than 15.5	2,250
At least 13.5 but less than 14.5	2,700
At least 12.5 but less than 13.5	3,200
Less than 12.5	3,850

"(b) DEFINITIONS.—For purposes of this section—

"(1) AUTOMOBILE.—

"(A) IN GENERAL.—The term 'automobile' means any 4-wheeled vehicle propelled by fuel—

"(i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(ii) which is rated at 6,000 pounds gross vehicle weight or less.

"(B) EXCEPTION FOR CERTAIN VEHICLES.—The term 'automobile' does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this section.

"(C) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'automobile' does not include any vehicle sold for use and used—

"(i) as an ambulance or combination ambulance-hearse,

"(ii) by the United States or by a State or local government for police or other law enforcement purposes, or

"(iii) for other emergency uses prescribed by the Secretary by regulations.

"(2) FUEL ECONOMY.—The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

"(3) MODEL TYPE.—The term 'model type' means a particular class of automobile as determined by regulation by the EPA Administrator.

"(4) MODEL YEAR.—The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(5) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(6) EPA ADMINISTRATOR.—The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(7) FUEL.—The term 'fuel' means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(c) DETERMINATION OF FUEL ECONOMY.—For purposes of this section—

"(1) IN GENERAL.—Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

42 USC 7540.

"(2) SPECIAL RULE FOR FUELS OTHER THAN GASOLINE.—The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) TIME BY WHICH REGULATIONS MUST BE ISSUED.—Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply.

"(d) SPECIAL RULES FOR SMALL MANUFACTURERS.—

"(1) IN GENERAL.—If, on the application of a small manufacturer, the Secretary determines that it is not feasible for such manufacturer to meet the tax-free fuel economy level for the model year with respect to all automobiles produced by such manufacturer or with respect to a model type produced by such manufacturer, the Secretary may by regulation prescribe an alternate rate schedule for such model year for all automobiles produced by such manufacturer or for such model type, as the

case may be. The alternate rate schedule shall be based on the maximum feasible fuel economy level which such manufacturer can meet for such model year with respect to all automobiles or with respect to such model type, as the case may be.

"(2) APPLICATION TO INCLUDE NECESSARY INFORMATION.—An application under this subsection for any model year shall contain such information as the Secretary may by regulations prescribe.

"(3) DETERMINATIONS TO BE MADE ONLY AFTER CONSULTATION.—Determinations under paragraph (1) shall be made by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers.

"(4) SMALL MANUFACTURER DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'small manufacturer' means any manufacturer—

"(i) who manufactured (whether or not in the United States) fewer than 10,000 automobiles in the second model year preceding the model year for which the determination under paragraph (1) is being made, and

"(ii) who can reasonably be expected to manufacture (whether or not in the United States) fewer than 10,000 automobiles in the model year for which the determination under paragraph (1) is being made.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) MANUFACTURER OF AUTOMOBILES PRODUCED ABROAD DETERMINED WITHOUT REGARD TO IMPORTATION.—The meaning of the term 'manufacturer' shall be determined without regard to subsection (b)(5).

"(ii) CONTROLLED GROUPS.—Persons who are members of the same controlled group of corporations shall be treated as one manufacturer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a); except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)." 26 USC 1563.

(b) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: 26 USC 1016.

"(d) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and *Ante*, p. 3180.

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(c) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES.—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: 26 USC 4221.

"Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

Ante, p. 3180.

26 USC 4293.

(2) UNITED STATES AND POSSESSIONS.—Section 4293 (relating to exemption for United States and possessions) is amended by striking out "tax imposed by section 4121" and inserting in lieu thereof "taxes imposed by sections 4064 and 4121".

26 USC 6416.

(3) DENIAL OF REFUNDS FOR CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064".

26 USC 4217.

(d) PAYMENT OF TAX IN CASE OF LEASED AUTOMOBILES.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) LEASES OF AUTOMOBILES SUBJECT TO GAS GUZZLER TAX.—

(1) IN GENERAL.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) PAYMENT OF TAX.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(B) TOTAL GAS GUZZLER TAX.—The term 'total gas guzzler tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

Ante, p. 3180.

26 USC 4222.

(e) AUTHORITY TO EXTEND REGISTRATION SYSTEM TO EXEMPTION OF EMERGENCY VEHICLES.—Subsection (d) of section 4222 (relating to registration in the case of certain other exemptions) is amended by inserting "4064(b)(1)(C)," after "4063(b),".

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Gas guzzler tax."

26 USC 4064 note.

26 USC 4064.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1954).

PART II—MOTOR FUELS

SEC. 221. EXEMPTION FROM MOTOR FUELS EXCISE TAXES FOR CERTAIN ALCOHOL FUELS.

(a) GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection: 26 USC 4081.

"(c) GASOLINE MIXED WITH ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after December 31, 1978, and before October 1, 1984. 26 USC 4081 note.

(b) ALCOHOL MIXED WITH SPECIAL FUEL.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection: 26 USC 4041.

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1978, and before October 1, 1984. 26 USC 4041 note.

(c) REPORTS.— 26 USC 4041 note.

(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1980, and ending on April 1, 1984, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include— Report to Congress.

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954, and 26 USC 4041, 4081.

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

Report to Congress.

(2) REPORT.—The report submitted to the Congress on April 1, 1984, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

26 USC 4041, 4081.

(d) EXPEDITION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS.—The Secretary of the Treasury shall expedite, to the maximum extent possible, action on the application of any person with respect to the production of ethanol for use in producing gasoline described in section 4081(c) (or in producing liquid fuel described in section 4041(k)) of the Internal Revenue Code of 1954. Within 6 months after the date of the enactment of this Act, the Secretary shall furnish to the Committee on Finance, United States Senate, and to the Committee on Ways and Means, United States House of Representatives, recommendations for legislation necessary to provide for changes in the provisions of chapter 51 of the Internal Revenue Code of 1954 to provide a simple, expeditious procedure for processing such applications and to simplify the regulation of such persons for purposes of such chapter consistent with adequate safeguards against the use of such applications to avoid or evade compliance with the provisions of such chapter relating to distilled spirits procured, dealt in, or used for other purposes.

26 USC 4081 note.

Legislative recommendations to congressional committees.

26 USC 5001 *et seq.*

SEC. 222. DENIAL OF CREDIT OR REFUND FOR NONBUSINESS NONHIGHWAY USE OF GASOLINE, SPECIAL MOTOR FUELS, AND LUBRICATING OIL.

(a) IN GENERAL.—

(1) GASOLINE.—

26 USC 6421.

(A) So much of the first sentence of section 6421(a) (relating to nonhighway uses) as precedes "the Secretary" is amended to read as follows: "Except as provided in subsection (i), if gasoline is used in a qualified business use,".

(B) Subsection (d) of section 6421 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED BUSINESS USE.—

"(A) IN GENERAL.—The term 'qualified business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

26 USC 212.

"(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(B) EXCEPTION FOR USE IN MOTORBOATS.—The term 'qualified business use' does not include any use in a motorboat.

"(C) COMMERCIAL FISHING VESSELS.—For provisions exempting from tax gasoline, special motor fuels, and lubricating oil used for commercial fishing vessels, see—

26 USC 4221.

"(i) subsections (a)(3) and (d)(3) of section 4221 (relating to certain tax-free sales),

"(ii) section 6416(b)(2)(B) (relating to refund or credit in case of certain uses), and 26 USC 6416.

"(iii) section 4041(g)(1) (relating to exemptions from tax on special fuels)." 26 USC 4041.

(2) SPECIAL MOTOR FUELS.—Subsection (b) of section 4041 (relating to special motor fuels) is amended by striking out the second and third sentences and inserting in lieu thereof the following:

"In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under paragraph (2). For purposes of this subsection, the term 'qualified business use' has the meaning given to such term by section 6421(d)(3)." 26 USC 6421.

(3) LUBRICATING OIL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out "is used otherwise than in a highway motor vehicle" and inserting in lieu thereof "is used in a qualified business use (within the meaning of section 6421(d)(3))". 26 USC 6424.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to uses after December 31, 1978. 26 USC 4041 note.

PART III—PROVISIONS RELATED TO BUSES

SEC. 231. REMOVAL OF EXCISE TAX ON BUSES.

(a) GENERAL RULE.—Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows: 26 USC 4063.

"(6) BUSES.—The tax imposed under section 4061(a) shall not apply in the case of any automobile bus chassis or automobile bus body." 26 USC 4061.

(b) FLOOR STOCKS REFUNDS.— 26 USC 4063 note.

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refunds is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such

evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

26 USC 4061.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply with respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayment of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218(a) on or after April 20, 1977.

26 USC 4218.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to

such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section). 26 USC 4061. 26 USC 4063.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES". 26 USC 6412.

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a) (6) or (7)" and inserting in lieu thereof "4063(a)(7)". 26 USC 4222.

(g) EFFECTIVE DATE.— 26 USC 4063 note.

(1) The amendments made by subsections (a) and (f) shall apply with respect to articles sold after the date of the enactment of this Act.

(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enactment of this Act unless possession or right to possession passes to the purchaser on or before such date.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act, payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.

SEC. 232. REMOVAL OF EXCISE TAX ON BUS PARTS.

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph: 26 USC 4221.

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows: 26 USC 6416.

"(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;".

26 USC 4221 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 233. REMOVAL OF EXCISE TAX ON FUEL, OIL, AND TIRES USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES.

(a) REPAYMENT OF TAX ON GASOLINE AND OTHER MOTOR FUELS USED BY INTERCITY, LOCAL, OR SCHOOL BUSES.—

26 USC 6421.

(1) GASOLINE.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

26 USC 4221.

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

26 USC 4081.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

26 USC 6427.

(2) OTHER FUELS.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if any fuel on the sale of which tax was imposed by subsection (a) or (b) of section 4041 is used in an automobile bus while engaged in—

26 USC 4041.

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) TECHNICAL AMENDMENTS.—

26 USC 6421.

(A) Subsection (d) of section 6421 is amended—

(i) by striking out paragraph (2), and

(ii) by redesignating paragraph (3) (as added by section 222(a)(1)(B)) as paragraph (2).

Ante, p. 3186.

(B) The last sentence of section 4041(b) (as added by section 222(a)(2)) is amended by striking out "6421(d)(3)" and inserting in lieu thereof "6421(d)(2)". 26 USC 4041.

(C) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1978)" after "section 6421(b)(2)". 26 USC 4483.

(b) REPAYMENT OF TAX ON LUBRICATING OIL USED IN INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) IN GENERAL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows: 26 USC 6424.

"(a) PAYMENTS.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used— 26 USC 4092.

(1) in a qualified business use (as defined in section 6421(d)(2)), or 26 USC 6421.

"(2) in a qualified bus (as defined in section 4221(d)(7)), 26 USC 4221.

the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTOR VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES". 26 USC 6424.

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes". 26 USC 6411.

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes". 26 USC 39.

(D) Sections 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes". 26 USC 6504, 6675.

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes". 23 USC 120 note.

(c) TIRES, TUBES, AND TREAD RUBBER.—

(1) IN GENERAL.—Paragraph (5) of section 4221(e) (relating to school buses) is amended to read as follows: 26 USC 4221.

"(5) TIRES, TUBES, AND TREAD RUBBER USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and 26 USC 4071.

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to

be used by the purchaser on or in connection with a qualified bus."

26 USC 4221. (2) QUALIFIED BUS DEFINED.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED BUS.—

"(A) IN GENERAL.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) INTERCITY OR LOCAL BUS.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the seating capacity of such bus is at least 20 adults (not including the driver).

"(C) SCHOOL BUS.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

26 USC 6416. (3) TECHNICAL AMENDMENT.—Paragraph (2) of section 6416 (b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under 26 USC 4071. paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

26 USC 39 note. (d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

PART IV—INCENTIVES FOR VAN POOLING

SEC. 241. FULL INVESTMENT CREDIT FOR CERTAIN COMMUTER VEHICLES.

26 USC 46. (a) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR COMMUTER HIGHWAY VEHICLES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a commuter highway vehicle the useful life of which is 3 years or more, the applicable percentage for purposes of paragraph (1) shall be 100 percent.

"(B) DEFINITION OF COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (A), the term 'commuter highway vehicle' means a highway vehicle—

"(i) the seating capacity of which is at least 8 adults (not including the driver),

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver),

"(iii) which is acquired by the taxpayer on or after the date of the enactment of the Energy Tax Act of 1978, and placed in service by the taxpayer before January 1, 1986, and

Ante, p. 3174.

"(iv) with respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service."

(b) AMENDMENTS OF THE RECAPTURE RULES.—

(1) Subsection (a) of section 47 (relating to recapture in case of certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

26 USC 47.

"(4) SPECIAL RULES FOR COMMUTER HIGHWAY VEHICLES.—

"(A) USEFUL LIFE.—For purposes of this subsection, 3 years shall be treated as the useful life which was taken into account in computing the credit under section 38 with respect to any commuter highway vehicle (as defined in section 46 (c)(6)(B)).

26 USC 38.

Ante, p. 3192.

"(B) CHANGE IN USE.—If less than 80 percent of the mileage use of any commuter highway vehicle by the taxpayer during that portion of any taxable year which is within the first 36 months of the operation of such vehicle by the taxpayer meets the requirements of section 46(c)(6)(B), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating such vehicle, for purposes of determining qualified investment, as not being a commuter highway vehicle. If the application of this subparagraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1)."

(2) Paragraph (5) of section 47(a) (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (4)".

(3) Subparagraph (B) of section 47(a)(6) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

SEC. 242. EXCLUSION FROM GROSS INCOME OF VALUE OF QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and by inserting after section 123 the following new section:

26 USC 101.

26 USC 124, 125.

"SEC. 124. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

26 USC 124.

"(a) GENERAL RULE.—Gross income of an employee does not include the value of qualified transportation provided by the employer between the employee's residence and place of employment.

"(b) QUALIFIED TRANSPORTATION.—For purposes of this section, the term 'qualified transportation' means transportation in a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof).

Ante, p. 3192.

"(c) ADDITIONAL REQUIREMENTS.—Subsection (a) does not apply to the value of transportation provided by an employer unless—

"(1) such transportation is provided under a separate written plan of the employer which does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees, and

"(2) the plan provides that the value of such transportation is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(d) DEFINITIONS.—For purposes of this section—

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by an employer if the transportation is furnished in a commuter highway vehicle (described in subsection (b)) operated by or for the employer.

"(2) EMPLOYEE.—The term 'employee' does not include an individual who is an employee (within the meaning of section 401(c)(1)).

26 USC 401.

"(e) EFFECTIVE DATE.—Subsection (a) applies with respect to qualified transportation provided in taxable years beginning after December 31, 1978, and before January 1, 1986".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Qualified transportation provided by employer.
"Sec. 125. Cross references to other Acts."

26 USC 124 note.

(c) TRANSITION RULE.—The plan requirements of section 124(c) of the Internal Revenue Code of 1954 shall be considered to be met with respect to transportation provided before July 1, 1979, if there is a plan meeting such requirements of the employer in effect on that date.

Supra.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 301. CHANGES IN BUSINESS INVESTMENT CREDIT.

(a) AMOUNT OF CREDIT; ALLOWANCE OF ENERGY PERCENTAGE.—

26 USC 46.

(1) IN GENERAL.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended to read as follows:

"(2) AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(i) the regular percentage,

"(ii) in the case of energy property, the energy percentage, and

"(iii) the ESOP percentage.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is—

"(i) 10 percent with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, or

"(ii) 7 percent with respect to the period beginning on January 1, 1981.

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on December 31, 1982, or

"(ii) zero with respect to any other period.

"(D) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. *Infra.* 26 USC 38.

"(E) ESOP PERCENTAGE.—For purposes of this paragraph, the ESOP percentage is—

"(i) with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, 1 percent, and

"(ii) with respect to the period beginning on January 1, 1977, and ending on December 31, 1980, an additional percentage (not in excess of ½ of 1 percent) which results in an amount equal to the amount determined under section 301(e) of the Tax Reduction Act of 1975. 26 USC 46 note.

This subparagraph shall apply to a corporation only if it meets the requirements of section 301(d) of the Tax Reduction Act of 1975 and only if it elects (at such time, in such form, and in such manner as the Secretary prescribes) to have this subparagraph apply." 26 USC 46 note.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended to read as follows: 26 USC 46.

"(A) For the period beginning on January 1, 1981, in the case of any property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1). The preceding sentence shall not apply for purposes of applying the energy percentage."

(B) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Tax Reform Act of 1976" and inserting in lieu thereof ", the Tax Reform Act of 1976, and the Energy Tax Act of 1978". 26 USC 1 note.

Ante, p. 3174.

(b) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (n) and by inserting after subsection (k) the following new subsections: 26 USC 48.

"(l) ENERGY PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning on October 1, 1978, and ending on December 31, 1982—

"(A) any energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to any energy property.

"(2) ENERGY PROPERTY DEFINED.—The term 'energy property' means property—

"(A) which is—

"(i) alternative energy property,

"(ii) solar wind energy property,

"(iii) specially defined energy property,

"(iv) recycling equipment,

"(v) shale oil equipment, or

"(vi) equipment for producing natural gas from geopressured brine,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after September 30, 1978, or

"(ii) which is acquired after September 30, 1978, if the original use of such property commences with the taxpayer and commences after such date, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years or more.

"(3) ALTERNATIVE ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'alternative energy property' means—

"(i) a boiler the primary fuel for which will be an alternate substance,

"(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(iii) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel (other than coke or coke gas),

"(iv) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock so that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

"(v) equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products (other than coke or coke gas),

"(vi) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iii), (iv), or (v),

"(vii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii), (iii), (iv), (v), or (vi), and

"(viii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(3)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

Post, p. 3203.

"(B) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'solar or wind energy property', and 'recycling equipment' do not include property which is public utility property (within the meaning of section 46(f)(5)). 26 USC 46.

"(C) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(D) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(i) is installed on or in connection with property which, as of October 1, 1978, was using coal (including lignite), and

"(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

"(4) SOLAR OR WIND ENERGY PROPERTY.—The term 'solar or wind energy property' means any equipment which uses solar or wind energy—

"(A) to generate electricity, or

"(B) to heat or cool (or provide hot water for use in) a structure.

"(5) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,

"(B) a heat wheel,

"(C) a regenerator,

"(D) a heat exchanger,

"(E) a waste heat boiler,

"(F) a heat pipe,

"(G) an automatic energy control system,

"(H) a turbulator,

"(I) a preheater,

"(J) a combustible gas recovery system,

"(K) an economizer, or

"(L) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(6) RECYCLING EQUIPMENT.—

"(A) IN GENERAL.—The term 'recycling equipment' means any equipment which is used exclusively—

"(i) to sort and prepare solid waste for recycling, or

"(ii) in the recycling of solid waste.

"(B) CERTAIN EQUIPMENT NOT INCLUDED.—The term 'recycling equipment' does not include—

"(i) any equipment used in a process after the first marketable product is produced, or

"(ii) in the case of recycling iron or steel, any equipment used to reduce the waste to a molten state and in any process thereafter.

"(C) 10 PERCENT VIRGIN MATERIAL ALLOWED.—Any equipment used in the recycling of material which

includes some virgin materials shall not be treated as failing to meet the exclusive use requirements of subparagraph (A) if the amount of such virgin materials is 10 percent or less.

"(D) CERTAIN EQUIPMENT INCLUDED.—The term 'recycling equipment' includes any equipment which is used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(7) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment for producing or extracting oil from oil-bearing shale rock but does not include equipment for hydrogenation, refining, or other process subsequent to retorting.

"(8) EQUIPMENT FOR PRODUCING NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'equipment for producing natural gas from geopressured brine' means equipment which is used exclusively to extract natural gas described in section 613A(b)(3)(C)(i).

26 USC 613A.

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS TO QUALIFY.—Equipment qualifies under paragraph (3), (4), (5), (6), (7), or (8) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of the acquisition of the property.

"(10) EXISTING.—For purposes of this subsection, the term 'existing' means—

"(A) when used in connection with a facility, 50 percent or more of the basis of such facility is attributable to construction, reconstruction, or erection before October 1, 1978, or

"(B) when used in connection with an industrial or commercial process, such process was carried on in the facility as of October 1, 1978.

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the energy percentage shall be 5 percent.

26 USC 103.

"(12) INDUSTRIAL INCLUDES AGRICULTURAL.—The term 'industrial' includes agricultural.

"(m) APPLICATION OF CERTAIN TRANSITIONAL RULES.—Where the application of any provision of subsection (l) of this section or subsection (a)(2) or (c)(3) of section 46 is expressed in terms of a period, such provision shall apply only to—

Ante, p. 3194; 26 USC 46.

"(1) property to which section 46(d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after the first day of such period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such period,

"(2) property to which section 46(d) does not apply, acquired by the taxpayer during such period and placed in service by the taxpayer during such period, and

"(3) property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsec-

tions (c) and (d) of section 46) with respect to qualified progress expenditures made during such period." 26 USC 46.

(c) SPECIAL RULES FOR APPLYING LIMITATION BASED ON TAX LIABILITY—

(1) Subsection (a) of section 46 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY.—Under regulations prescribed by the Secretary— Regulations.

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage, 26 USC 38.

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property (other than solar or wind energy property), and

"(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to solar or wind energy property.

"(B) RULES OF APPLICATION FOR ENERGY PROPERTY OTHER THAN SOLAR OR WIND ENERGY PROPERTY.—In applying this subsection and subsection (b) for taxable years ending after September 30, 1978, with respect to so much of the credit allowed by section 38 as is described in subparagraph (A)(ii)—

"(i) paragraph (3)(C) shall be applied by substituting '100 percent' for '50 percent',

"(ii) paragraphs (7), (8), and (9) shall not apply, and

"(iii) the liability for tax shall be the amount determined under paragraph (4) reduced by so much of the credit allowed by section 38 as is described in subparagraph (A)(i).

"(C) REFUNDABLE CREDIT FOR SOLAR OR WIND ENERGY PROPERTY.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38." 26 USC 31, 6201. 26 USC 39.

(2) Section 6401 (relating to amounts treated as overpayments) is amended by adding at the end thereof the following new subsection: 26 USC 6401.

"(d) CROSS REFERENCE.—

"For rule allowing refund for excess investment credit attributable to solar or wind energy property, see section 46(a)(10)(C)."

(d) DENIAL OF INVESTMENT TAX CREDIT FOR CERTAIN PROPERTY.—

(1) AIR CONDITIONING, SPACE HEATERS, ETC.—Subparagraph (A) of section 48(a)(1) (defining section 38 property) is amended to read as follows: 26 USC 48.

"(A) tangible personal property (other than an air conditioning or heating unit), or".

(2) BOILERS FUELED BY OIL OR GAS.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

26 USC 48.

"(10) BOILERS FUELED BY OIL OR GAS.—

"(A) IN GENERAL.—The term 'section 38 property' does not include any boiler primarily fueled by petroleum or petroleum products (including natural gas) unless the use of coal is precluded by Federal air pollution regulations (or by State air pollution regulations in effect on October 1, 1978) or unless the use of such boiler will be an exempt use within the meaning of subparagraph (B).

"(B) EXEMPT USE DEFINED.—For purposes of subparagraph (A), the term 'exempt use' means—

"(i) use in an apartment, hotel, motel, or other residential facility,

"(ii) use in a vehicle, aircraft, or vessel, or in transportation by pipeline,

"(iii) use on a farm for farming purposes (within the meaning of section 6420(c)),

26 USC 6420.

"(iv) use in—

"(I) a shopping center,

"(II) an office building,

"(III) a wholesale or retail establishment,

"(IV) any other facility which is not an integral part of manufacturing, processing, or mining, or

"(V) any facility for the production of electric power having a heat rate of less than 9,500 Btu's per kilowatt hour and which is capable of converting to synthetic fuels (as certified by the Secretary),

"(v) use in the exploration for, or the development, extraction, transmission, or storage of, crude oil, natural gas, or natural gas liquids, and

"(vi) use in Hawaii.

Except as provided in clauses (iv) (V) and (vi) of the preceding sentence, the term 'exempt use' does not include use of a boiler which is public utility property (within the meaning of section 46(f)(51))."

26 USC 46.

(3) DENIAL OF RAPID DEPRECIATION FOR BOILERS FUELED BY OIL OR GAS.—Section 167 (relating to depreciation) is amended by redesignating subsection (p) as subsection (r) and by inserting after subsection (o) the following new subsection:

26 USC 167.

"(p) STRAIGHT LINE METHOD FOR BOILERS FUELED BY OIL OR GAS.—In the case of any boiler which, by reason of section 48(a)(10), is not section 38 property—

26 USC 48.

"(1) subsections (b), (j), and (l) shall not apply, and

"(2) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Secretary under subsection (m) which is applicable to such property (determined without regard to the last sentence of subsection (m)(1))."

(4) EFFECTIVE DATE.—

26 USC 48 note.

(A) IN GENERAL.—The amendments made by this subsection shall apply to property which is placed in service after September 30, 1978.

(B) BINDING CONTRACTS.—The amendments made by this subsection shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer.

(e) DEPRECIATION ALLOWANCE IN CASE OF RETIREMENT OR REPLACEMENT OF CERTAIN OIL AND GAS BOILERS, ETC.—

(1) IN GENERAL.—Section 167 is amended by inserting after subsection (p) the following new subsection: 26 USC 167.

"(q) RETIREMENT OR REPLACEMENT OF CERTAIN BOILERS, ETC., FUELED BY OIL OR GAS.—

"(1) IN GENERAL.—If—

"(A) a boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

"(B) the taxpayer establishes to the satisfaction of the Secretary that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which subparagraph (B) is satisfied, the term 'reasonable allowance' as used in subsection (a) includes an allowance under the straight line method using a useful life equal to the period ending with the date established under subparagraph (B).

"(2) INTEREST.—If the retirement or replacement of any combustor does not occur on or before the date referred to in paragraph (1)(B)—

"(A) this subsection shall cease to apply with respect to such combustor as of such date, and

"(B) interest at the rate determined under section 6621 on the amount of the tax benefit arising from the application of this subsection with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (1)(B)." 26 USC 6621.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 167 note.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978". 26 USC 57 note.

SEC. 402. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and and development costs in the case of oil and gas wells) is amended— 26 USC 263.

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in section 613(e) *Post*, p. 3203.

(3)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL WELLS.—

26 USC 57. (1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3))."

Post, p. 3203.

(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL WELLS.—

26 USC 1254. (1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable."

26 USC 614.

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS, OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, or geothermal".

26 USC 1231.

26 USC 751. (5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS.—

26 USC 465. (1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C), by adding ", or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)(3))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C), by adding "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) geothermal property (as determined under section 614)",. 26 USC 614.

(e) EFFECTIVE DATE.— 26 USC 263 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wells commenced on or after October 1, 1978, in taxable years ending on or after such date.

(2) ELECTION.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. 26 USC 263. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

SEC. 403. DEPLETION FOR GEOTHERMAL DEPOSITS AND NATURAL GAS FROM GEOPRESSURED BRINE.

(a) GEOTHERMAL DEPOSITS.—

(1) IN GENERAL.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection: 26 USC 613.

"(e) PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.—

"(1) IN GENERAL.—In the case of geothermal deposits located in the United States or in a possession of the United States, for purposes of subsection (a)—

"(A) such deposits shall be treated as listed in subsection (b), and

"(B) the applicable percentage (determined under the table contained in paragraph (2)) shall be deemed to be the percentage specified in subsection (b).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"In the case of taxable years beginning in calendar year—	The applicable percentage is—
1978, 1979, or 1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

"(3) GEOTHERMAL DEPOSIT DEFINED.—For purposes of paragraph (1), the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not 26 USC 613A. apply to a geothermal deposit which is located outside the United States or its possessions."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geothermal deposit" after "oil or gas well".

26 USC 613A.

(B) Paragraph (1) of section 613A(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

26 USC 614.

(C) Subsection (b) of section 614 (relating to special rules as to operating mineral interest in oil and gas wells) is amended—

(i) by inserting "OR GEOTHERMAL DEPOSITS" after "GAS WELLS" in the subsection heading, and

(ii) by inserting "or geothermal deposits" after "gas wells" in so much of the text as precedes paragraph (1) thereof.

(D) Subsection (c) of section 614 is amended by striking out "oil and gas wells" each place it appears and inserting in lieu thereof "oil and gas wells and geothermal deposits".

(b) NATURAL GAS FROM GEOPRESSURED BRINE.—

26 USC 613A.

(1) IN GENERAL.—Subsection (b) of section 613A (relating to exemption for certain domestic gas wells) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) NATURAL GAS FROM GEOPRESSURED BRINE.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to any qualified natural gas from geopressured brine, and 10 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of such section."

26 USC 611.

26 USC 613.

Supra.

(2) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—Paragraph (3) of section 613A(b) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(C) QUALIFIED NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'qualified natural gas from geopressured brine' means any natural gas—

"(i) which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine, and

Post, p. 3397.

"(ii) which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984."

26 USC 613 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1978, and shall apply to taxable years ending on or after such date.

26 USC 613A note.

(d) COORDINATION WITH OTHER PROVISION.—Any allowance for depletion allowed by reason of the amendments made by subsection (b) shall not be treated as a credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax which is specifically allowable with respect to any high-cost natural gas (or category thereof) for purposes of section 107(d) of the Natural Gas Policy Act of 1978.

Post, p. 3366.

SEC. 404. REREFINED LUBRICATING OIL.

26 USC 4093.

(a) IN GENERAL.—Section 4093 (relating to exemption of sales to producers) is amended to read as follows:

"SEC. 4093. EXEMPTIONS.

"(a) SALES TO MANUFACTURERS OR PRODUCERS FOR RESALE.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him. 26 USC 4091.

"(b) USE IN PRODUCING REREFINED OIL.—

"(1) SALES TO REREFINERS.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

"(2) USE IN PRODUCING REREFINED OIL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing rerefined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

"(3) REREFINED OIL DEFINED.—For purposes of this subsection, the term 'rerefined oil' means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined."

(b) CONFORMING AMENDMENT.—Section 4092(a) is amended by striking out "4093" and inserting in lieu thereof "4093(a)". 26 USC 4092.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4093 and inserting in lieu thereof the following: 26 USC 4091.

"Sec. 4093. Exemptions."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act. 26 USC 4093 note.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-435 (Comm. on Ways and Means) and No. 95-1773 (Comm. of Conference).

SENATE REPORTS: No. 95-529 (Comm. on Finance) and No. 95-1324 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Oct. 25-29, 31, considered and passed Senate, amended.
Vol. 124 (1978): Oct. 15, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-619
95th Congress

An Act

Nov. 9, 1978
[H.R. 5037]

For the relief of Jack R. Misner.

National Energy Conservation Policy Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

42 USC 8201 note.

(a) SHORT TITLE.—This Act may be cited as the "National Energy Conservation Policy Act".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and statement of purposes.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

PART 1—UTILITY PROGRAM

Sec. 210. Definitions.
Sec. 211. Coverage.
Sec. 212. Rules of Secretary for submission and approval of plans.
Sec. 213. Requirements for State residential energy conservation plans for regulated utilities.
Sec. 214. Plan requirements for nonregulated utilities and home heating suppliers.
Sec. 215. Utility programs.
Sec. 216. Supply, installation, and financing by public utilities.
Sec. 217. Home heating supplier programs.
Sec. 218. Temporary programs.
Sec. 219. Federal standby authority.
Sec. 220. Relationship to other laws.
Sec. 221. Rules.
Sec. 222. Product standards.
Sec. 223. Authorization of appropriations.
Sec. 224. Report on energy conservation in apartment buildings.
Sec. 225. Federal Trade Commission study and report.

PART 2—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

Sec. 231. Department of Energy weatherization grant program.
Sec. 232. Farmers Home Administration weatherization grant program.
Sec. 233. Availability of labor.

PART 3—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS

Sec. 241. Loan insurance for energy conserving improvements and solar energy systems under title I of the National Housing Act.
Sec. 242. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 243. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.
Sec. 244. Purchase by Government National Mortgage Association of loans for solar energy systems.
Sec. 245. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 246. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.

Sec. 247. Loan insurance for energy conserving improvements and solar energy systems in multifamily projects under section 241 of the National Housing Act.
Sec. 248. Increase in mortgage limits to cover costs of solar energy systems.

PART 4—MISCELLANEOUS

Sec. 251. Energy-conserving improvements for assisted housing.
Sec. 252. Energy conserving standards for newly constructed residential housing insured by Federal Housing Administration or assisted by Farmers Home Administration.
Sec. 253. Residential energy efficiency standards study.
Sec. 254. Weatherization study.
Sec. 255. Authorization for appropriations for new building performance standards grants.

TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

PART 1—SCHOOLS AND HOSPITALS

Sec. 301. Statement of findings and purposes.
Sec. 302. Amendment to the Energy Policy and Conservation Act.
Sec. 303. Technical amendments.
Sec. 304. Cross reference.

PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Sec. 310. Statement of findings and purposes.
Sec. 311. Amendment to the Energy Policy and Conservation Act.
Sec. 312. Application of Davis-Bacon Act.

TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES

PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES

Sec. 401. Fuel economy information.
Sec. 402. Civil penalties relating to automobile fuel efficiency.
Sec. 403. Disclosure in labeling.
Sec. 404. Study.

PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 421. Test procedures.
Sec. 422. Energy efficiency standards.
Sec. 423. Assessment of civil penalties.
Sec. 424. Effect of standards on other laws.
Sec. 425. Technical and conforming amendments.
Sec. 426. Appropriations authorization.
Sec. 427. Effects of other laws on procedures.

PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

Sec. 441. Energy efficiency of industrial equipment.

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

Sec. 461. Use of recovered materials.

TITLE V—FEDERAL ENERGY INITIATIVES

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

Sec. 501. Conservation plan authorization.

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Sec. 521. Definitions.
Sec. 522. Federal solar program.

Sec. 523. Duties of Secretary.
Sec. 524. Authorization of appropriations.

PART 3—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

Sec. 541. Findings.
Sec. 542. Policy.
Sec. 543. Purpose.
Sec. 544. Definitions.
Sec. 545. Establishment and use of life cycle cost methods.
Sec. 546. Energy performance targets for Federal buildings.
Sec. 547. Energy audits and retrofitting of existing Federal buildings.
Sec. 548. Leased Federal buildings.
Sec. 549. Budget treatment of energy conserving improvements by Federal agencies.
Sec. 550. Reports.
Sec. 551. Authorization of appropriations.

PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

Sec. 561. Short title of part.
Sec. 562. Definitions.
Sec. 563. Photovoltaic energy program.
Sec. 564. Purpose of program.
Sec. 565. Acquisition of systems.
Sec. 566. Administration.
Sec. 567. System evaluation and purchase program.
Sec. 568. Advisory committee.
Sec. 569. Authorization of appropriations.

TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES

PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING

Sec. 601. Industrial energy efficiency reporting.

PART 2—STATE ENERGY CONSERVATION PLANS

Sec. 621. State energy conservation plans.
Sec. 622. Supplemental State energy conservation plans.
Sec. 623. Report on coordination of energy conservation programs.

PART 3—MINORITY ECONOMIC IMPACT

Sec. 641. Minority economic impact.

PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

Sec. 661. Major fuel burning stationary source.

PART 5—STUDIES

Sec. 681. Off-highway motor vehicles.
Sec. 682. Bicycle study.
Sec. 683. Second law efficiency study.

PART 6—TECHNICAL AMENDMENTS

Sec. 691. Definition of Administrator.

SEC. 102. FINDINGS AND STATEMENT OF PURPOSES.

42 USC 8201.

(a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly

dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are to provide for the regulation of interstate commerce, to reduce the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this Nation and elsewhere, without inhibiting beneficial economic growth.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

PART 1—UTILITY PROGRAM

SEC. 210. DEFINITIONS. 42 USC 8211.

As used in this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "load management technique" means any technique to reduce the maximum kilowatt demand on an electric utility, including ripple or radio control mechanisms, or other types of interruptible electric service, energy storage devices, and load limiting devices.

(3) The term "natural gas" means natural gas as defined in the Natural Gas Act.

(4) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(5) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

(6) The term "nonregulated utility" means a public utility which is not a regulated utility.

(7) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "residential building" means any building used for residential occupancy which—

(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, 42 USC 6833, 6834.

(B) contains at least one, but no more than four, dwelling units, and

(C) has a system for heating or cooling, or both.

(10) The term "residential customer" means any person to whom—

(A) a public utility sells natural gas or electric energy, or

(B) a home heating supplier supplies or sells home heating fuel (including No. 2 heating oil, kerosene, butane, and propane),

for consumption by such customer in a residential building.

(11) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces or boilers or any combination thereof which, as determined by the Secretary, substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed window and door materials;

(G) devices associated with load management techniques;

(H) devices to utilize solar energy or windpower for any residential energy conservation purpose, including heating of water, space heating or cooling; and

(I) such other measures as the Secretary by rule identifies for purposes of this part.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this Part unless such measure is warranted by the manufacturer to meet a specified level of performance over a period of not less than three years.

(12) The term "residential energy conservation plan" means a plan approved by the Secretary pursuant to section 212.

(13) The term "State" means a State, the District of Columbia, and Puerto Rico.

(14) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(15) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(16) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Secretary, in the rules prescribed pursuant to section 212, determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Secretary shall consider the cost of the

inspection offered under section 215(b)(1)(A) and its effect on the willingness of residential customers to participate in the utility program.

(17) The term "utility program" means a program meeting the requirements of section 215.

(18) The term "Governor" means the Governor or chief executive officer of a State or his designee.

(19) The term "home heating supplier program" means a program meeting the requirements of section 217.

(20) The term "home heating supplier" means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to a residential customer for consumption in a residential building.

SEC. 211. COVERAGE.

(a) IN GENERAL.—This part shall apply in any calendar year to a public utility only if during the second preceding calendar year either— 42 USC 8212.

(1) sales of natural gas by such public utility for purposes other than resale exceeded 10 billion cubic feet, or

(2) sales of electric energy by such public utility for purposes other than resale exceeded 750 million kilowatt-hours.

(b) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each public utility to which this part applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each public utility on the list for which such State regulatory authority has ratemaking authority.

SEC. 212. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

(a) PROMULGATION OF RULES BY SECRETARY.—The Secretary shall, not later than 45 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans which meet the requirements of sections 213 and 214. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce (acting through the National Bureau of Standards), the Federal Trade Commission, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Secretary shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule. 42 USC 8213.

(b) CONTENT OF SECRETARY'S RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary may deem appropriate;

(2) shall include—

(A) standards which the Secretary determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Secretary determines necessary for installation of any residential energy conservation measure;

(C) standards for the procedures concerning fair and reasonable prices and rates of interest required under section 213(a)(4);

(D) standards, developed in consultation with the Federal Trade Commission, concerning unfair, deceptive, or anticompetitive acts or practices, for the measures required under section 213(b);

(E) standards which (i) require the lists referred to in section 213(a)(2) (concerning lists of suppliers and contractors) and 213(a)(3) (concerning lists of lending institutions) to be prepared in a fair, open, and nondiscriminatory manner and (ii) provide for the removal, in appropriate cases, of suppliers, contractors, or lending institutions from such lists; and

(F) standards which assure that any person who alleges any injury resulting from a violation of the requirements of the standards under subparagraph (E) shall be entitled to redress under procedures established by the Governor (or the Secretary in any case in which section 219, relating to Federal standby authority applies); and

(3) may include such other requirements as the Secretary may determine to be necessary to carry out this part.

(c) PROCEDURE FOR SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1)(A) Not later than 180 days after promulgation of rules under subsection (a), the Governor of each State or any State agency specifically authorized to do so under State law, may submit to the Secretary a proposed residential energy conservation plan which meets the requirements of the rules promulgated under subsection (a). Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under subsection (a), to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in paragraph (2). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend, for good cause shown, the time period for submission of a plan.

Extension.

(B) Each such plan shall be reviewed and approved or disapproved by the Secretary not later than 90 days after submission. If the Secretary disapproves a plan, the Governor or State agency or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Secretary may, for good cause, allow. The Secretary shall review and approve or disapprove any such new or amended plan not later than 90 days after submission.

Amended plan.

(C) After approval of a plan, a Governor or State agency or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) Any plan submitted by a Governor or State agency under paragraph (1) may, in the discretion of the Governor, if he notifies the

Secretary within 30 days after promulgation of rules under subsection (a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case references elsewhere in this part to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this part to nonregulated utilities shall not apply. For purposes of this paragraph, the term "nonregulated utility" shall not include any public utility which is a Federal agency.

"Nonregulated utility."

(3) A plan applicable to home heating suppliers may be submitted by the Governor in his discretion.

(4) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

SEC. 213. REQUIREMENTS FOR STATE RESIDENTIAL ENERGY CONSERVATION PLANS FOR REGULATED UTILITIES.

(a) GENERAL REQUIREMENTS.—No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan— 42 USC 8214.

(1) requires each regulated utility to implement a utility program which meets the requirements of section 215 (except such requirements of section 215 as do not apply by reason of section 216(f)) and contains adequate State enforcement procedures in connection with such implementation;

(2) provides a procedure for permitting any supplier or contractor—

(A) who sells or installs residential energy conservation measures in the area served by such utility, and

(B) who meets such minimum requirements as may be contained in rules promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(3) provides a procedure for permitting any bank, savings and loan association, credit union, or other public or private lending institution which—

(A) offers loans for the purchase and installation of residential energy conservation measures in the areas served by such utility and

(B) which meets such minimum requirements as may be promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(4) provides adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest to its residential customers under such utility program in connection with the purchase and installation of residential energy conservation measures;

(5) provides procedures for resolving complaints against persons who sell or install residential energy conservation measures under such program;

(6) provides procedures for insuring that effective coordina-

tion exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Secretary of Energy;

(7) is adopted after notice and public hearings; and

(8) meets such other requirements as may be contained in the rules promulgated under section 212.

(b) REQUIREMENTS CONCERNING UNFAIR, DECEPTIVE, OR ANTICOMPETITIVE ACTS OR PRACTICES.—

(1) No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains adequate measures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State.

(2) The measures under paragraph (1) shall include—

(A) provisions to assure that, in carrying out procedures under section 215(b)(1) (or the corresponding procedures in section 217) the regulated utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not unfairly discriminate among measures which are purchased from, or installed by, any person under such program, and

(B) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, or make, install, or inspect any furnace efficiency modification referred to in section 210(11)(B), unless the residential customer requests (in writing) such inspection, installation, or modification.

(c) REDRESS.—No residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress under such procedures as may be established by the Governor or State agency.

SEC. 214. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND HOME HEATING SUPPLIERS.

42 USC 8215.

(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213 for regulated utilities and in addition contains procedures pursuant to which such utility will submit a written report to the Secretary not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of a utility program under section 215 and containing such information as may be required by the Secretary in the rules promulgated under section 212. In applying the requirements of section 213 in the case of a plan for nonregulated utilities under this

section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility.

(b) REQUIREMENTS FOR PLANS FOR HOME HEATING SUPPLIERS.—No residential energy conservation plan proposed for home heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213(a) (other than paragraphs (1) and (8) thereof) and section 213(b) and (c) and in addition—

(1) meets the requirements of section 217 and contains adequate enforcement procedures with respect to such requirements;

(2) meets such requirements applicable to home heating suppliers as may be contained in the rules promulgated under section 212; and

(3) takes into account the resources of small home heating suppliers.

In applying the requirements of section 213 in the case of a plan for home heating suppliers under this section, any reference to a regulated utility shall be treated as a reference to the home heating supplier and any reference to a utility program shall be treated as a reference to a home heating supplier program.

SEC. 215. UTILITY PROGRAMS.

(a) INFORMATION REQUIREMENTS.—Each utility program shall include procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of— 42 USC 8216.

(1) the suggested measures for the category of buildings which includes such residential building;

(2) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(3) the availability of the arrangements described in subsection (b) and the lists referred to in section 213(a)(2) and (3); and

(4) suggestions of energy conservation techniques, including suggestions developed by the Secretary, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the savings in energy costs that are likely to result from the adoption of such suggestions).

(b) PROJECT MANAGER REQUIREMENTS.—Each utility program shall include—

(1) procedures whereby the public utility, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, will, for each residential customer who owns or occupies a residential building, offer to—

(A) inspect the residential building (either directly or through one or more inspectors under contract) to determine and inform the residential customer of the estimated cost of purchasing and installing the suggested measures and the savings in energy costs that are likely to result from the installation of such measures (a report of which inspection shall be kept on file for not less than 5 years which shall be available to any subsequent owner without charge), except

that a utility shall be required to make only one inspection of a residence unless a new owner requests a subsequent inspection;

(B) arrange to have the suggested measures installed (except for furnace efficiency modifications with respect to which the inspection prohibition of section 213(b)(2)(B) applies, unless the customer requests in writing arrangements for such modifications in writing); and

(C) arrange for a lender to make a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(2) procedures whereby the public utility provides to each of its residential customers the lists as described in section 213(a)(2) and (3).

(c) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—(1) Each utility program shall include—

(A) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 219(d)) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility;

(B) procedures to assure that all amounts expended by a utility for providing information under subsection (a) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service;

(C) procedures to permit general administrative costs of carrying out a utility program and the amounts expended by a public utility to carry out subsection (b) to be, in the discretion of the State regulatory authority (or in the case of a nonregulated utility, in the discretion of such nonregulated utility)—

(i) treated as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service, or

(ii) charged to the residential customer for whom the activity is performed; and

(D) procedures to assure that the costs of labor and materials incurred by a utility for the purchase or installation of any residential energy conservation measure shall be charged to the residential customer for whom such activity is performed.

(2)(A) The costs of carrying out any activity as a part of a utility program under this section (other than an activity described in subparagraph (B), (C), or (D) of paragraph (1)) shall be charged to the residential customer for whom such activity is performed, unless (and to the extent that) the State regulatory authority or nonregulated utility (as the case may be) finds, after public notice and an opportunity for a public hearing, that treatment of such costs in the manner described in clause (i) of paragraph (1)(C) is likely to result (by reason of reduction in demand for energy) in lower rates to the ratepayers of such utility than would occur if the utility did not treat such costs in the manner described in such clause. Any such costs with respect to which such finding is made shall be treated in the manner described in clause (i) of paragraph (1)(C).

(B) Any portion of the costs of carrying out any activity as a part of a utility program under this section which are charged to the residential customer for whom such activity is performed and included on a billing for utility service submitted by the utility to such residential customer shall be stated separately on such billing from the cost of providing utility service.

(C) For purposes of this subsection, the term "ratepayer" means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility. "Ratepayer."

(d) REQUIREMENTS RESPECTING NEW CUSTOMERS.—In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980 (or the date six months after approval of the applicable plan, if later), and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subsection (a), the offer required under subsection (b)(1)(A), and shall offer such person the opportunity to enter into arrangements referred to in subparagraphs (B) and (C) of subsection (b)(1).

(e) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(f) LOANS.—(1) In the case of any loan made by a public utility (as may be permitted under subsection (c), (d)(1), (d)(2), or (e) of section 216) to a residential customer under a utility program under this part, the public utility carrying out such program shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he elects a shorter payment period). In the case of a loan made by any other person, the public utility shall permit repayment of the loan as part of the periodic bill if such other person agrees to repayment in such manner.

(2) In the case of any loan referred to in paragraph (1)—

(A) a lump-sum payment of outstanding principal and interest may be required by the lender upon default (as determined under otherwise applicable law) in payment by the residential customer, and

(B) no penalty shall be imposed by the lender for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(g) EXEMPT ACTIVITIES.—For purposes of this section, the term "utility program" includes activities which are subject to this section by reason of section 216(f). "Utility program."

SEC. 216. SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES.

(a) PROHIBITION ON SUPPLY, INSTALLATION, OR FINANCING.—Except as provided in this section, no public utility may— 42 USC 8217.

(1) supply or install a residential energy conservation measure, or

(2) make a loan to any residential customer for the purchase or installation of any residential energy conservation measure.

(b) EXEMPTION FROM PROHIBITION ON INSTALLATION.—The prohibition contained in subsection (a)(1) shall not apply to the energy con-

servation measures referred to in section 210(11)(B) or 210(11)(C), or devices associated with load management techniques for the type of energy sold by the utility.

(c) EXEMPTION FROM PROHIBITION ON FINANCING.—The prohibition contained in subsection (a)(2) shall not apply to any loan to a residential customer which does not exceed the greater of—

(1) $300, or

(2) the cost of purchase, and installation in such customer's residence, of items referred to in subsection (b).

(d) GENERAL EXEMPTIONS.—The prohibitions contained in subsection (a) shall not apply to—

(1) the supply, installation, or financing of those specific residential energy conservation measures which the Secretary determines were being installed or financed by a public utility on the date of enactment of this Act;

(2) supply, installation, or financing activities which the Secretary determines were broadly advertised or for which substantial preparations were completed on or before the date of enactment of this Act; or

(3) supply, installation, or financing activities by a public utility with respect to energy conservation measures where a law or regulation in effect on or before the date of enactment of this Act either requires, or explictly permits, the public utility to carry out such activities.

(e) WAIVER.—The Secretary may, upon petition of a public utility, supported in the case of a regulated utility by a Governor, waive in whole or in part the prohibitions contained in subsection (a) with respect to the utility if such utility demonstrates to the satisfaction of the Secretary that, in carrying out prohibited activities under subsection (a), fair and reasonable prices and rates of interest would be charged and the Secretary finds, after consultation with the Federal Trade Commission, that such activities would not be inconsistent with the prevention of unfair methods of competition and the prevention of unfair or deceptive acts or practices.

(f) APPLICABILITY OF SECTION 215.—Any public utility carrying out activities permitted under subsection (b) or (c) or subsection (d)(2) or (e) of this section shall be subject to all the requirements of section 215 with respect to such activities. A public utility which is carrying out activities permitted pursuant to subsection (d)(1) shall, within such reasonable period as may be prescribed by the Secretary, be subject to all such requirements of section 215 with respect to such activities. A public utility carrying out activities permitted pursuant to the exemption contained in subsection (d)(3) shall not be subject to the requirements of section 215 with respect to such activities.

(g) PROHIBITION ON SUPPLY, INSTALLATION OR FINANCING BY UTILITIES.—After the date of the enactment of this Act, no public utility may make any loan, to finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

(1) such loans are being made, or supply or installations carried out by such utility at unreasonable rates or on unreasonable terms and conditions, or

(2) such loans made, or supply or installations carried out by such utility, have a substantial adverse effect upon competition.

(h) ENFORCEMENT.—For purposes of section 219(d), any violation of a prohibition contained in this section shall be treated as a violation of a plan promulgated under section 219(a).

SEC. 217. HOME HEATING SUPPLIER PROGRAMS.

(a) REQUIREMENTS.—Each home heating supplier program shall include— 42 USC 8218.

(1) procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each residential customer of each participating home heating supplier who owns or occupies a residential building of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection; and

(2) procedures whereby a participating home heating supplier, no later than January 1, 1980 (or the later date referred to in paragraph (1)) will offer each such residential customer the opportunity to enter into arrangements with the home heating supplier under which such supplier, directly or through one or more inspectors under contract, will—

(A) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing, and the savings in energy costs that are likely to result from installing, suggested measures;

(B) inform each interested customer of the lists referred to in section 213(a) (2) and (3);

(C) install or have suggested measures installed;

(D) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(E) permit the residential customer to repay the principal of and interest on any loan made pursuant to subparagraph (D) (over a period of not less than three years unless the customer elects a shorter payment period) as a part of his periodic bill except:

(i) failure to make any payment of such principal or interest shall not be grounds for the termination of fuel deliveries to the residential customer; and

(ii) a lump-sum payment of outstanding principal and interest may be required upon default (as determined under otherwise applicable law) in payment by the residential customer.

No penalty shall be imposed by the lender, under procedures described in paragraph (2), for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(b) NOTICE; WAIVER.—A home heating supplier who wishes to participate in the program established pursuant to this section may so notify the Governor. The Governor may waive, for any home heating supplier, any requirement of this section, upon demonstration to his

satisfaction that the resources of such supplier do not enable him to comply with such requirement.

SEC. 218. TEMPORARY PROGRAMS.

42 USC 8219.

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—A Governor of any State, on behalf of one or more utilities, or any public utility (supported by the Governor in the case of a regulated utility) may, no later than 180 days after the promulgation of rules pursuant to section 212, apply for a temporary exemption for one or more utilities from one or more of the requirements of section 215 and the prohibitions contained in section 216(a). Such temporary exemption may be granted, as determined by the Secretary, for a period not to exceed 3 years after the date of approval of such exemption.

(b) TIME LIMIT.—An application for an exemption under subsection (a) shall be approved or disapproved by the Secretary within 90 days of receipt of such application or such longer period as the Secretary may require in the case of any particular application.

(c) INFORMATION.—An application for an exemption under subsection (a) to establish a temporary program shall contain such information and meet such requirements as the Secretary shall prescribe by rule.

(d) REQUIREMENTS.—In order for an application for an exemption under subsection (a) to be granted, the Governor or the public utility shall demonstrate to the satisfaction of the Secretary that the temporary program will:

(1) contain adequate procedures to assure that each public utility, in connection with such program, will charge fair and reasonable prices and rates of interest to its residential customers in connection with the purchase and installation of residential energy conservation measures;

(2) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) be likely to result in the installation of suggested measures in at least as many residential buildings as would have been installed had such utility submitted a program which met the requirements of section 215 and did not violate the prohibitions contained in section 216(a).

(e) FEDERAL STANDBY AUTHORITY.—The Secretary shall not exercise the Federal standby authority, pursuant to section 219 (a) or (b) with respect to any public utility which is covered by a temporary exemption approved by the Secretary pursuant to this section. Upon termination of such temporary exemption, the Secretary shall exercise such authority unless, within such period as he deems reasonable after such termination, the State (or nonregulated utility as the case may be) has a plan applicable to such utility approved under section 212 and such plan is being adequately implemented (as determined by the Secretary).

42 USC 8220.

SEC. 219. FEDERAL STANDBY AUTHORITY.

(a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a), or within such additional period as the Secretary may allow pursuant to section 212 (c)(1), or if the Secretary determines, after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

(1) promulgate a plan which meets the requirements of section 213, and

(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except with respect to a utility for which such requirements are inapplicable by reason of section 216(f)).

For purposes of applying section 213(c) in the case of a plan promulgated by the Secretary under this section, the references to the Governor or State agency shall be treated as references to the Secretary.

(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 212 does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a) or within such additional period as the Secretary may allow pursuant to section 212(c)(1), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility to—

(1) promulgate a plan which meets the requirements of section 214 and which applies to the residential buildings which would have been covered had such a plan been so approved or implemented, and

(2) under such plan, by order, require the nonregulated utility to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except in the case of a nonregulated utility for which such requirements are inapplicable by reason of section 216(f)).

(c) FAILURE TO COMPLY WITH ORDERS.—If the Secretary determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order. Petition, filing.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or (b) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2)(A) Notwithstanding section 402(d) of the Department of Energy Organization Act, a civil penalty under this subsection shall be assessed by an order of the Secretary. 42 USC 7172.

(B) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after receipt of such notice to have the procedures of paragraph (4) (in lieu of those of paragraph (3)) apply with respect to such assessment.

(3)(A) Unless an election in writing is made within 30 calendar days after receipt of notice under paragraph (2) to have paragraph (4) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law

judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

Judicial review.

(B) Any person against whom such penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(4)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall assess such penalty, by order, not later than 60 calendar days after the date of receipt of notice under paragraph (2) of the proposed penalty.

Assessment, affirmation.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

Penalty, recovery.

(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (3), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (4), the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final order or judgment imposing the civil penalty shall not be subject to review.

42 USC 7192.

(6)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502 of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which this subsection applies (including any related collection action) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

SEC. 220. RELATIONSHIP TO OTHER LAWS.

42 USC 8221.

(a) STATE AND LOCAL LAW IN GENERAL.—Nothing in this Part shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Secretary, upon petition of a

public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this Part or that such law or regulation requires or permits any public utility to take any action prohibited under this Part.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this Part shall be construed as restricting the authority of any agency or instrumentality of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this Part.

(d) MANUFACTURER'S WARRANTIES.—With respect to the last sentence of section 210(11) respecting warranties offered by a manufacturer, all Federal and State laws otherwise applicable to such warranties offered by a manufacturer shall apply, except to the extent inconsistent with such last sentence.

SEC. 221. RULES.

The Secretary is authorized to promulgate such rules as he determines may be necessary to carry out this Part. 42 USC 8222.

SEC. 222. PRODUCT STANDARDS.

The Secretary shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this Part as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices. 42 USC 8223.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated $5,000,000 to the Secretary for each of the first three fiscal years 1979, 1980, and 1981, to carry out his responsibilities under this Part. 42 USC 8224.

SEC. 224. REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS.

(a) REPORT.—The Secretary shall, within six months after the date of enactment of this Act, prepare a report on the potential for energy conservation in apartment buildings. 42 USC 8225.

(b) CONSIDERATION REQUIRED.—The report required under this section shall include a consideration of:

(1) structural and energy control measures which may result in energy conservation in apartment buildings;

(2) potential for energy conservation in apartment buildings which could be achieved by the application of a utility program (such as provided in this part) to apartment buildings;

(3) the costs of achieving energy conservation in apartment buildings, and the need for Federal financial assistance to achieve energy savings; and,

(4) recommendations for appropriate legislation.

(c) DEFINITION.—For purposes of this section, the term "apartment building" means a building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which contains more than four dwelling units.

42 USC 6833.

SEC. 225. FEDERAL TRADE COMMISSION STUDY AND REPORT.

(a) STUDY.—(1) Before January 1, 1982, the Federal Trade Commission shall complete a study and submit a report to Congress and the President on the activities of public utilities and home heating suppliers under this part.

Report to Congress and President.
42 USC 8226.

(2) The study shall include a review of the making, or arranging, of loans and the installation, or arranging for installation, of any residential energy conservation measure by public utilities and home heating suppliers.

(3) Such study may contain legislative recommendations respecting lending and installation activities for any residential energy conservation measure by public utilities and home heating suppliers and may contain recommendations concerning whether public utilities or home heating suppliers should be permitted by State or Federal law to continue to carry out such activities.

(b) CONSIDERATIONS REQUIRED.—In conducting the study under this part, the Commission shall consider the effect of public utility and home heating supplier activities under this part on—

(1) competition among utilities, home heating suppliers, contractors, and lenders in a utility's service area;

(2) the availability of supplies of each residential energy conservation measure and the price of purchasing and installing each such measure;

(3) the increase in the number of residential buildings in which are installed, or likely to be installed any such measure; and

(4) any other factors the Commission deems appropriate.

PART 2—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

SEC. 231. DEPARTMENT OF ENERGY WEATHERIZATION GRANT PROGRAM.

(a) ELIGIBILITY.—(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

42 USC 6862.

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting after "Budget," the following: "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

42 USC 2809.

42 USC 6863.

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b) STANDARDS AND MATERIALS.—(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

Publication in Federal Register.

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the

Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.". 42 USC 1474. 42 USC 2809.

(2) Section 412(9) of such Act is amended to read as follows: 42 USC 6862.

"(9) The term 'weatherization materials' means— "Weatherization materials."

"(A) caulking and weatherstripping of doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to substantially increase the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, by rule, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) LIMITATIONS ON EXPENDITURES.—Section 415 of such Act is amended— 42 USC 6865.

(1) by striking out "Weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not more than 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and 42 USC 6863.

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

42 USC 6864.

42 USC 6872.

(d) FUNDING.—Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 232. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

42 USC 1474.

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Secretary of Energy for the purpose of coordinating the weatherization program under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

42 USC 2809.
42 USC 6861.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B)

the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that, with respect to any dwelling unit, not more than $800 of any grant made under this section be expended on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to not more than $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973 or the Older American Community Service Employment Act, available to work on weatherization projects under the supervision of qualified supervisors. 42 USC 6863. 42 USC 6865. 29 USC 801 note. 42 USC 3001 note.

"(4) For purposes of this subsection, the terms 'elderly,' 'handicapped person,' 'low income,' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.". 42 USC 6862.

(b) FUNDING.—Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of any amount authorized to be appropriated for the fiscal year ending September 30, 1979, is authorized to be appropriated for making grants pursuant to section 504(c)". 42 USC 1483. 42 USC 1474.

SEC. 233. AVAILABILITY OF LABOR.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment Training Act of 1973 and the Older American Community Service Employment Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949: 42 USC 6873. 42 USC 6861. 42 USC 2809.

(1) First, the Secretary of Energy (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

PART 3—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS

SEC. 241. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

12 USC 1702.

Subparagraphs (2) and (3) of the last paragraph of section 2(a) of the National Housing Act are amended to read as follows:

12 USC 1703. "Energy conserving improvements."

"(2) the term 'energy conserving improvements' means the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and

42 USC 6862. "Solar energy system."

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.".

SEC. 242. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

12 USC 1723f.

"SEC. 314. (a) As soon as practicable after the date of enactment of this section, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under

12 USC 1702.

title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Agriculture and the Secretary of Energy and after taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation) establishes, for the purpose of encourag-

ing the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next proceeding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs; 12 USC 1702.

"(3) the amount of such loan or advance of credit does not exceed $2,500;

"(4) such loan or advance of credit is not used for the refinancing of any extension of credit; and

"(5) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder. 31 USC 774.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

Definitions.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 100 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 100 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, usually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

42 USC 6862.

SEC. 243. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

12 USC 1723g.

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available on a national basis to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act (to an extent which the Secretary determines is necessary to advance the achievement of the national program of energy conservation in residential dwelling units, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

12 USC 1703.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever the Secretary determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and made to owners of one- to four-family dwelling units or insured under section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements (as defined in

12 USC 1702.

12 USC 1715z-6.

subparagraph (2) of the last paragraph of section 2(a) of such Act) in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder. 31 USC 774.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amounts exceed $2,000,000,000 at any one time.

"(g) A loan or advance of credit may be purchased under this section only if—

"(1) such loan or advance of credit is not used for the refinancing of an extension of credit; and

"(2) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.".

SEC. 244. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS FOR SOLAR ENERGY SYSTEMS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF LOANS FOR SOLAR ENERGY SYSTEMS

"SEC. 316. (a) The Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section. 12 USC 1723h.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase

and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are made to owners of a one- to four-family dwelling units and insured under title I of the National Housing Act and which are made for the purpose of purchasing and installing solar energy systems (as defined in subparagraph (3) of the last paragraph of section 2(a) of such Act) in such dwelling units. A loan or advance of credit may be purchased under this section only if—

12 USC 1702.

12 USC 1703.

"(1) the term of repayment does not exceed fifteen years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) subject to subsection (i), such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Energy) establishes and which is not less than the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next preceding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs and not more than the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act;

"(3) the amount of such loan or advance of credit does not exceed $8,000;

"(4) the security for such loan or advance of credit is acceptable to the Secretary;

"(5) such loan or advance of credit is not used for the refinancing of any other extension of credit; and

"(6) the solar energy system financed by such loan or advance of credit is purchased and installed after the date of enactment of this section.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

31 USC 774.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amount exceed $100.000,000 at any one time.

"(g) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(h) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(i) If, after one year following the date on which the Association may issure obligations under subsection (c), 50 per centum of the amount available during such one-year period for financing the program established by this section has not been utilized, the Secretary shall provide that loans and advances of credit which may be purchased under this section shall have the lowest interest rate authorized by subsection (b)(2) unless the Secretary finds that the interest rate is not the primary impediment to carrying out such program and that lowering the interest rate will not increase the utilization of the funds made available to carry out such program.

"(j) The authority to purchase loans and advances of credit under this section shall terminate five years after the date of enactment of this section.".

SEC. 245. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding the following new sentence at the end thereof: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' also includes a loan or advance of credit for such purposes not having the benefit of such insurance and includes loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security.". 12 USC 1451. "Residential mortgage." 12 USC 1702.

SEC. 246. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph: 12 USC 1717.

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems

12 USC 1703.

described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

SEC. 247. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF THE NATIONAL HOUSING ACT.

12 USC 1715z-6.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act), and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

12 USC 1715z-1, 1715l.

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.".

SEC. 248. INCREASE IN MORTGAGE LIMITS TO COVER COSTS OF SOLAR ENERGY SYSTEMS.

(a) ONE- TO FOUR-FAMILY HOUSING.—Section 203(b)(2) of the National Housing Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.". 12 USC 1709. 12 USC 1703.

(b) MULTIFAMILY HOUSING.—Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.". 12 USC 1713.

(c) FARMERS HOME ADMINISTRATION AUTHORITY.—Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof: 42 USC 1471.

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this title for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

PART 4—MISCELLANEOUS

SEC. 251. ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

(a) PUBLIC HOUSING.—Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.". 42 USC 1437c. 42 USC 1437f.

(b) GRANTS.—(1) The Secretary of Housing and Urban Development is authorized to make grants to finance energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection on a priority basis to those projects which are in financial difficulty as a result of high energy costs. In carrying out the program authorized by this subsection, the Secretary shall issue regulations requiring that any grant made under 42 USC 8231. 12 USC 1701g. 12 USC 1715*l*, 1715z-1.

this subsection shall be made only on the condition that the recipient of such grant shall take steps (prescribed by the Secretary) to assure that the benefits derived from such grants in terms of lower energy costs shall accure to tenants in the form of lower rentals or to the Federal Government in the form of a lower operating subsidy if such a subsidy is being paid to such recipient.

(2) The Secretary shall establish minimum standards for energy conserving improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $25,000,000.

SEC. 252. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) FEDERAL HOUSING ADMINISTRATION STANDARDS.—Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of this sentence.".

12 USC 1735f-4.

42 USC 6801 note.

(b) FARMERS HOME ADMINISTRATION STANDARDS.—Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

12 USC 1731.

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

42 USC 1490i.

"SEC. 529. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by such Secretary for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SEC. 253. RESIDENTIAL ENERGY EFFICIENCY STANDARDS STUDY.

42 USC 8232.

(a) GENERAL AUTHORITY.—The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Secretary of Energy, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study, utilizing the services of the National Institute of Building Sciences pursuant to appropriate contractual arrangements, for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) SPECIFIC FACTORS.—In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser from the uncertainty of not knowing the energy efficiency of the property he proposes to purchase;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the sanctions which might be necessary to make such a requirement effective and the administrative impediments there might be to enforcement of such sanctions;

(5) the possible impact on sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Federal Government in imposing mandatory requirements concerning the purchase and sale of real property as occurred under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973; 12 USC 2601 note.

(6) an analysis of the effect of such a requirement on the economy as a whole and on the Nation's security as compared to the impact on the credit and housing markets caused by such a requirement; 42 USC 4001 note.

(7) the effect of such a requirement on availability of credit in the housing industry;

(8) the extent to which the imposition of mandatory Federal requirements would temporarily reduce the number of residential dwellings available for sale and the resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale; and

(9) the possible uncertainty, during the period of developing the standards, as to what standards might be imposed and any resulting effect on major housing rehabilitation efforts and voluntary efforts for energy conservation.

(c) COMMENTS AND FINDINGS BY SECRETARY OF ENERGY.—The Secretary shall incorporate into such study comments by the Secretary of Energy on the effects on the economy as a whole and on the Nation's security which may result from the requirement described in subsection (a) as compared to the impact on the credit and housing markets likely to be caused by such a requirement. In addition, the Secretary shall incorporate into such study the following findings by the Secretary of Energy:

(1) the savings in energy costs resulting from the requirement described in subsection (a) throughout the estimated remaining useful life of the existing residential buildings to which such requirement would apply; and

(2) the total cost per barrel of oil equivalent, in obtaining the energy savings likely to result from such requirement, computed for each class of existing residential buildings to which such requirement would apply.

(d) REPORT DATE.—The Secretary shall report, no later than one year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 254. WEATHERIZATION STUDY.

The President shall conduct a study which shall monitor the weatherization activities authorized by this Act and amendments made 42 USC 8233.

thereby and those weatherization activities undertaken, independently of this Act and such amendments. The President shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

SEC. 255. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.

42 USC 6836.

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated, for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) for the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) for the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

PART 1—SCHOOLS AND HOSPITALS

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES.

42 USC 6371 note.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

Grants.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation mainte-

nance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

SEC. 302. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"DEFINITIONS

"SEC. 391. For the purposes of this part— 42 USC 6371.

"(1) The term 'building' means any structure the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

"(A) insulation of the building structure and systems within the building;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary);

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

"(L) such other measures as the Secretary identifies by rule for purposes of this part; and

"(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 365(e)(2).

"(3) The term 'hospital' means a public or nonprofit institution which is—

"(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

"(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

"(4) The term 'hospital facilities' means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

26 USC 501.

"(6) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

"(D) is a local educational agency.

"(7) The term 'local education agency' means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"(8) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(9) The term 'State' means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(10) The term 'State energy agency' means the State agency responsible for developing State energy conservation plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 394 of this part. 42 USC 6322.

(11) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(12) The term 'State hospital facilities agency' means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(13) The term 'energy audit' means a determination of the energy consumption characteristics of a building which—

"(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

"(14) The term 'preliminary energy audit' means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

"(15) The term 'energy conservation project' means—

"(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

"(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

"(16) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures and technical assistance costs.

"(17) The term 'technical assistance' means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

"(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to

the installation of energy conservation measures in such building.

"(18) The term 'technical assistance costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

"(19) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"(20) The term 'Secretary' means the Secretary of Energy or his designee.

"(21) The term 'Governor' means the chief executive officer of a State or his designee.

"GUIDELINES

42 USC 6371a.

"SEC. 392. (a) The Secretary shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of enactment of this part, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

"(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

"(d) The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

42 USC 6371b.

"SEC. 393. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 392(a) for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

"(b) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(1). If

a State does not conduct preliminary energy audits within two years after the date of the enactment of this part, the Secretary may conduct such audits within such State.

"(c) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(2).

"(d) If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

"(e)(1) Except as provided in paragraph (2), amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 398(a)(3).

"STATE PLANS

"SEC. 394. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 392, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include— 42 USC 6371c.

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 392(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State,

"(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated.

"(3) a program for identifying persons qualified to carry out energy conservation projects,

"(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

"(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

"(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

"(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate,

"(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements

of an approved State plan for such State, and in compliance with the requirements of this part:

"(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

"(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

"(b) The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"(c)(1) If a State plan has not been approved under this section within 2 years and 90 days after the enactment of this part, or within 90 days after the completion of the preliminary audits under section 393(a), whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency, in order that the energy conservation program for schools and hospitals may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

"APPLICATIONS FOR FINANCIAL ASSISTANCE

42 USC 6371d.

"SEC. 395. (a) Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

"(b) Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

"(c)(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved

by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

"(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

"(A) related State programs for educational facilities in such State, and

"(B) State health plans under section 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act. 42 USC 300m-3, 300o-2. 42 USC 300m-2, 1320a-1.

"(d) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 394. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

"(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

"GRANTS FOR PROJECT COSTS AND TECHNICAL ASSISTANCE

"SEC. 396. (a) The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 395. 42 USC 6371e.

"(b)(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project.

"(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 392(d). Grants made under this paragraph shall be from the funds provided under section 398(a)(2).

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 398.

"(d) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

"(e) No grant made under this part to a school which is a local educational agency may be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6371f.

"SEC. 397. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits pursuant to section 393, there is authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making energy conservation project grants pursuant to section 396, there is authorized to be appropriated not to exceed $180,000,000 for the fiscal year ending September 30, 1978, $295,000,000 for fiscal year ending September 30, 1979, and $400,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended. Of the amounts appropriated under this subsection for each of the following fiscal years not more than the following percentage may be used for purposes of technical assistance:

Fiscal year ending:	*Percentage*
September 30, 1978	30
September 30, 1979	15
September 30, 1980	5

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ALLOCATION OF GRANTS

42 USC 6371g.

"SEC. 398. (a)(1) Except as otherwise provided in subsection (b), the Secretary shall allocate 90 percent of the amounts made available under section 397(b) in any year for purposes of making energy conservation project grants pursuant to section 396 as follows:

"(A) Eighty percent of amounts made available under section 397(b) shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

"(B) Ten percent of amounts made available under section 397(b) shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

"(2) The Secretary shall allocate 10 percent of the amounts made available under section 397(b) in any year for purposes of making grants as provided under section 396(b)(2) in excess of the 50 percent limitation contained in section 396(b)(1).

"(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 393(e)(2), the aggregate amount allocated to such State under this subsection for such fiscal year (determined after

applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

"(c) Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"(e) Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 399. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part. 42 USC 6371h.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

"RECORDS

"SEC. 400. (a) Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.". 42 USC 6371i.

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"Sec. 391. Definitions.
"Sec. 392. Guidelines.
"Sec. 393. Preliminary energy audits and energy audits.
"Sec. 394. State plans.
"Sec. 395. Applications for financial assistance.
"Sec. 396. Grants for project costs and technical assistance.
"Sec. 397. Authorization of appropriations.
"Sec. 398. Allocation of grants.
"Sec. 399. Administration; annual reports.
"Sec. 400. Records.".

42 USC 6371 note, 6372 note.

(c) SEVERABILITY.—If any provision of this title or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.

SEC. 303. TECHNICAL AMENDMENTS.

42 USC 300k-2.

(a) SECTION 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

42 USC 300n-1.

(b) SECTION 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) SECTION 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

SEC. 304. CROSS REFERENCE.

40 USC 276a note.

For provisions relating to application of Davis-Bacon Act to this part, see section 312.

Post, p. 3254.

PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

42 USC 6372 note.

SEC. 310. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

SEC. 311. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"DEFINITIONS

"SEC. 400A. For purposes of this part— 42 USC 6372.

"(1) The terms 'hospital', 'State', 'school', 'Governor', 'State energy agency', 'energy conservation measure', 'energy conservation maintenance and operating procedure', 'preliminary energy audit', 'technical assistance costs', 'energy audit' and 'Secretary' have the meanings provided in section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 412 of the Energy Conservation and Production Act) which governing body performs substantial governmental functions. 42 USC 6862.

"(3) The term 'building' has the meaning provided in section 391 except that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

"(4) The term 'public care institution' means a public or nonprofit institution which owns—

"(A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 1633 of the Public Health Service Act, or 42 USC 3005-3.

"(B) a residential child care center.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954. 26 USC 501.

"(6) The term 'technical assistance program costs' means the costs of carrying out a technical assistance program.

"(7) The term 'technical assistance' means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or

"(B) the planning or administration of such specialized studies.

"GUIDELINES AND RULES

"SEC. 400B. (a) The Secretary shall, by rule, not later than sixty days after the date of enactment of this part— 42 USC 6372a.

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government

and public care institutions, including a description of the type, number and distribution of preliminary energy audits of such buildings that will provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of the enactment of this part, prescribe guidelines for State plans for the implementation of technical assistance programs for buildings owned by units of local government and public care institutions. The guidelines shall include—

"(1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals;

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to undertake technical assistance work; and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this part may be revised from time to time after notice and opportunity for comment.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

42 USC 6372b.

"SEC. 400C. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct preliminary energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(b) Upon application under subsection (a), the Secretary may make grants to States to assist in conducting preliminary energy audits under this part for buildings owned by units of local government and public care institutions. Such audits shall be conducted in accordance with the guidelines prescribed under section 400B(a)(1).

"(c) The Governor of any State, unit of local government or public care institution may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(d) Upon application under subsection (c) the Secretary may make grants to States, units of local government, and public care institutions for purposes of conducting energy audits of facilities under this part in accordance with the guidelines prescribed under section 400B(a)(2).

"(e) If a State, unit of local government, or public care institution, without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary, the funds allocated for purposes of this section shall be added to the funds available for technical assistance programs for such State, and shall be in addition to amounts otherwise available for such purpose.

"(f) Amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or energy audit.

"STATE PLANS

"SEC. 400D. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 400B, or such longer period as the Secretary may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include— 42 USC 6372c.

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed pursuant to section 400B(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in buildings owned by units of local government and public care institutions,

"(2) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government and public care institutions in such State, together with an estimate of the costs of carrying out such programs;

"(3) a program for identifying persons qualified to carry out technical assistance programs,

"(4) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other State energy conservation programs,

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible applicants for technical assistance within such State, including procedures to insure that funds will be allocated among eligible applicants on the basis of relative need and including recommendations as to how priorities should be established between buildings owned by units of local government and public care institutions, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings;

"(6) procedures to assure that all grants for technical assistance provided under this part are expended in compliance with the requirements of an approved State plan for such State and in compliance with the requirements of this part (including requirements contained in rules promulgated under this part); and

"(7) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant State, local, or other funds.

"(b) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Secretary not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90 day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"APPLICATIONS FOR GRANTS FOR TECHNICAL ASSISTANCE

42 USC 6372d.

"SEC. 400E. (a) Applications of units of local government and public care institutions for grants for technical assistance under this part shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with the State plan.

"(b) Applications for grants for technical assistance under this part shall contain or be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of technical assistance proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expenditures as the Secretary may, by rule, require.

"(c) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and the requirements of the applicable State plan approved under section 400D. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide be subject to approval in the same manner as the original application. All or any portions of an application under this section may be disapproved to the extent that funds are not available under this part.

"(d) Whenever the Secretary after reasonable notice and opportunity for hearing to any unit of local government or public care institution receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the unit of local government or public care institution that further assistance will not be made available to such unit of local government or public care institution under this part until he is satisfied that there is no longer any failure to comply. Until he is so satisfied, no further assistance shall be made to such unit of local government or public care institution under this part.

"GRANTS FOR TECHNICAL ASSISTANCE

42 USC 6372e.

"SEC. 400F. (a) The Secretary may make grants to States and to units of local government and public care institutions in payment of technical assistance program costs for buildings owned by units of local government and public care institutions the applications for which have been approved under section 400E.

"(b) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of technical assistance program costs.

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 400H.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 400G. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits under this part there is authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended. 42 USC 6372f.

"(b) For the purpose of making technical assistance grants under this part to States and to units of local government and public care institutions, there is hereby authorized to be appropriated not to exceed $17,500,000 for the fiscal year ending September 30, 1978, and $32,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ALLOCATION OF GRANTS

"SEC. 400H. (a) Grants made under this part shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate. 42 USC 6372g.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants in each State which has an approved State plan under this part.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 400I. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part. 42 USC 6372h.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out, with funds allocated, and an estimate of the energy savings, if any, achieved. Report to Congress.

"RECORDS

"SEC. 400J. Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.". 42 USC 6372i.

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"Sec. 400A. Definitions.
"Sec. 400B. Guidelines and rules.
"Sec. 400C. Preliminary energy audits and energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Applications for grants for technical assistance.
"Sec. 400F. Grants for technical assistance.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Allocation of grants.
"Sec. 400I. Administration; annual reports.
"Sec. 400J. Records.".

42 USC 6371j.

SEC 312. APPLICATION OF DAVIS-BACON ACT.

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is $5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 31, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES

PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES

15 USC 2006.

SEC. 401. FUEL ECONOMY INFORMATION.

(a) AMENDMENT TO SECTION 506.—(1) Section 506(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(c)) is amended by adding at the end thereof the following:

"(3) As used in this section, the term 'automobile' includes any automobile with a gross vehicle weight rating of 8,500 pounds or less, notwithstanding any lack of determination required of the Secretary under section 501(1)(B) (ii) or (iii).".

(2) Section 506(c)(2) of such Act (15 U.S.C. 2006(c)(2)) is amended by inserting before the period the following: "(taking into account paragraph (3) of this subsection)".

15 USC 2006 note.

(b) RULE OF CONSTRUCTION.—The amendment made by this section shall not be construed to affect the authority in section 506 of the Motor Vehicle Information and Cost Savings Act to require labels or other information for fuel economy for automobiles rated in excess of 8,500 pounds gross vehicle weight.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for automobiles manufactured in model years after model year 1979.

SEC. 402. CIVIL PENALTIES RELATING TO AUTOMOBILE FUEL EFFICIENCY.

Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended by adding at the end thereof the following new subsections:

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount per tenth of a mile per gallon which would be used to calculate the civil penalty under subsection (b)(1) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the civil penalty which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher penalty may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of civil penalty will not result in substantial deleterious impacts on the economy of the United States or of any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of civil penalty will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the civil penalty under subsection (b)(1) be less than $5.00 or more than $10.00.

"(3) Any rule prescribed under paragraph (1) shall be effective for the later of—

"(A) automobile model years beginning after model year 1981, or

"(B) automobile model years beginning at least 18 months after such rule becomes final.

"(4) Any rule prescribed under paragraph (1) shall provide that the amount per tenth of a mile per gallon used to calculate a credit under subsection (a)(3) for any model year shall equal the amount per tenth of a mile per gallon applicable to the calculation of the civil penalty for which the credit is allowed.

"(e)(1)(A) After the Secretary of Transportation develops a proposed rule pursuant to subsection (d), he shall publish such proposed rule in the Federal Register, together with a statement of the basis for such rule, and provide copies thereof to the manufacturers. He shall then provide a period of public comment on such rule of at least 45 days for written comments thereon. A copy of any such proposed rule shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public concerning such proposed rule. Publication in Federal Register.

"(B) After such written comment period, any interested person, (including the Federal Trade Commission) shall be afforded an opportunity to present oral data, views, and arguments at a public hearing concerning such proposal. At such hearing such interested person

(including the Federal Trade Commission) shall have an opportunity to question—

"(i) other interested persons who make oral presentations,

"(ii) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or in the consideration thereof, and

"(iii) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation;

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(C) A rule subject to this subsection may not be issued except on consideration of the whole record supported by, and in accordance with, the reliable, probative, and substantial evidence.

"(D) A transcript shall be kept of any such public hearing made in accordance with this section and such transcripts and written comments shall be available to the public at the cost of reproduction.

Publication in Federal Register.

"(2) If any final rule is prescribed by the Secretary after such public comment period under subsection (d) it shall be published in the Federal Register, together with each of the findings required by subsection (d).

Petition, filing.

"(3)(A) Any person aggrieved by any final rule under subsection (d) may at any time before the 60th day after the date such rule is published under paragraph (2) file a petition with the United States Court of Appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(B) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule may be affirmed unless supported by substantial evidence.

"(C) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) In the case of any information which is provided the Secretary or the court during the consideration and review of any such rule and which is determined to be confidential by the Secretary pursuant to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, any disclosure of such information by an officer or employee of the United States or of any department or agency thereof, except in an in camera proceeding by the Secretary or the court, shall be deemed a violation of section 1905 of title 18, United States Code."

15 USC 796.

SEC. 403. DISCLOSURE IN LABELING.

(a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended

by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect unless and until there is in effect a Federal tax imposed with respect to automobile fuel efficiency which is enacted during the Ninety-fifth Congress. 15 USC 2006 note.

SEC. 404. STUDY.

Within six months after the date of the enactment of this Act, the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation and after an opportunity for public comment, shall submit to the Congress a detailed report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) provide a realistic estimate of average fuel economy likely to be achieved by the driving public. Such report shall include such recommendations as the Environmental Protection Agency deems appropriate based on report and written findings or conclusions stated therein, other than recommendations concerning changes or alterations in the testing and calculation procedures and methods measuring fuel economy under such Act as utilized by the Environmental Protection Agency for model year 1975 passenger automobiles. Nothing in this section shall authorize such agency to make any changes or alterations in such procedures and methods in effect for such model year for measuring automobile fuel economy. Report to Congress. 15 USC 2006 note.

PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

SEC. 421. TEST PROCEDURES.

(a) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than January 31, 1978."; and

(3) by striking out subparagraph (B).

(b) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6)(A) The Secretary may delay the prescription of test procedures under paragraph (4) for a type of covered product (or class Publication in Federal Register.

thereof) if he determines that he cannot, within the applicable time period, prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (4).

Publication in Federal Register.

"(B) The Secretary is not required to publish and prescribe test procedures under paragraphs (3) and (4) for a type of covered product (or class thereof) if he determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor. For purposes of section 327, a determination under this subparagraph with respect to any type (or class) of covered product, while effective, shall have the same effect as would a standard prescribed for such type (or class) under section 325.".

(c) REEVALUATIONS OF TEST PROCEDURES, ETC.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) In the case of—

"(i) any test procedure prescribed under this subsection; or

"(ii) any determination under paragraph (6) that a test procedure cannot be developed which meets the requirements of subsection (b);

the Secretary shall, not later than 3 years after the date of the enactment of this paragraph (and from time to time thereafter), conduct a reevaluation and, on the basis of such reevaluation, shall determine if such test procedure should be amended or such determination should be rescinded. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered products involved.

Publication in Federal Register.

"(B) If the Secretary determines under subparagraph (A) that—

"(i) a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments, or

"(ii) a determination under paragraph (6) should be rescinded,

he shall promptly publish notice thereof in the Federal Register, and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

(d) ENERGY EFFICIENCY REPRESENTATIONS.—Section 323(c) of such Act (42 U.S.C. 6293(c)) is amended—

(1) by striking out "90 days" and inserting in lieu thereof "180 days";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "(c)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Commission with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Commission).".

SEC. 422. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a) (1) The Secretary shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).

"(2) The Secretary may, by rule, prescribe an energy efficiency standard for any type (or class) of covered products of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-calendar-month period ending before such determination;

"(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-calendar-month period;

"(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible to attain and is economically justified.

Publication in Federal Register.

Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under this paragraph. The Secretary may revise such list from time to time thereafter.

"(b) No standard for a type (or class) of covered products shall be prescribed pursuant to subsection (a) if—

"(1) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of products, or

"(2) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 327, a determination under paragraph (2) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class) under this section.

"(c) Energy efficiency standards for each type (or class) of covered products prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 5 years, through the establishment of intermediate standards, as determined by the Secretary.

"(d) Before determining whether a standard is economically justified under subsection (c), the Secretary, after receiving any views and comments furnished with respect to the proposed standard under section 336, shall determine that the benefits of the standard exceed its

burdens based, to the greatest extent practicable, on a weighing of the following factors:

"(1) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(2) the savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard,

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard,

"(4) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

"(5) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard,

"(6) the need of the Nation to conserve energy, and

"(7) any other factors the Secretary considers relevant.

For purposes of paragraph (5), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

Publication in Federal Register.

"(e)(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any rule prescribing an energy efficiency standard under this section for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Secretary finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition.

"(f)(1) A rule prescribing an energy efficiency standard for a type (or class) of covered products shall specify a level of energy efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary, in his discretion, determines that covered products within such group—

"(A) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(B) have a capacity or other performance-related feature which other products within such type (or class) do not have,

justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining

under this paragraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as he deems appropriate.

"(2) Any rule prescribing a higher or lower level of energy efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

"(g) In prescribing energy efficiency standards under this section, the Secretary shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a).

"(h)(1) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter), the Secretary shall— Publication in Federal Register.

"(A) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(B) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered products involved, and the economic impact of the standard.

"(2) If the Secretary determines under paragraph (1) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(i) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule is likely to apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Secretary—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered products (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (8), (10), and (11), of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered products has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Secretary shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency,

the Secretary shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Secretary shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (d)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescribe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered products the manufacturer of which was completed before the effective date of the rule or amendment as the case may be.

Publication in Federal Register.

"(j) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 423. ASSESSMENT OF CIVIL PENALTIES.

Section 333 of the Energy Policy and Conservation Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5,

United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"(5)(A) Notwithstanding the provisions of title 28, United States Code, or section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate. 42 USC 7192.

"(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

"(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection. 42 USC 7172.

"(6) For purposes of applying the preceding provisions of this subsection in the case of the assessment of a penalty by the Commission for a violation of paragraphs (1) and (2) of section 332, references in such provisions to 'Secretary' and 'Department of Energy' shall be considered to be references to the 'Commission'."

SEC. 424. EFFECT OF STANDARDS ON OTHER LAWS.

(a) INTERIM PREEMPTION.—Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed which establishes an energy efficiency standard or other requirement respecting energy use

or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2) or (b)(2), then any person subject to such regulation may file a petition with the Secretary requesting that the Secretary prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Secretary, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Secretary finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after January 1, 1978, which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Secretary requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulations; except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or other requirement respecting energy use or energy efficiency for any type (or class) of covered products for which a Federal energy efficiency standard is applicable may file a petition with the Secretary requesting a rule that such regulation not be superseded. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Secretary shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Secretary, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of such denial and the reasons for such denial.

Publication in Federal Register.

"(5) The requirement of paragraph (2) shall not continue in effect after July 1, 1980, in the case of any type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).".

(b) PREEMPTION OF CERTAIN STATE REGULATIONS.—Paragraph (2) of section 327(a) of such Act (42 U.S.C. 6297(a)) is amended by striking out "similar requirement" and inserting in lieu thereof "other requirement".

SEC. 425. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENT TO SECTION 323(a).—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence thereof.

(b) AMENDMENTS TO SECTION 324(a).—Section 324(a) of such Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(c) AMENDMENTS TO SECTION 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(d) AMENDMENTS TO SECTION 326.—(1) Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out this part, the Secretary may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Secretary with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.". 15 USC 796.

(2) Section 326(b)(1) of such Act (42 U.S.C. 6296(b)(1)) is amended to read as follows:

"(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Secretary or the Commission—

"(A) not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies; and

"(B) prior to commencement of production, of all models subsequently produced (and starting serial numbers of those models) to which such rule applies.".

(3) Paragraph (3) of section 326(b) of such Act (42 U.S.C. 6296(b)(3)) is amended to read as follows:

"(3) When requested—

"(A) by the Secretary for purposes of ascertaining whether a product subject to a standard prescribed under section 325 is in compliance with that standard, or

"(B) by the Commission for purposes of ascertaining whether the information set out on a label of a product, as required under section 324, is accurate,

each manufacturer of such a product shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Secretary or the Commission, as the case may be. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States, if and to the extent provided in appropriation Acts."

(e) AMENDMENTS TO SECTION 333.—(1) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(2) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended—

(A) by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof ", except to the extent that such violation is prohibited under the provisions of section 332(a)(1), in which case such provisions shall apply.".

(f) AMENDMENTS TO SECTION 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(1) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(2) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(g) AMENDMENTS TO SECTION 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended—

(A) by redesignating subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (B) as paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (2), respectively;

(B) in paragraph (2)(B), as redesignated under subparagraph (A), by striking out "subparagraph (A)" and inserting "paragraph (1)" in lieu thereof; and

(C) in the last sentence thereof, by striking out "paragraph" and inserting "subsection" in lieu thereof.

(4) Sections 336(b)(1) and (2) of such Act (42 U.S.C. 6306(b)(1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(h) AMENDMENT TO SECTION 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Secretary in carrying out this part during the period covered by such report, and those actions which the Secretary was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 426. APPROPRIATIONS AUTHORIZATION.

(a) Section 339(a) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out "and" at the end of paragraph (2); and

(2) by striking out paragraph (3) and by inserting in lieu thereof the following:

"(3) $3,300,000 for fiscal year 1978; and

"(4) $10,000,000 for fiscal year 1979.

Amounts authorized for such purposes under paragraph (3) shall be in addition to amounts otherwise authorized and appropriated for such purposes.".

(b) Section 339(b) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof the following "; and"; and

(3) by adding at the end thereof the following:

"(3) $2,000,000 for fiscal year 1979.".

SEC. 427. EFFECTS OF OTHER LAWS ON PROCEDURES.

Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended by adding at the end thereof the following:

"(c)(1) Titles IV and V of the Department of Energy Organization Act (42 U.S.C. 7191 et seq.) shall not apply with respect to the procedures under this part.

"(2) The procedures applicable under this part shall not—

"(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein), or

"(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part, and declaring that such provision supersedes, in whole or in part, the procedures of this part.".

PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

SEC. 441. ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act, relating to improving energy efficiency, is amended by redesignating parts C, D, and E as parts D, E, and F, respectively, and by inserting after part B the following new part: 42 USC 6321 *et seq.*

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"DEFINITIONS

"SEC. 340. For purposes of this part— 42 USC 6311.

"(1) The term 'covered equipment' means one of the following types of industrial equipment:

"(A) Electric motors and pumps.

"(B) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).

"(2)(A) The term 'industrial equipment' means any article of equipment referred to in subparagraph (B) of a type—

"(i) which in operation consumes, or is designed to consume, energy;

"(ii) which, to any significant extent, is distributed in commerce for industrial or commercial use; and

"(iii) which is not a 'covered product' as defined in section 321(a)(2), other than a component of a covered product with respect to which there is in effect a determination under section 341(c);

without regard to whether such article is in fact distributed in commerce for industrial or commercial use.

"(B) The types of equipment referred to in this subparagraph (in addition to electric motors and pumps) are as follows:

"(i) compressors;
"(ii) fans;
"(iii) blowers;
"(iv) refrigeration equipment;
"(v) air conditioning equipment;
"(vi) electric lights;
"(vii) electrolytic equipment;
"(viii) electric arc equipment;
"(ix) steam boilers;
"(x) ovens;
"(xi) furnaces;
"(xii) kilns;
"(xiii) evaporators; and
"(xiv) dryers.

"(3) the term 'energy efficiency' means the ratio of the useful output of services from an article of industrial equipment to the energy use by such article, determined in accordance with test procedures under section 343.

"(4) The term 'energy use' means the quantity of energy directly consumed by an article of industrial equipment at the point of use, determined in accordance with test procedures established under section 343.

"(5) The term 'manufacturer' means any person who manufactures industrial equipment.

"(6) The term 'label' may include any printed matter determined appropriate by the Secretary.

"(7) The terms 'energy', 'manufacture', 'import', 'importation', 'consumer product', 'distribute in commerce', 'distribution in commerce', and 'commerce' have the same meaning as is given such terms in section 321.

"PURPOSES AND COVERAGE

42 USC 6312.

"SEC. 341. (a) It is the purpose of this part to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation.

"(b) The Secretary may, by rule, include a type of industrial equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of this part.

"(c) The Secretary may, by rule, include as industrial equipment articles which are component parts of consumer products, if he determines that—

"(1) such articles are, to a significant extent, distributed in commerce other than as component parts for consumer products; and

"(2) such articles meet the requirements of section 340(2)(A) (other than clauses (ii) and (iii)).

"STUDY OF ELECTRIC MOTORS AND PUMPS AND OTHER INDUSTRIAL EQUIPMENT

"SEC. 342. (a) Not later than 18 months after the date of the enactment of this section, the Secretary shall— 42 USC 6313.

"(1) evaluate electric motors and pumps to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purpose of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes of electric motors and pumps determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency; and

"(2) submit a report to the Congress on the results of such evaluation, together with such recommendations for legislation as he considers appropriate.

"(b)(1) The Secretary may conduct an evaluation of any type of industrial equipment (other than electric motors or pumps) to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purposes of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency.

"(2) After the completion of an evaluation under paragraph (1), the Secretary shall submit to the Congress a report on such evaluation, together with such recommendations for legislation as he considers appropriate.

"(c)(1) In conducting an evaluation under subsection (a) or (b), the Secretary shall, with respect to equipment covered by the evaluation—

"(A) identify significant factors that determine energy efficiency, including hours of operation per year and average power consumption at normal use and at full capacity;

"(B) estimate current and future equipment population profiles;

"(C) estimate the potential for improvements in energy efficiency that in the Secretary's judgment are both technologically feasible and economically justified;

"(D) estimate likely increases or decreases in energy efficiency and total energy savings likely to result from implementation of—

"(i) labeling rules, and

"(ii) energy efficiency standards; and

"(E) examine such other factors as the Secretary determines appropriate.

"(2) Before submitting a report to the Congress under subsection (a) or (b), the Secretary shall— Publication in Federal Register.

"(A) make available to interested persons copies of the proposed report, publish in the Federal Register notice of availability of such report, and afford interested persons an opportunity (of not less than 60 days' duration) to present written comments; and

"(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

"(3) Any standard classification of industrial equipment established under subsection (a) or (b) shall—

"(A) define the equipment contained therein; and

"(B) characterize the equipment and its general use.

"TEST PROCEDURES

42 USC 6314.

"SEC. 343. (a)(1) If the Secretary has conducted an evaluation of a class of covered equipment under section 342, he may prescribe test procedures for such class in accordance with the following provisions of this section.

"(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

"(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

Publication in Federal Register.

"(b) Before prescribing any final test procedures under this section, the Secretary shall—

"(1) publish proposed test procedures in the Federal Register; and

"(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

"(d)(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

"(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

"(d)(1) Effective 180 days after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

"(e) The Secretary may direct the National Bureau of Standards to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

"LABELING REQUIREMENTS

"SEC. 344. (a) If the Secretary has prescribed test procedures under section 343 for any class of covered equipment, he may prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section. Rule. 42 USC 6315.

"(b) A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 343. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 343.

"(c) A rule prescribed in accordance with this section may include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

"(1) requirements and directions for display of any label,

"(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

"(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

"(d) Before prescribing any labeling rules for a type (or class) of covered equipment, the Secretary shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Secretary.

"(e)(1) Before prescribing any labeling rules under this section, the Secretary shall— Publication in Federal Register.

"(A) publish proposed labeling rules in the Federal Register, and

"(B) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed rules.

"(2) A labeling rule prescribed under this section shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Secretary determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

"(f) The Secretary shall not promulgate labeling rules for any class of industrial equipment unless he has determined that—

"(1) labeling in accordance with this section is technologically and economically feasible with respect to such class;

"(2) significant energy savings will likely result from such labeling; and

"(3) labeling in accordance with this section is likely to assist consumers in making purchasing decisions.

"(g) When requested by the Secretary, any manufacturer of industrial equipment to which a rule under this section applies shall supply at the manufacturer's expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Secretary, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States, if and to the extent provided in appropriations Acts.

"(h) A labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

"(i) Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type (or class) of covered equipment.

15 USC 58.

"ADMINISTRATION, PENALTIES, AND ENFORCEMENT

42 USC 6316.

"SEC. 345. (a) The provisions of section 326 (a), (b), and (d) and sections 328 through 336 shall apply with respect to this part to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of this part—

"(1) references to sections 323 and 324 shall be considered as references to sections 343 and 344, respectively;

"(2) references to 'this part' shall be treated as referring to part C;

"(3) the term 'equipment' shall be substituted for the term 'product'; and

"(4) the term 'Secretary' shall be substituted for 'Commission' each place it appears (other than in section 333(c)).

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6317.

"SEC. 346. (a) There are hereby authorized to be appropriated to carry out the purposes of this subpart—

"(1) $2,000,000 for fiscal year 1978; and

"(2) $3,000,000 for fiscal year 1979.".

(b) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by striking out "PART C", "PART D", and "PART E" in the items relating to parts C, D, and E of title III of such Act and inserting in lieu thereof "PART D", "PART E", and "PART F", respectively, and

(2) by inserting after the item relating to section 339 the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"Sec. 340. Definitions.
"Sec. 341. Purpose and coverage.
"Sec. 342. Study of electric motors and pumps and other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements.
"Sec. 345. Administration, penalties, and enforcement.
"Sec. 346. Authorization of appropriations.".

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

SEC. 461. USE OF RECOVERED MATERIALS.

42 USC 6344a note.

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this subtitle are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part E of title III of the Energy Policy and Conservation Act, as redesignated by section 441(b)(2) of this Act, is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"Energy-saving recovered materials." 42 USC 6344a.

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

42 USC 6901 note.

"(b) Within one year after the date of the enactment of this section, the Secretary shall set targets for increased utilization of energy-

saving recovered materials for each of the following industries: the metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

Publication in Federal Register.

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Secretary shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Secretary—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

Report, submission.

"(e) Within each of the industries subject to this section, the Secretary shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1979, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Secretary under section 375, or if section 376(g) applies, prepare and transmit a report which includes, a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1980, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Secretary for its industry. Such reports shall contain such information as the Secretary determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Secretary shall include in his annual report under section 375(e) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Secretary under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—(1) Section 376 of such Act is amended by— 42 USC 6346.

(A) inserting "or 374A" after "section 372" in subsection (b), and

(B) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

(2) The table of contents of such Act is amended by inserting after the item relating to section 374 the following new item:

"374A. Targets for use of recovered materials.".

TITLE V—FEDERAL ENERGY INITIATIVE

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

SEC. 501. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsections:

"(d) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(e) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

SEC. 521. DEFINITIONS.

As used in the part— 42 USC 8241.

(1) The term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "Federal building" means any building or other structure owned in whole or part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water.

(4) The term "solar heating and cooling" means the use of solar energy to provide all or part of the heating needs of a Federal building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

(5) The term "solar energy equipment" means equipment for solar heating or solar heating and cooling.

(6) The term "Secretary" means the Secretary of Energy.

SEC. 522. FEDERAL SOLAR PROGRAM.

42 USC 8242.

The Secretary, in consultation with the Administrator of the General Services Administration, shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 523. DUTIES OF SECRETARY.

42 USC 8243.

(a) DUTIES.—In exercising the authority provided by section 522, the Secretary, in consultation with the Administrator of the General Services Administration, shall—

(1) promulgate, by rule—

(A) requirements under which Federal agencies shall submit proposals for the installation of solar energy equipment in Federal buildings which are under their control and which are selected in accordance with procedures set forth in such rule, and

(B) criteria by which proposals under subparagraph (A) will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value, as determined by the Secretary, of the costs and benefits of the proposal to the Federal agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of types of Federal buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(2) evaluate in writing each such proposal pursuant to the criteria promulgated pursuant to paragraph (1)(B), and make such evaluation available to the agency and, upon request, to any person;

(3) provide technical and financial assistance by interagency agreement for implementing a proposal evaluated under paragraph (2) and approved by the Secretary; except that such assistance shall be limited to the design, acquisition, construction, and installation of solar energy equipment;

(4) provide, by rule, that Federal agencies report to the Secretary periodically such information as they acquire respecting maintenance and operation of solar energy equipment for which assistance is provided under paragraph (3);

(5) require that a life cycle cost analysis in accordance with part 3 be done for any Federal building for which a proposal is submitted under this section and the results of such analysis be included in such proposal; and

(6) if solar energy equipment for which assistance is to be provided under paragraph (3) is not the minimum life-cycle cost alternative, require the Federal agency involved to submit a report to the Secretary stating the amount by which the life-cycle cost of such equipment exceeds the minimum life-cycle cost.

(b) CONTENTS OF PROPOSALS.—Proposals under paragraph (1)(A) of subsection (a) shall include a list of the specific Federal buildings proposed to be provided with solar energy equipment, the funds necessary for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Secretary.

(c) INITIAL SUBMISSION OF PROPOSALS.—Under the requirements established under subsection (a)(1)(A), initial proposals for the

installation of solar energy equipment in Federal buildings selected under subsection (a)(1)(A) shall be submitted not later than 180 days after the date of promulgation of the rule under subsection (a)(1).

SEC. 524. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary through fiscal year ending September 30, 1980, to carry out the purposes of this part not to exceed $100,000,000. Funds so appropriated may be transferred by the Secretary to any Federal agency to the extent necessary to carry out the purposes of section 523(a)(3). 42 USC 8244.

PART 3—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

SEC. 541. FINDINGS.

The Congress finds that— 42 USC 8251.

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures and in promoting the use of solar heating and cooling and other renewable energy sources.

SEC. 542. POLICY.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation, solar heating and cooling, and other renewable energy sources in Federal buildings. 42 USC 8252.

SEC. 543. PURPOSE.

It is the purpose of this part to promote— 42 USC 8253.

(1) the use of commonly accepted methods to establish and compare the life cycle costs of operating Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation, and

(2) the use of solar heating and cooling and other renewable energy sources in Federal buildings.

SEC. 544. DEFINITIONS.

For purposes of this part— 42 USC 8254.

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a system-

atic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

(3) The term "preliminary energy audit" means a determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building and the climate characterizing the region where such building is located.

(4) The term "energy survey" means a procedure to be used in determining energy conservation and cost savings likely to result from appropriate energy conserving maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related fixtures to a Federal building.

(5) The term "Federal building" means any building, structure, or facility which is constructed, renovated or leased or purchased in whole or in part for use by the United States, and which includes a heating system, a cooling system, or both.

(6) The term "construction" means construction and substantial reconstruction or renovation, as determined under rules prescribed by the Secretary.

(7) The term "energy performance target" means a rate of energy consumption which is the minimum practically achievable, taking into account life-cycle cost, by adjusting maintenance and operating procedures, or by modifying a Federal building's equipment or structure, or both.

SEC. 545. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

42 USC 8255.

(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

(1) establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings; and

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established and in conducting preliminary energy audits required by section 547.

(b) USE OF LIFE CYCLE COSTS.—All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, cost evaluation shall be made on the basis of life cycle cost rather than initial cost.

(c) USE IN NON-FEDERAL STRUCTURES.—The Secretary shall make available to the public information on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

SEC. 546. ENERGY PERFORMANCE TARGETS FOR FEDERAL BUILDINGS.

42 USC 8256.

The Secretary, in consultation with the Administrator of the General Services Administration, the Director of the National Bureau of Standards, and the Director of the Office of Management and Budget, shall establish and publish energy performance targets for Federal buildings, and shall take such actions as may be necessary or appropriate to promote to the maximum extent practicable achievement of such targets by Federal buildings. The performance targets established under the preceding sentence shall be compatible with energy conservation performance standards adopted or developed by the Secretary of Housing and Urban Development for buildings.

SEC. 547. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a) AUDITS OF BUILDINGS WITH 30,000 OR MORE SQUARE FEET.—As soon as possible after the date of the enactment of this part, each Federal agency shall conduct, to the maximum extent feasible, a preliminary energy audit, of all Federal buildings under its jurisdiction, occupancy, or control which contain 30,000 or more square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1979. 42 USC 8257. Report to Congress.

(b) AUDITS OF FEDERAL BUILDINGS WITH 1,000 OR MORE BUT LESS THAN 30,000 SQUARE FEET.—As soon as possible after the completion of the preliminary energy audits required under subsection (a) (and concurrently with such audits to the maximum extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all Federal buildings under its jurisdiction, occupancy, or control which contain 1,000 or more but less than 30,000 square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1980.

(c) RETROFIT OF FEDERAL BUILDINGS.—(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsections (a) and (b) appropriate Federal buildings under its jurisdiction, occupancy, or control for retrofit measures to improve their energy efficiency in general and to minimize their life cycle cost. Such measures shall include, without being limited to, energy conservation measures, measures involving solar technology and other renewable energy resources, and any maintenance and operating procedures and particular energy-related modifications determined appropriate by an energy survey. In selecting the measures to be applied, Federal agencies shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or the installation of equipment.

(2) At least 1 percent of the total gross square floor footage contained in all Federal buildings which are under the jurisdiction, occupancy, or control of Federal agencies, and which are included in a preliminary energy audit conducted by such agencies under subsection (a) and (b) shall be retrofitted by such agencies under paragraph (1) pursuant to actions taken or arrangements made by such agencies during the first full fiscal year beginning after the date of the enactment of this part; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such fiscal years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) On or before January 1, 1990, all Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall be the subject of such retrofit measures under paragraph (1) as will assure their minimum life cycle costs.

SEC. 548. LEASED FEDERAL BUILDINGS.

In leasing buildings for its own use or that of another Federal agency, each Federal agency shall give appropriate preference to 42 USC 8258.

buildings which use solar heating and cooling equipment or other renewable energy sources or which otherwise minimize life cycle costs.

SEC. 549. BUDGET TREATMENT OF ENERGY CONSERVING IMPROVEMENTS BY FEDERAL AGENCIES.

42 USC 8259.

Each Federal agency, in the preparation and submission of its requests to the Congress for appropriations, and authorizations for appropriations, for any fiscal year beginning after the date of the enactment of this Act, shall specifically set forth and identify in a separate line item or items—

(1) the funds requested for retrofit measures to be undertaken under this part; and

(2) the portion of any other funds requested which represent to the maximum extent practicable the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy and other renewable energy sources.

SEC. 550. REPORTS.

42 USC 8260.

Each Federal agency shall periodically furnish the Secretary with full and complete information on its activities under this part, and the Secretary shall annually submit to the Congress a comprehensive report on all activities under this part and on the progress made toward achievement of the objectives of this part.

SEC. 551. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8261.

There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for the fiscal year ending September 30, 1979, to enable him to perform the analytical and administrative functions vested in him under this part.

PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

Federal Photovoltaic Utilization Act.

SEC. 561. SHORT TITLE OF PART.

42 USC 8271 note.

This part may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 562. DEFINITIONS.

42 USC 8271.

For purposes of this part—

(1) The term "Federal facility" means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(2) The term "Secretary" means the Secretary of Energy.

SEC. 563. PHOTOVOLTAIC ENERGY PROGRAM.

42 USC 8272.

There is hereby established a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in Federal facilities.

SEC. 564. PURPOSE OF PROGRAM.

42 USC 8273.

The purpose of the program established by section 563 is to—

(1) accelerate the growth of a commercially viable and competitive industry to make photovoltaic solar electric systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(2) reduce fossil fuel costs to the Federal Government;

(3) stimulate the general use within the Federal Government of methods for the minimization of life cycle costs; and

(4) develop performance data on the program established by section 563.

SEC. 565. ACQUISITION OF SYSTEMS.

The program established by section 563 shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability by the Secretary for their use by Federal agencies. The acquisition of photovoltaic solar electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts. 42 USC 8274.

SEC. 566. ADMINISTRATION.

The Secretary shall administer the program established under section 563 and shall— 42 USC 8275. Rules and regulations. Report to Congress.

(1) consult with the Secretary of Defense to insure that the installation and purchase of photovoltaic solar electric systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this part; and

(3) report annually to the Congress on the status of the program.

SEC. 567. SYSTEM EVALUATION AND PURCHASE PROGRAM.

(a) PROGRAM.—The Secretary shall establish, within 60 days after the date of the enactment of this part, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring photovoltaic solar electric systems under this part, the Secretary shall insure that such systems reflect to the maximum extent practicable the most advanced and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States, and to stimulate the private sector market for photovoltaic power systems. The Secretary shall, subject to the availability of appropriated funds, procure not more than 30 megawatts of photovoltaic solar electric systems during fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. 42 USC 8276.

(b) OTHER PROCUREMENT.—Nothing in this part shall preclude any Federal agency from directly procuring a photovoltaic solar electric system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall consult with the Secretary before procuring such a system.

SEC. 568. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part. 42 USC 8277.

(b) MEMBERSHIP.—Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental

persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

(c) TERMINATION.—The advisory committee shall terminate October 1, 1981.

SEC. 569. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8278. For the purposes of this part, there is authorized to be appropriated to the Secretary not to exceed $98,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES

PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING

SEC. 601. INDUSTRIAL ENERGY EFFICIENCY REPORTING.

(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—Section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is amended—

(1) in the first sentence by inserting "(a)" before "Within";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new subsection:

"(b) Within 90 days after the date of the enactment of this subsection, the Secretary shall identify each corporation which consumes at least one trillion British thermal units of energy per year and which is within a major energy-consuming industry identified under subsection (a).".

(b) REPORTS.—Section 375 of such Act (42 U.S.C. 6345) is amended to read as follows:

"REPORTS

42 USC 6345. "SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Secretary pursuant to section 373 shall report to the Secretary on an annual basis (as determined by the Secretary) on the progress such corporation has made in improving its energy efficiency. Such report shall contain such information as the Secretary determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Secretary shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

"(b) Each report to the Secretary under subsection (a) shall include data aggregated to SIC codes from plant reporting forms in a manner to be determined by the Secretary.

"(c) Each plant shall periodically file a plant reporting form with its corporation at the corporation's headquarters within the United States. Each plant reporting form will be retained by the plant's corporation at its headquarters for at least 5 years. Such forms will be made available to the Secretary for verification purposes upon request, but information from forms made so available shall not be released to the public.

"(d) The Secretary shall prepare, publish, and make available for use in complying with the reporting requirements under subsections (a) and (c), forms which shall be designed in such a way as to avoid imposing on any corporation which is required to submit reports under subsection (a) an undue burden with respect to the corporation or any plant of such corporation.

"(e) The Secretary shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include— Report to Congress and President.

"(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Secretary,

"(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any, and

"(3) recommendations to the Congress as to how additional improvements might be achieved.".

(c) DEFINITION OF PLANT.—Section 371 of such Act (42 U.S.C. 6341) is amended by adding after paragraph (4) the following new paragraphs:

"(5) The term 'plant' means an economic unit at a single physical location where industrial processes are performed, as determined by the Secretary, and may be referred to as a factory, a mill, or an establishment.

"(6) The term 'United States' means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.".

PART 2—STATE ENERGY CONSERVATION PLANS

SEC. 621. STATE ENERGY CONSERVATION PLANS.

Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(d)) is amended—

(1) by striking out "and"; and

(2) by striking out the period and inserting in lieu thereof the following: ", and $50,000,000 for fiscal year 1979.".

SEC. 622. SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.

Section 367(c) of the Energy Policy and Conservation Act is amended by striking out "$40,000,000 for fiscal year 1979" and inserting in lieu thereof "$50,000,000 for fiscal year 1979". 42 USC 6327.

SEC. 623. REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS.

Not later than 6 months after the date of the enactment of this section, the Secretary of Energy shall submit to the Congress a report on the coordination of Federal energy conservation programs involving State and local government. 42 USC 6321 note.

PART 3—MINORITY ECONOMIC IMPACT

SEC. 641. MINORITY ECONOMIC IMPACT.

"(a) ESTABLISHMENT OF OFFICE OF MINORITY ECONOMIC IMPACT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131–7139) is amended by adding at the end thereof the following new section:

"OFFICE OF MINORITY ECONOMIC IMPACT

42 USC 7141.

"SEC. 211. (a) There shall be established within the Department an Office of Minority Economic Impact. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Director shall have the duty and responsibility to advise the Secretary on the effect of energy policies, regulations, and other actions of the Department and its components on minorities and minority business enterprises and on ways to insure that minorities are afforded an opportunity to participate fully in the energy programs of the Department.

"(c) The Director shall conduct an ongoing research program, with the assistance of the Administrator of the Energy Information Administration, and such other Federal agencies as the Director determines appropriate, to determine the effects (including the socio-economic and environmental effects) of national energy programs, policies, and regulations of the Department on minorities. In conducting such program, the Director shall, from time to time, develop and recommend to the Secretary policies to assist, where appropriate, such minorities and minority business enterprises concerning such effects. In addition, the Director shall, to the greatest extent practicable—

"(1) determine the average energy consumption and use patterns of minorities relative to other population categories;

"(2) evaluate the percentage of disposable income spent on energy by minorities relative to other population categories; and

"(3) determines how programs, policies, and actions of the Department and its components affect such consumption and use patterns and such income.

"(d) The Director may provide the management any technical assistance he considers appropriate to minority educational institutions and minority business enterprises to enable these enterprises and institutions to participate in the research, development, demonstration, and contract activities of the Department. In carrying out his functions under this section, the Director may enter into contracts, in accordance with section 646 of this Act and other applicable provisions of law, with any person, including minority educational institutions, minority business enterprises, and organizations the primary purpose of which is to assist the development of minority communities. The management and technical assistance may include—

"(1) a national information clearinghouse which will develop and disseminate information on the aspects of energy programs to minority business enterprises, minority educational institutions and other appropriate minority organizations;

"(2) market research, planning economic and business analysis, and feasibility studies to identify and define economic opportunities for minorities in energy research, production, conservation, and development;

"(3) technical assistance programs to encourage, promote, and assist minority business enterprises in establishing and expanding energy-related business opportunities which are located in minority communities and that can provide jobs to workers in such communities; and

"(4) programs to assist minority business enterprises in the commercial application of energy-related technologies.

"(e)(1) The Secretary, acting through the Office, may provide financial assistance in the form of loans to any minority business enterprise under such rules as he shall prescribe to assist such enterprises in participating fully in research, development, demonstration, and contract activities of the Department to the extent he considers appropriate. He shall limit the use of financial assistance to providing funds necessary for such enterprises to bid for and obtain contracts or other agreements, and shall limit the amount of the financial assistance to any recipient to not more than 75 percent of such costs. Financial assistance.

"(2) The Secretary shall determine the rate of interest on loans under this section in consultation with the Secretary of the Treasury.

"(3) The Secretary shall deposit into the Treasury as miscellaneous receipts amounts received in connection with the repayment and satisfaction of such loans.

"(f) As used in this section, the term—

"(1) 'minority' means any individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent;

"(2) 'minority business enterprise' means a firm, corporation, association, or partnership which is at least 50 percent owned or controlled by a minority or group of minorities; and

"(3) 'minority educational institution' means an educational institution with an enrollment in which a substantial proportion (as determined by the Secretary) of the students are minorities.

"(g) There is authorized to be appropriated to the Secretary to carry out the functions of the Office not to exceed $3,000,000 for fiscal year 1979, not to exceed $5,000,000 for fiscal year 1980, and not to exceed $6,000,000 for fiscal year 1981. Of the amounts so appropriated each fiscal year, not less than 50 percent shall be available for purposes of financial assistance under subsection (e).".

PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

SEC. 661. MAJOR FUEL BURNING STATIONARY SOURCE.

Part A of title I of the Energy Policy and Conservation Act is amended by adding at the end thereof a new section as follows:

42 USC 6215.
42 USC 7428.

"SEC. 107. (a) No Governor of a State may issue any order or rule pursuant to section 125 of the Clean Air Act to any major fuel burning stationary source (or class or category thereof)—

"(1) prohibiting such source from using fuels other than locally or regionally available coal or coal derivatives, or

"(2) requiring such source to enter into a contract (or contracts) for supplies of locally or regionally available coal or coal derivatives.

"(b)(1) The Governor of any State may petition the President to exercise the President's authorities pursuant to section 125 of the Clean Air Act with respect to any major fuel burning stationary source located in such State.

"(2) Any petition under paragraph (1) shall include documentation which could support a finding that significant local or regional economic disruption or unemployment would result from use by such source of—

"(A) coal or coal derivatives other than locally or regionally available coal,

"(B) petroleum products,

"(C) natural gas, or

"(D) any combination of fuels referred to in subparagraphs (A) through (C), to comply with the requirements of a State implementation plan pursuant to section 110 of the Clean Air Act.

42 USC 7412.
Order or rule.

"(c) Within 90 days after the submission of a Governor's petition under subsection (b), the President shall either issue an order or rule pursuant to section 125 of the Clean Air Act or deny such petition, stating in writing his reasons for such denial. In making his determination to issue such an order or rule pursuant to this subsection, the President must find that such order or rule would—

"(1) be consistent with section 125 of the Clean Air Act;

"(2) result in no significant increase in the consumption of energy;

"(3) not subject the ultimate consumer to significantly higher energy costs; and

"(4) not violate any contractual relationship between such source and any supplier or transporter of fuel to such source.

"(d) Nothing in subsection (a) or (b) of this section shall affect the authority of the President or the Secretary of the Department of Energy to allocate coal or coal derivatives under any provision of law.

"(e) The terms 'major fuel burning stationary source (or class or category thereof)' and 'locally or regionally available coal or coal derivatives' shall have the meanings assigned to them for the purposes of section 125 of the Clean Air Act.".

PART 5—STUDIES

SEC. 681. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

42 USC 6373.

"SEC. 385. Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of

the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study.".

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part H the following:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-Highway motor vehicle conservation study.".

SEC. 682. BICYCLE STUDY.

23 USC 217 note.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefit through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

Report to President and Congress.

SEC. 683. SECOND LAW EFFICIENCY STUDY.

42 USC 6345 note.

(a) STUDY.—(1) The Secretary of Energy, in consultation with the Director of the National Bureau of Standards and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the use of the concept of energy efficiency as being the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task.

(b) REPORT.—A report on the study under subsection (a) shall be submitted to the Congress within 12 months after the date of enactment of this Act. The programs to be covered by such study include—

Report to Congress.

(1) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act, and this Act;

42 USC 6201 note.

(2) appropriate Federal programs in energy research, development, and demonstration.

42 USC 6801 note.

(c) CONTRACT PROCEDURE.—Any contract in connection with the study or report under this section shall be made by advertising and shall be in accordance with procedures established under the Federal Property and Administrative Services Act.

40 USC 471 note.

PART 6—TECHNICAL AMENDMENTS

SEC. 691. DEFINITION OF ADMINISTRATOR.

(a) IN GENERAL.—Paragraph (1) of section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202(1)) is amended to read as follows:

"(1) The term 'Secretary' means the Secretary of Energy.".

(b) CONFORMING AMENDMENTS.—(1) Section 527 of such Act (42 U.S.C. 6397) is hereby repealed.

(2) Such Act is amended by striking out "Administrator" and "Administrator's" each place they appear (unless the context indicates a reference other than to the Administrator of the Federal Energy Administration) and inserting in lieu thereof "Secretary" or "Secretary's", respectively.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-431 (Comm. on Ways and Means) and No. 95-1751 (Comm. of Conference).

SENATE REPORTS: No. 95-424 (Comm. on Finance) and No. 95-1294 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Sept. 13, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; agreed to Senate amendment No. 3 with an amendment.

Vol. 124 (1978): Oct. 9 Senate agreed to conference report.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-620
95th Congress

An Act

To amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges.

Nov. 9, 1978
[H.R. 5146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Powerplant and Industrial Fuel Use Act of 1978.
42 USC 8301 note.

TITLE I—BOBSLEDS AND LUGES

Bobsleds and luges, duty suspension.
19 USC 1202 app.

SEC. 101. Subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

"	734.98	Bobsleds and luges of a kind used in international competition	Free	Free
	734.99	Other	9% ad val.	45% ad val. ".

19 USC 1202 note.

SEC. 102. The amendments made by the first section of this title shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

42 USC 8301 note.

(a) SHORT TITLE.—This Act may be cited as the "Powerplant and Industrial Fuel Use Act of 1978".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title; table of contents.
Sec. 102. Findings; statement of purposes.
Sec. 103. Definitions.
Sec. 104. Territorial application.

TITLE II—NEW FACILITIES

SUBTITLE A—PROHIBITIONS

Sec. 201. New electric powerplants.
Sec. 202. New major fuel-burning installations.

SUBTITLE B—EXEMPTIONS

Sec. 211. Temporary exemptions.
Sec. 212. Permanent exemptions.
Sec. 213. General requirements for exemptions.
Sec. 214. Terms and conditions; compliance plans.

TITLE III—EXISTING FACILITIES

SUBTITLE A—PROHIBITIONS

Sec. 301. Existing electric powerplants.
Sec. 302. Existing major fuel-burning installations.
Sec. 303. Rules relating to case-by-case and category prohibitions.

TITLE III—EXISTING FACILITIES—Continued

SUBTITLE B—EXEMPTIONS

Sec. 311. Temporary exemptions.
Sec. 312. Permanent exemptions.
Sec. 313. General requirements for exemptions.
Sec. 314. Terms and conditions; compliance plans.

TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

Sec. 401. Authority to prohibit use of natural gas in certain boilers used for space heating.
Sec. 402. Prohibition on use of natural gas for decorative outdoor lighting.
Sec. 403. Conservation in Federal facilities, contracts, and financial assistance programs.
Sec. 404. Emergency authorities.
Sec. 405. Authority to restrict increased use of petroleum by existing powerplants.

TITLE V—SYSTEM COMPLIANCE OPTION

Sec. 501. Electric utility system compliance option.

TITLE VI—FINANCIAL ASSISTANCE

Sec. 601. Assistance to areas impacted by increased coal or uranium production.
Sec. 602. Loans to assist powerplant acquisitions of air pollution control equipment.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

SUBTITLE A—PROCEDURES

Sec. 701. Administrative procedures.
Sec. 702. Judicial review.

SUBTITLE B—INFORMATION AND REPORTING

Sec. 711. Information.
Sec. 712. Compliance reports.

SUBTITLE C—ENFORCEMENT

Sec. 721. Notice of violation; other general provisions.
Sec. 722. Criminal penalties.
Sec. 723. Civil penalties.
Sec. 724. Injunctions and other equitable relief.
Sec. 725. Citizen suits.

SUBTITLE D—PRESERVATION OF CONTRACTUAL RIGHTS

Sec. 731. Preservation of contractual rights.

SUBTITLE E—STUDIES

Sec. 741. National coal policy study.
Sec. 742. Coal industry performance and competition study.
Sec. 743. Impact on employees.
Sec. 744. Study of compliance problems of small electric utility systems.
Sec. 745. Emissions monitoring.
Sec. 746. Socioeconomic impacts of increased coal production and other energy development.
Sec. 747. Use of petroleum and natural gas in combustors.

SUBTITLE F—APPROPRIATIONS AUTHORIZATION

Sec. 751. Authorization of appropriations.

SUBTITLE G—COORDINATION WITH OTHER PROVISIONS OF LAW

Sec. 761. Effect on environmental requirements.
Sec. 762. Effect of orders under section 2 of ESECA; amendments to ESECA.
Sec. 763. Environmental impact statements under NEPA.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Coal reserves disclosure.
Sec. 802. Coal preparation facilities.
Sec. 803. Railroad rehabilitation for carriage of coal.
Sec. 804. Office of Rail Public Counsel.
Sec. 805. Retroactive application of certain remedial orders.
Sec. 806. Annual report.
Sec. 807. Submission of reports.

TITLE IX—EFFECTIVE DATES

Sec. 901. Effective date.
Sec. 902. Interim petition and consideration for certain exemptions.

SEC. 102. FINDINGS; STATEMENT OF PURPOSES.

42 USC 8301.

(a) FINDINGS.—The Congress finds that—

(1) the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expended use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations; and

(2) the purposes of this Act are furthered in cases in which coal or other alternate fuels are used by electric powerplants and major fuel-burning installations, consistent with applicable environmental requirements, as primary energy sources in lieu of natural gas or petroleum.

(b) STATEMENT OF PURPOSES.—The purpose of this Act, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses, other than electric utility or other industrial or commercial generation of steam or electricity, for which there are no feasible alternative fuels or raw material substitutes;

(3) to encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source;

(4) to the extent permitted by this Act, to encourage the use of synthetic gas derived from coal or other alternate fuels;

(5) to encourage the rehabilitation and upgrading of railroad service and equipment necessary to transport coal to regions or States which can use coal in greater quantities;

(6) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source and to conserve such gas and petroleum for the benefit of present and future generations;

(7) to encourage the modernization or replacement of existing and new electric powerplants and major fuel-burning installations which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other alternate fuels where to do so furthers the conservation of natural gas and petroleum;

(8) to require that existing and new electric powerplants and major fuel-burning installations which utilize natural gas, petro-

leum, or coal or other alternate fuels pursuant to this Act comply with applicable environmental requirements;

(9) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such actions as lie within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(10) to insure that adequate supplies of natural gas are available for essential agricultural uses (including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses);

(11) to reduce the vulnerability of the United States to energy supply interruptions; and

(12) to regulate interstate commerce.

SEC. 103. DEFINITIONS.

42 USC 8302.

(a) Unless otherwise expressly provided, for the purposes of this Act—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "person" means any (A) individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, (B) any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or (C) any agency or instrumentality (including any municipality) thereof.

(3)(A) Except as provided in subparagraph (B), the term "natural gas" means any fuel consisting in whole or in part of—

(i) natural gas;

(ii) liquid petroleum gas;

(iii) synthetic gas derived from petroleum or natural gas liquids; or

(iv) any mixture of natural gas and synthetic gas.

(B) The term "natural gas" does not include—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity), as determined under rules prescribed by the Secretary;

(ii) natural gas produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(iii) natural gas to the extent the exclusion of such gas is provided for in subsection (b); or

(iv) synthetic gas, derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(4) The term "petroleum" means crude oil and products derived from crude oil, other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas;

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, either by reason of quality or quantity, as determined under rules prescribed by the Secretary; or

(D) petroleum coke or waste gases from industrial operations.

(5) The term "coal" means anthracite and bituminous coal, lignite, and any fuel derivative thereof.

(6) The term "alternate fuel" means electricity or any fuel, other than natural gas or petroleum, and includes—

(A) petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood, and renewable and geothermal energy sources;

(B) liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity, as determined under rules prescribed by the Secretary; and

(C) waste gases from industrial operations.

(7)(A) The terms "electric powerplant" and "powerplant" mean any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(i) has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) For purposes of subparagraph (A), the term "electric generating unit" does not include—

(i) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(ii) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale, as determined by the Secretary.

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule, to be appropriate.

(8) The term "new electric powerplant" means—

(A) any electric powerplant for which construction or acquisition began on a date on or after the date of enactment of this Act; and

(B) any electric powerplant for which construction or acquisition began on a date after April 20, 1977, and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such powerplant could not be canceled, rescheduled, or modified to comply with the applicable requirements of this Act without—

(i) adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority), or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(9)(A) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(B) Any powerplant treated under this Act as an existing electric powerplant shall not be treated thereafter as a new electric powerplant merely by reason of a transfer of ownership.

(10)(A) The terms "major fuel-burning installation" and "installation" means a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(i) has a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) The terms "major fuel-burning installation" and "installation" do not include—

(i) any electric powerplant; or

(ii) any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to the Secretary of such use (in accordance with rules prescribed by the Secretary).

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule to be appropriate.

(11) The term "new major fuel-burning installation" means—

(A) any major fuel-burning installation on which construction or acquisition began on a date on or after the date of the enactment of this Act; and

(B) any major fuel-burning installation on which construction or acquisition began on a date after April 20, 1977, and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such installation could not be canceled, rescheduled, or modified to comply with applicable requirements of this Act without—

(i) incurring significant operational detriment of the unit (as determined by the Secretary); or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(12)(A) The term "existing major fuel-burning installation" means any installation which is not a new major fuel-burning installation.

(B) Such term does not include a major fuel-burning installation for the extraction of mineral resources located—

(i) on or above the Continental Shelf of the United States, or

(ii) on wetlands areas adjacent to the Continental Shelf of the United States,

where coal storage is not practicable or would produce adverse effects on environmental quality.

(C) Any installation treated as an existing major fuel-burning installation shall not be treated thereafter as a new major fuel-burning installation merely by reason of a transfer of ownership.

(13) The term "construction or acquisition began" means, when used with reference to a certain date, that—

(A) construction in accordance with final drawings or equivalent design documents (as defined by the Secretary, by rule) began on or after that date; or

(B) (i) construction or acquisition had been contracted for on or after that date, or (ii) if the construction or acquisition had been contracted for before such date, such construction or acquisition could be canceled, rescheduled, or modified to comply with the applicable requirements of this Act—

(I) without imposing substantial financial penalty, as determined under rules prescribed by the Secretary;

(II) in the case of a powerplant, without adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority); or

(III) in the case of a major fuel-burning installation, without incurring significant operational detriment of the unit (as determined by the Secretary).

(14) The term "construction" means substantial onsite construction or reconstruction, as defined by rule by the Secretary.

(15) The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation, except it does not include, as determined under rules prescribed by the Secretary—

(A) the minimum amounts of fuel required for unit ignition, startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent (i) unanticipated equipment outages and (ii) emergencies directly affecting the public health, safety, or welfare which would result from electric power outages.

(16) The term "site limitation" means, when used with respect to any powerplant or installation, any specific physical limitation associated with a particular site which relates to the use of coal or other alternate fuels as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other alternate fuels;

(B) lack of transportation facilities for coal or other alternate fuels;

(C) lack of adequate land or facilities for the handling, use, and storage of coal or other alternate fuels;

(D) lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(E) lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

(17) The term "applicable environmental requirements" includes—

(A) any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emis-

sions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels or natural gas or petroleum as a primary energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

(B) any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

42 USC 7401 note.
33 USC 1251 note.
42 USC 6901 note.
42 USC 4321 note.

(18) (A) The term "peakload powerplant" means a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1,500 hours.

(B) The term "intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

(C) The term "base load powerplant" means a powerplant the electrical generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

Rules.

(D) Not later than 90 days after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(19) the term "cogeneration facility" means an electric powerplant or a major fuel-burning installation which produces—

(A) electric power; and

(B) any other form of useful energy (such as steam, gas, or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

(20) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated remaining useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Secretary (in the case of powerplants, in consultation with the State regulatory authorities). In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any State regulated electric utility.

(22) The term "air pollution control agency" has the same meaning as given such term by section 302(b) of the Clean Air Act.

42 USC 7602.

(23) The term "electric utility" means any person, including any affiliate, or Federal agency which sells electric power.

(24) The term "affiliate", when used in relation to a person, means another person which controls, is controlled by, or is under common control with, such person.

(25) The term "Federal agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States; and

(D) the government of the District of Columbia.

(26) The term "Btu" means British thermal unit.

(27) the term "Mcf" means, when used in relation to natural gas, 1,000 cubic feet of natural gas.

(28) The term "mixture", when used in relation to fuels used in a unit, means a mixture of such fuels or a combination of such fuels used simultaneously or alternately in such unit.

(29) The term "fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid-like state by the means of air or other gases being passed through such materials.

(b) SPECIAL RULES RELATING TO DEFINITIONS OF NATURAL GAS AND ALTERNATE FUEL.—(1) Subject to paragraph (2), natural gas which is to be used by a powerplant or major fuel-burning installation shall, for purposes of this Act (other than this subsection), be excluded from the definition of "natural gas" under subsection (a)(3)(B)(iii) and shall be included within the definition of "alternate fuel" under subsection (a)(6) if the person proposing to use such natural gas certifies to the Secretary (together with such supporting documents as the Secretary may require) that—

(A) such person owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal or another alternate fuel;

(B) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by this subsection by reason of such certification, plus the approximate Btu content of any natural gas consumed or lost in transportation;

(C) such person delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person; and

(D) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under section 201(2) against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

(2) The application of paragraph (1) with respect to the use of natural gas by any powerplant or major-fuel burning installation shall be conditioned on the person using such natural gas submitting to the Secretary a report not later than one year after certification is made under paragraph (1), and annually thereafter, containing the following information: Report, submittal to Secretary.

(A) the source, amount, quality, and point of delivery to the pipeline of the synthetic gas to which paragraph (1) applied during the annual period ending with the calendar month preceding the date of such report; and

(B) the amount, quality, and point of delivery by the pipeline to such person of the natural gas covered by paragraph (1) which is used by the person during such annual period.

(3) In the case of any boiler subject to a prohibition under section 401, the preceding provisions of this subsection shall apply with respect to such boiler to the same extent and in the same manner as they apply in the case of major fuel-burning installations.

Post, p. 3314.

"Pipeline".

(4) For purposes of this subsection, the term "pipeline" means any interstate or intrastate pipeline or local distribution company.

SEC. 104. TERRITORIAL APPLICATION.

42 USC 8303.

The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that—

(1) the provisions of titles II and III (other than section 301) shall only apply to powerplants and installations situated within the contiguous 48 States, Alaska, and the District of Columbia; and

(2) the provisions of section 301 shall only apply to powerplants situated within the contiguous 48 States and the District of Columbia.

TITLE II—NEW FACILITIES

Subtitle A—Prohibitions

SEC. 201. NEW ELECTRIC POWERPLANTS.

42 USC 8311.

Except to such extent as may be authorized under subtitle B—

(1) natural gas or petroleum shall not be used as a primary energy source in any new electric powerplant; and

(2) no new electric powerplant may be constructed without the capability to use coal or any other alternate fuel as a primary energy source.

SEC. 202. NEW MAJOR FUEL-BURNING INSTALLATIONS.

42 USC 8312.

(a) GENERAL PROHIBITION.—Except to such extent as may be authorized under subtitle B, natural gas or petroleum shall not be used as a primary energy source in a new major fuel-burning installation consisting of a boiler.

(b) AUTHORITY OF SECRETARY TO PROHIBIT NONBOILERS FROM USING NATURAL GAS OR PETROLEUM.—(1) The Secretary may, by rule, prescribe categories (identified in such rules) of new major fuel-burning installations, other than boilers, in which natural gas or petroleum, or both, shall be prohibited from being used as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this paragraph, the Secretary shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other alternate fuels and the size or geographic location of such installations). The application of any such final rule in the case of any new major fuel-burning installation subject to such rule shall be stayed pending a resolution (including judicial review) of any petition for an exemption for such installation which is filed with the Secretary not later than 60 days after such final rule is published under section 702(a). Any such final rule shall not apply in the case of any installation with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subtitle B).

Final rule, application.

Post, p. 3331.

(2) (A) The Secretary may, by order, prohibit the use of natural gas or petroleum, or both, as a primary energy source in any new major fuel-burning installation, other than a boiler, if such installation is not, at the time of the issuance of the proposed order, in a category identified in a final rule issued under paragraph (1).

(B) Subject to subpragraph (C), the Secretary shall not issue a final order under this paragraph with respect to any installation if it is demonstrated that there would have been granted an exemption for such installation if such prohibition had been established by rule pursuant to paragraph (1) rather than by order pursuant to this paragraph, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as such temporary exemption would have terminated.

(C) In any case in which an order is not issued by reason of subparagraph (B) or in which the effective date of such order is delayed under subparagraph (B), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 214(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

(3) A prohibition under this subsection shall only apply with respect to an installation for which construction or acquisition began on or after the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition. Any installation not subject to such a prohibition because of the preceding sentence shall be considered an existing major fuel-burning installation for purposes of title III.

Applicability.

Post, p. 3329.

Subtitle B—Exemptions

SEC. 211. TEMPORARY EXEMPTIONS.

(a) GENERAL EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

42 USC 8321.

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

(2) one or more site limitations exist which would ot permit the location or operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 201 or 202 could not be satisfied without violating applicable environmental requirements.

(b) TEMPORARY EXEMPTION BASED UPON FUTURE USE OF SYNTHETIC FUELS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

Compliance plan, filing and maintenance.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 214(b).

(c) TEMPORARY PUBLIC INTEREST EXEMPTION.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption would be in the public interest and would be consistent with the purposes of this Act.

(d) TEMPORARY EXEMPTION FOR THE USE OF PETROLEUM BY CERTAIN INSTALLATIONS.—After consideration of a petition (and comments thereon) for an exemption from the prohibition of the use of petroleum under section 202 for an installation with a design capacity of consuming any fuel (or any mixture thereof) at a fuel heat input rate which does not exceed 300 million Btu's per hour, the Secretary may, by order, grant an exemption under this subsection for the use of petroleum if he finds that the petitioner has demonstrated, by the existence of binding contracts or other evidence, including appropriate State construction permits, that he will use coal or another alternate fuel for at least 75 percent of the annual fuel heat input rate upon the expiration of such exemption. For provisions relating to authority to receive, consider and granting (or denying) certain petitons for an exemption under this subsection, see section 902(b).

Post, p. 3349.

(e) DURATION OF TEMPORARY EXEMPTIONS.—(1) Except as provided in paragraph (2), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) An exemption under subsection (b) may be extended beyond the 5-year limit under paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) If an exemption is granted for any powerplant or installation before the powerplant or installation is placed in service, the period before it is placed in service shall not be taken into account in computing the 5-year and the 10-year limitations of paragraphs (1) and (2).

SEC. 212. PERMANENT EXEMPTIONS.

42 USC 8322.

(a) PERMANENT EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, ENVIRONMENTAL REQUIREMENTS, OR ADEQUATE CAPITAL.—(1) After consideration of a petition (and comments there-

on) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source (i) will not be available within the first 10 years of the useful life of the powerplant or installation, or (ii) will not be available at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the useful life of the powerplant or installation involved;

(B) one or more site limitations exist which would not permit the location or operation of such powerplant or installation using coal or any other alternate fuel as a primary energy source;

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements; or

(D) the required use of coal or any other alternate fuel would not allow the petitioner to obtain adequate capital for the financing of such powerplant or installation.

(2) The demonstration required to be made by a petitioner under paragraph (1) shall—

(A) in the case of a new major fuel-burning installation, be made with respect to the site of such installation proposed by the petitioner; and

(B) in the case of a new electric powerplant, be made with respect to the site of such powerplant and reasonable alternative sites.

(3) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (h) may not be granted an exemption under this subsection. Limitation.

(b) PERMANENT EXEMPTION DUE TO CERTAIN STATE OR LOCAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) with respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

(2) in the case of a powerplant, there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1)(A) through (D); and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) PERMANENT EXEMPTION FOR COGENERATION.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility,

the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) PERMANENT EXEMPTION FOR CERTAIN MIXTURES CONTAINING NATURAL GAS OR PETROLEUM.—(1) After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation needed to maintain reliability of operation of such powerplant or installation consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

Percentage determination.

(2) In the case of a new major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent.

(e) PERMANENT EXEMPTION FOR EMERGENCY PURPOSES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) PERMANENT EXEMPTION FOR POWERPLANTS NECESSARY TO MAINTAIN RELIABILITY OF SERVICE.—After consideration of a petition (and comments thereon) for an exemption for a powerplant from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum if he finds that the petitioner has demonstrated that—

(1) such exemption is necessary to prevent impairment of reliability of service, and

(2) the petitioner, despite diligent good faith efforts, is not able to make the demonstration necessary to obtain an exemption under subsection (a) or (b) in the time required to prevent such impairment of service.

(g) PERMANENT EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant—

(1) in the case of a proposed use of petroleum, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to petroleum if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant; and

(2) in the case of a proposed use of natural gas, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas if—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded; and

(B) the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(h) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may grant a permanent exemption under this subsection for such use, by order, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded;

(B) such powerplant is to be constructed and operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary source,

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such area;

(C) such powerplant is to be operated solely as an intermediate load powerplant;

(D) the net heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant;

(E) there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1) (A) through (D); and

(F) the powerplant is to be constructed with the capability to use a synthetic fuel derived from coal or other alternate fuel.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption when he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant. Review.

(i) PERMANENT EXEMPTIONS FOR INSTALLATIONS BASED UPON PRODUCT OR PROCESS REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the use of coal or another alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(j) PERMANENT EXEMPTION FOR INTALLATIONS NECESSARY TO MEET SCHEDULED EQUIPMENT OUTAGES.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 213. GENERAL REQUIREMENTS FOR EXEMPTIONS.

42 USC 8323.

(a) USE OF MIXTURES OR FLUIDIZED BED COMBUSTION NOT FEASIBLE.—Except in the case of an exemption under section 212 (d) or (g), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal or another alternate fuel, for which an exemption under section 212(d) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or another alternate fuel is economically and technically feasible.

(b) STATE APPROVAL REQUIRED FOR POWERPLANT.—If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption—

(1) to the extent it applies to the prohibition under section 201 (2) against construction without the capability of using coal or another alternate fuel, shall not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained; and

(2) to the extent it applies to the prohibition under section 201 (1) against the use of natural gas or petroleum as a primary energy source, shall not take effect until all approvals required by such State regulatory authority which relate to construction or operation have been obtained.

(c) NO ALTERNATIVE POWER SUPPLY IN THE CASE OF A POWERPLANT.—(1) Except in the case of an exemption under section 212 (c) or (g), the Secretary may not grant an exemption for a new powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

Petition and consultation.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed with the Secretary and shall consult with such Commission before making any finding on such petition under paragraph (1).

SEC. 214. TERMS AND CONDITIONS; COMPLIANCE PLANS.

42 USC 8324.

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the

case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibitions of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow or such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE III—EXISTING FACILITIES

Subtitle A—Prohibitions

SEC. 301. EXISTING ELECTRIC POWERPLANTS.

42 USC 8341.

(a) GENERAL PROHIBITIONS.—Except to such extent as may be authorized under subtitle B—

(1) natural gas shall not be used as a primary energy source in an existing electric powerplant on or after January 1, 1990;

(2) natural gas shall not be used as a primary energy source in an existing electric powerplant before January 1, 1990, unless such powerplant used natural gas as a primary energy source at any time during calendar year 1977; and

(3) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year before 1990 in greater proportions than the average yearly proportion of natural gas which—

(A) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(B) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

Stay of prohibition.

The prohibition of paragraph (1) shall be stayed with respect to any existing powerplant pending a resolution (including judicial review) of any petition for any exemption from such prohibition which is filed for such powerplant at any time after the effective date of this Act, but at least one year before the date such prohibition first takes effect.

(b) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if the Secretary finds that—

(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the powerplant, or

(B) substantial reduction in the rated capacity of the powerplant; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

Finding, publication.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

Post, p. 3329.

(c) AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—In the case of any existing electric powerplant in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

SEC. 302. EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

42 USC 8342.

(a) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing major fuel-burning installation, if the Secretary finds that—

(1) such installation has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) such installation has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the unit, or

(B) substantial reduction in the rated capacity of the unit; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such installation.

Finding, publication.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

Post, p. 3329.

(b) AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—

(1) In the case of any existing major fuel-burning installation in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such installation in amounts in excess of the minimum percentage of the total Btu heat input of the primary energy sources needed to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

Percentage determination.

(2) The percentage determined by the Secretary under paragraph (1) shall not be less than 25 percent.

SEC. 303. RULES RELATING TO CASE-BY-CASE AND CATEGORY PROHIBITIONS.

42 USC 8343.

(a) CASE-BY-CASE PROHIBITIONS.—(1) Except to the extent authorized by subsection (b), the Secretary shall prohibit any powerplant or installation from using natural gas or petroleum under the author-

ity granted him under section 301 (b) or (c) or 302 only by means of a final order issued by him which shall be limited to the particular powerplant or installation involved.

(2) The Secretary may issue such a final order only with respect to a powerplant or installation which is not, at the time the proposed order is issued, covered by a final rule issued under section (b).

(3)(A) Subject to subparagraph (B), the Secretary shall not issue a final order under this subsection to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by a final rule pursuant to subsection (b) rather than by order pursuant to this subsection, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as the temporary exemption would have terminated.

(B) In any case in which an order is not issued by reason of subparagraph (A) or in which the effective date of such order is delayed under subparagraph (A), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 314(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

(b) PROHIBITIONS APPLICABLE TO CATEGORIES OF FACILITIES.—(1) The Secretary may, by rule, prohibit the use of natural gas or petroleum pursuant to section 301(b) or 302(a)—

(A) in the case of any category of existing electric powerplants identified in such rule; and

(B) in the case of any category of existing major fuel-burning installations which have design capabilities of consuming fuel (or any mixture thereof) at a fuel heat input rate of 300 million Btu's per hour or greater which are identified in such rule.

(2) Each powerplant or installation to be covered by any final rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b). *Post*, p. 3329.

(3) In prescribing any final rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the intermittent use, size, age, or geographic location of such powerplants or installations). Any such rules shall not apply in the case of any existing electric powerplant or major fuel-burning installation— Final rule, application.

(A) pending a resolution (including judicial review) of any petition for any exemption for such powerplant or installation which may be filed with the Secretary not later than 60 days after such final rule is published under section 702(a); or *Post*, p. 3331.

(B) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued by reason of subsection (a)(3)).

Subtitle B—Exemptions

SEC. 311. TEMPORARY EXEMPTIONS.

(a) TEMPORARY EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant such an exemption 42 USC 8351.

for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source, will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

(2) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 301 or 302 could not be satified without violating applicable environmental requirements.

(b) TEMPORARY EXEMPTION BASED UPON FUTURE USE OF SYNTHETIC FUELS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

Compliance plan, filing and maintenance.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

(c) TEMPORARY EXEMPTION BASED UPON USE OF INNOVATIVE TECHNOLOGIES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will comply with such prohibitions at the expiration of such exemption by the adoption of a technology for the use of coal or another alternate fuel which at the time of the granting of the exemption is determined by the Secretary to be an innovative technology. The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

Compliance plan, filing and maintenance.

(d) TEMPORARY EXEMPTION FOR UNITS TO BE RETIRED.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation is to permanently cease operation at or before the expiration of the exemption period. An exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b) (other than paragraph (1)(B)).

Compliance plan, filing and maintenance.

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle may not be granted for any powerplant or installation once an exemption under this subsection has been granted for such powerplant or installation.

(e) TEMPORARY PUBLIC INTEREST EXEMPTION.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption is in the public interest and is consistent with the purposes of this Act.

(f) TEMPORARY EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(g) TEMPORARY EXEMPTION FOR POWERPLANTS WHERE NECESSARY TO MAINTAIN RELIABILITY OF SERVICE.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such exemption is necessary to prevent impairment of reliability of service.

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle (other than a permanent exemption under section 312(f) for the use of petroleum) may not be granted for any powerplant for which an exemption under this subsection has been granted.

(h) DURATION OF TEMPORARY EXEMPTIONS.—(1) Except as provided in paragraphs (2) and (3), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) Subject to paragraph (3), an exemption under subsections (b), (c), and (g) may be extended beyond the 5-year limit under paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) An exemption under subsections (d), (f), and (g) for the use of natural gas by a powerplant may not extend beyond December 31, 1994.

(4) In computing the 5-year and 10-year limitations of paragraphs (1) and (2) in the case of any exemption under this section, the period before the prohibition on the use of natural gas and petroleum would first apply (if the exemption had not been granted) shall be disregarded.

SEC. 312. PERMANENT EXEMPTIONS.

(a) PERMANENT EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a 42 USC 8352.

permanent exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuels of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the remaining useful life of the powerplant or installation;

(B) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements.

(2) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (g) may not be granted an exemption under this subsection.

(b) PERMANENT EXEMPTION DUE TO CERTAIN STATE OR LOCAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) with respect to the site of the powerplant or installation, the operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement;

(2) if such State or local requirement is under a building code or nuisance or zoning law, no other exemption under this subtitle could be granted for such facility; and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) PERMANENT EXEMPTION FOR COGENERATION.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility, the Secretary may, by order, grant a permanent exemption under this subsection, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) PERMANENT EXEMPTION FOR CERTAIN FUEL MIXTURES CONTAINING NATURAL GAS OR PETROLEUM.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu

heat input of the primary energy sources of such powerplant or installation needed to maintain reliability of operation of the unit consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

(2) In the case of an existing major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent. Percentage determination.

(3) In the case of an existing electric powerplant, the Secretary may authorize a higher percentage than that referred to in paragraph (1)(B) if he finds that the higher percentage of natural gas allowed would be mixed with synthetic fuels derived from municipal wastes or agricultural wastes and would encourage the use of alternate or new technologies which use renewable sources of energy.

(e) PERMANENT EXEMPTION FOR EMERGENCY PURPOSES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) PERMANENT EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that—

(1) the powerplant is operated solely as a peakload powerplant;

(2) a denial of such petition is likely to result in an impairment of reliability of service; and

(3)(A) modification of the powerplant to permit compliance with such prohibitions is technically infeasible; or

(B) such modification would result in an unreasonable expense.

(g) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such area;

(B) such powerplant is to be operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary energy source,

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such region;

(C) such powerplant is and shall continue to be operated solely as an intermediate load powerplant;

(D) the net fuel heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the remaining useful life of the powerplant; and

(E) the powerplant has the capability to use synthetic fuels derived from coal or other alternate fuel.

Review.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption if he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant.

(h) PERMANENT EXEMPTION FOR USE OF NATURAL GAS BY CERTAIN POWERPLANTS WITH CAPACITIES OF LESS THAN 250 MILLION BTU'S PER HOUR.—(1) Subject to paragraph (2), after consideration of a petition (and comments thereon) for an exemption from any prohibition of subtitle A for the use of natural gas by a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for such use, if he finds that the petitioner has demonstrated that—

(A) such powerplant has a design capability of consuming fuel (or any mixture thereof) at a fuel heat input rate of less than 250 million Btu's per hour;

(B) such powerplant was a baseload powerplant on April 20, 1977; and

(C) such powerplant is not capable of consuming coal without—

(i) substantial physical modification of the unit; or

(ii) substantial reduction in the rated capacity of the unit (as determined by the Secretary).

Exemption applicability.

(2) An exemption under this subsection may only apply to the prohibitions under section 301 and prohibitions established by final rules or orders issued before January 1, 1990.

(i) PERMANENT EXEMPTION FOR THE USE OF LNG BY CERTAIN POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of liquefied natural gas if the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) has certified to the Secretary that the use of coal by such powerplant as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such region or area and the use of coal would not comply with applicable environmental requirements.

(j) PERMANENT EXEMPTION FOR INSTALLATIONS SERVED BY CERTAIN INTERNATIONAL PIPELINES.—(1) After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of natural gas, if he finds that the petitioner has demonstrated that—

(A) such installation's primary source of natural gas is under a contract with a pipeline between Canada and the United States which cannot be cancelled by the petitioner without his suffering substantial financial penalty;

(B) such pipeline was supplying to such installation before April 21, 1977, natural gas from Canada under such contract;

(C) such pipeline serves high-priority users within the United States service to whom would be jeopardized if service to such installation is terminated;

(D) the revenues from the transportation and sale of natural gas transported by such pipeline are essential to the economic vitality of the pipeline; and

(E) the exemption is consistent with the purposes of this Act, and the denial of such exemption would not result in natural gas being made available for any other use within the United States.

"High-priority user".

(2) For purposes of this subsection, the term "high-priority user" means any residential user of natural gas, or any commercial user whose consumption of natural gas on a peak day is less than 50 Mcf, as determined by the Secretary.

(k) PERMANENT EXEMPTION FOR INSTALLATION BASED UPON PRODUCT OR PROCESS REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) the use of coal or other alternate fuels is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(l) PERMANENT EXEMPTION FOR INSTALLATIONS NECESSARY TO MEET SCHEDULED EQUIPMENT OUTAGES.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 313. GENERAL REQUIREMENTS FOR EXEMPTIONS.

42 USC 8353.

(a) USE OF MIXTURES OR FLUIDIZED BED COMBUSTION NOT FEASIBLE.—Except in the case of an exemption under section 312 (b), (f), (i) or (j), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal (or other alternate fuels), for which an exemption under section 312(b) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or an alternate fuel is economically and technically feasible.

(b) NO ALTERNATIVE POWER SUPPLY IN THE CASE OF A POWERPLANT.—(1) In the case of an exemption under section 312 (b) or (g), the Secretary may not grant an exemption for an existing powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

Petition and consultation.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed

with the Secretary and shall consult with the Commission before making any finding on such petition under paragraph (1).

SEC. 314. TERMS AND CONDITIONS; COMPLIANCE PLANS.

42 USC 8354.

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibition of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

SEC. 401. AUTHORITY TO PROHIBIT USE OF NATURAL GAS IN CERTAIN BOILERS USED FOR SPACE HEATING.

42 USC 8371.

(a) EXISTING BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if he finds that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler consumes 300 Mcf or more of natural gas per day on a peak day;

(3) such boiler has, or previously had, the technical capability to use petroleum as a primary energy source;

(4) such boiler has the technical capability to use petroleum as a primary energy source or it could have such capability without—

(A) substantial physical modification of the boiler, or

(B) substantial reduction in the rated capacity of the unit;

(5) it is financially feasible for such boiler to use petroleum as a primary energy source; and

(6) such prohibition is consistent with the purposes of this Act.

The requirement of paragraph (3) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b).

(b) NEW BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if he determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will, by design, be capable of consuming 300 Mcf or more of natural gas per day; and

(3) such prohibition is consistent with the purposes of this Act.

(c) EXEMPTION.—The Secretary shall exempt any person from any prohibition prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Secretary that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

(d) DEFINITIONS.—

(1) The term "new boiler" means any boiler for which there was not a commitment for construction or acquisition as of the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition.

(2) The term "existing boiler" means any boiler other than a new boiler.

(e) METHOD OF PROHIBITION.—(1)(A) Except to the extent authorized by paragraph (2), the Secretary shall prohibit boiler fuel use of natural gas under the authority granted him in subsection (a) or (b) only by means of a final order issued by him which shall be limited to the particular boiler involved.

(B) The Secretary may issue such an order only with respect to a boiler which is not, at the time the proposed order is issued, covered by a final rule issued under paragraph (2).

(C) The Secretary shall not issue a final order under this subsection with respect to any boiler if it is demonstrated that an exemption under subsection (c) would have been granted with respect to such boiler if such prohibition had been established by rule pursuant to paragraph (2) rather than by order.

(2)(A) The Secretary may, by rule, prohibit the use of natural gas under the authority of subsection (a) or (b) in the case of any category of boilers identified in such rule.

(B) Any existing boiler to be covered by any rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b).

(C) In prescribing any rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of boilers (such as the technical feasibility of burning petroleum and the size, age, or geographic location of such boilers). Any such final rule shall not apply in the case of any boiler— Final rule, application.

(i) subject to such rule pending a resolution of any petition (including judicial review) for any exemption for such boiler which may be filed with the Secretary not later than 60 days after such rule is published under section 701(b); or

(ii) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subsection (c)).

SEC. 402. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING.

(a) PROHIBITION ON INSTALLATION OF NEW OUTDOOR LIGHTING.— 42 USC 8372.
Effective beginning on the date of the enactment of this Act, no local distribution company, or any industrial user of natural gas who obtains such gas under a contract between such user and a natural gas pipeline, or any agent thereof, shall install any outdoor lighting fixture using natural gas.

(b) PROHIBITION ON SELLING NATURAL GAS TO BE USED IN OUTDOOR LIGHTING.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, by rule, prohibit any local distribution

company (unless an exemption has been obtained under subsection (c)) from providing natural gas service for use in outdoor lighting—

(A) effective on the date such final rule is issued, in the case of any residential, commercial, or industrial customer unless a later effective date is applicable under subparagraph (B) or (C) of this paragraph;

(B) effective beginning 180 days after the date such final rule is issued, in the case of any industrial or commercial structure for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act; and

(C) effective beginning January 1, 1982, in the case of—

(i) any municipal outdoor lighting fixture, and

(ii) any outdoor lighting fixture used in connection with a residence,

for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act.

(2) The rule prescribed under paragraph (1) shall provide that any industrial user of natural gas who obtains such natural gas under a contract between such user and a natural gas pipeline shall be prohibited from using such natural gas for outdoor lighting (unless an exemption has been obtained under subsection (c))—

(A) effective 180 days after the date such final rule takes effect, if the industrial user was using natural gas for outdoor lighting on the date of the enactment of this Act; or

(B) beginning on the date such final rule takes effect, if such industrial user was not so using natural gas on such date.

(c) EXEMPTIONS.—(1) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a) the installation of a replacement lighting fixture for any memorial light or light of historical signficance, and

(B) permanently exempt from a prohibition under subsection (b) the use natural gas in any memorial light or light of historial significance.

if a petition for such exemption is made by a Federal, State, or local government agency or by any appropriate historical association.

(2) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a), upon a petition therefor, the installation of a replacement lighting fixture for any natural gas outdoor lighting, and

(B) permanently exempt from a prohibition under subsection (b), upon a petition therefor, use of natural gas for outdoor lighting,

which is used for commercial purposes, which is of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located.

Petition, filing.

(3) The Secretary shall, by order, exempt any local distribution company or industrial user described in subsection (b)(2), from the rule required to be prescribed under subsection (b) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any other interested person. Such exemption shall be for such period as, and to the extent that, the Secretary finds—

(A) such exemption is necessary to protect the safety of persons or property;

(B) such exemption is necessary to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(C) compliance with such rule would entail substantial expense and would not be cost justified; or

(D) the issuance of the exemption is in the public interest and is consistent with the purposes of this Act.

(4) Determinations on any petition for an exemption under this section shall be made under criteria which the Secretary shall establish by rule, which rule shall be prescribed not later than 180 days after the effective date of this Act. Determinations.

(d) PROCEDURES.—Rules and orders under this section shall be made in accordance with the provisions of section 553 of title 5, United States Code, except that determinations on any petition for exemption under this section shall be made only after interested persons have been afforded an opportunity for a public hearing. Under rules prescribed by the Secretary, the Secretary may stay the application of any prohibition under subsection (b) applicable to any person pending the resolution of any petition for an exemption for such person. Hearing.

(e) AUTHORITY MAY BE DELEGATED TO STATES.—(1) Under regulations prescribed by the Secretary, the responsibility and authority of the Secretary with regard to outdoor lighting under this section may be delegated to the appropriate regulatory authority of a State if he determines that such delegation would be consistent with the purposes of this section.

(2) Any delegation under paragraph (1) shall be on terms and conditions prescribed by the Secretary and may be rescinded by the Secretary at any time by notifying the State authority of such rescission.

(3) Any State authority to which the Secretary has delegated authority under this subsection shall prepare and transmit reports to the Secretary on a periodic basis (as determined by the Secretary) on actions taken to carry out the purposes of this section. Reports, transmittal to Secretary.

(f) DEFINITIONS.— As used in this section—

(1) The term "outdoor lighting" means lighting by any stationary source which is not located inside any building.

(2) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(3) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(4) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with any such unit.

SEC. 403. CONSERVATION IN FEDERAL FACILITIES, CONTRACTS, AND FINANCIAL ASSISTANCE PROGRAMS.

(a) FEDERAL FACILITIES.—(1) Each Federal agency owning or operating any electric powerplant, major fuel-burning installation, or other unit shall comply with any prohibition, term, condition, or other substantial or procedural requirement under this Act, to the same extent as would be the case if such powerplant, installation, or unit were owned or operated by a nongovernmental person. 42 USC 8373.

Exemption order by President.

(2) The President may, by order, exempt from the application of paragraph (1) any powerplant, installation, or other unit owned or operated by any Federal agency, if the President determines that—

(A) such use is in the paramount interest of the United States and that the powerplant, installation, or unit involved is a component of or is used solely in connection with any weaponry, equipment, aircraft, vessels, vehicles or other classes or categories of property which—

(i) are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State; and

(ii) are uniquely military in nature; or

(B) there is a lack of appropriation for such use but only if the President specifically requested such appropriations as a part of the budgetary process and the Congress failed to make available such requested appropriation.

Transmittal to Congress.

Such order shall not take effect until 60 days after a copy of such order has been transmitted to each House of the Congress. The President shall review each such determination every 2 years and submit a report to the Congress on the results of such review. Any powerplant, installation, or other unit permitted to use natural gas or petroleum under an exemption under this paragraph shall establish and carry out effective fuel conservation measures, as determined by the Secretary.

Review, submittal to Congress.

(3) Any powerplant, installation, or unit owned or operated by any such Federal agency shall be entitled to any exemption by the Secretary to the same extent, in the same manner, and under the same terms and conditions as would apply if it were owned or operated by a nongovernmental person.

(b) FEDERAL CONTRACTS AND FINANCIAL ASSISTANCE.—(1) In order to implement the purposes of this Act, the President shall, not later than 30 days after the effective date of this Act, issue an order—

Requirements.

(A) requiring each Federal agency which is authorized to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purposes of this Act relating to the conservation of petroleum and natural gas, by rule, in such contracting or assistance activities within 180 days after issuance of such order, and

Annual reports, transmittal to President and public availability.

(B) setting forth procedures, sanctions, penalties, and such other provisions as the President determines necessary to carry out such requirement effectively, including a requirement that each agency annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(2) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this subsection if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

Written notification to Congress.

(3) The President or any Federal agency may not use the authority granted under paragraph (1) to require compliance, including the use of coal, by any person or facility with any prohibition under other sections of this Act if such person or facility has been specifically determined by the Secretary as subject to such prohibition or has been exempted from the application of such prohibition.

Submittal to Congress.

(c) ANNUAL REPORT.—The President shall annually submit a detailed report to each House of the Congress on the actions taken by

the President and each Federal agency to implement this section, including the progress and problems associated with implementation of this section.

SEC. 404. EMERGENCY AUTHORITIES.

(a) COAL ALLOCATION AUTHORITY.—(1) If the President— 42 USC 8374.

(A) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or 42 USC 6202.

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal (and require the transportation thereof) for the use of any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

(2) For purposes of this subsection, the term "coal" mans anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof). "Coal."

(b) EMERGENCY PROHIBITION ON USE OF NATURAL GAS OR PETROLEUM.—If the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, 42 USC 6202. the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Notwithstanding any other provision of this section, any suspension of emission limitations or other requirements of applicable implementation plans, as defined in section 110(d) of the Clean Air Act, required 42 USC 7410. by such prohibition shall be issued only in accordance with section 110(f) of the Clean Air Act.

(c) EMERGENCY STAYS.—The President may, by order, stay the application of any provision of this Act, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) DURATION OF EMERGENCY ORDERS.—(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section. Transmittal to Congress. 42 USC 6421. Congressional review.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act. 42 USC 6421.

(4) For purposes of this subsection, the provisions of this subsection supersede the provisions of title II of the Act of September 14, 1976 (Public Law 94-412; 50 U.S.C. 1621 and following).

(e) DELEGATION OF AUTHORITY PROHIBITED.—The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations or take such other action, consistent with this section, in the implementation of such order.

Publication in Federal Register.

(f) PUBLICATION AND REPORTS TO CONGRESS OF ORDERS.—Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to the Congress of his intention to issue such order and state his reasons therefor.

Ante, p. 3292.

(g) EMERGENCY USES OF NATURAL GAS OR PETROLEUM.—(1) During a temporary emergency condition (other than emergency conditions provided for under section 103(a)(15)), any person operating a peakload powerplant or a major fuel-burning installation may, under rules prescribed by the Secretary, use natural gas or petroleum as a primary energy source in such powerplant or installation, notwithstanding any prohibition otherwise imposed by or pursuant to this Act, if—

(A) such person notifies the Secretary within 24 hours after commencing such use; and

(B) the Secretary has not notified such person that in his judgment the emergency condition does not exist or does not warrant the use of natural gas or petroleum involved.

(2) Within 90 days after the effective date of this Act, the Secretary shall, by rule, prescribe the form and content of such notices and the conditions which may constitute a temporary emergency.

(3) Hours of operation allowed under paragraph (1) shall not be included in the peakload powerplant's operating hours for the purposes of the penalties in section 723(b).

SEC. 405. AUTHORITY TO RESTRICT INCREASED USES OF PETROLEUM BY EXISTING POWERPLANTS.

42 USC 8375.

The Secretary shall, by rule, require that, in the case of any existing electric powerplant which during calendar year 1977 uses coal or another alternate fuel as a primary energy source, petroleum may not be used in such powerplant as a primary energy source in excess of the quantities of petroleum used in such powerplant as a primary energy source during such year unless a permit is issued by the Secretary authorizing such increased use of petroleum. Such permit shall be issued if—

Permit, issuance.

(1) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary (A) that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of such permit and (B) the petitioner has established the duration of the need for increased petroleum to comply with such plan; and

42 USC 7401 note.

42 USC 7410.

(2) the appropriate State regulatory authority has certified to the Secretary that the increased use of petroleum by such powerplant is necessary to prevent impairment of reliability of service.

Such permit shall be issued only for such period as the Secretary determines necessary under paragraph (1) or (2) for such increased use of petroleum.

TITLE V—SYSTEM COMPLIANCE OPTION

SEC. 501. ELECTRIC UTILITY SYSTEM COMPLIANCE OPTION.

42 USC 8391.

(a) GENERAL RULE.—Existing electric powerplants owned or operated by an electric utility shall be considered in compliance with any prohibition under title III relating to the use of natural gas if there is in effect a plan of system compliance for such utility approved by the Secretary under subsection (b). No exemption under title III relating to the use of natural gas shall be available for any powerplant which is, or has ever been, covered by such an approved plan (other than an exemption under section 312(e)).

(b) REQUIREMENTS FOR PLAN APPROVAL.—The Secretary shall, by order, approve any plan of system compliance submitted by an electric utility to the Secretary before January 1, 1980, if the Secretary finds that such plan—

(1) identifies all powerplants owned or operated by such electric utility and indicates which of the powerplants—

(A) would be subject to, or could be subject to, prohibitions under title III relating to the use of natural gas if such plan were not approved; and

(B) of those so indicated in subparagraph (A), would be, or in the opinion of such electric utility would be likely to be, entitled to an exemption under title III relating to the use of natural gas if such plan were not approved;

(2) contains a commitment that, if such plan is approved, no new electric powerplant which is or is to be a base load powerplant owned or operated by such utility shall use natural gas or petroleum as its primary energy source (whether or not such powerplant could qualify for an exemption under title II for such use); *Ante*, p. 3298.

(3) contains a commitment (including a schedule for an orderly progression in satisfying such commitment) that, if such plan is approved, all existing electric powerplants owned or operated by such utility—

(A) subject to subparagraph (B), on and after January 1, 1995, would not use natural gas as a primary energy source, except in the case of an intermediate load powerplant or a peakload powerplant, and then only in accordance with rules prescribed by the Secretary; and

(B) on and after January 1, 2000, would not use natural gas as a primary energy source except in the case of a temporary extension obtained under subsection (d);

(4) contains a commitment that, if such plan is approved, natural gas will not, on and after January 1, 1990, be used by powerplants owned or operated by such utility in excess of—

(A) 20 percent (or such higher percentage as may be allowed under subsection (d)(2)) of the electric utility's base period usage of natural gas, or, if lower,

(B) the electric utility's minimum peakload requirement for the calendar year;

(5) contains a commitment that, if such plan is approved, the natural gas used by such utility will be obtained only under—

(A) a contract entered into before the date of the enactment of this Act (other than under an extension or renewal of such contract occurring on or after such date); or

(B) a contract entered into on or after such date, or an extension or renewal occurring on or after such date of a con-

tract entered into before such date, but only if such contract, extension, or renewal has been approved by the Secretary under subsection (g); and

(6) contains a 10-year forecast of such utility's demand for electricity, a 10-year construction forecast, and a 10-year financial plan, which provide a reasonable basis for concluding that the commitments in such plan will be carried out.

Approval of the Secretary under this subsection shall be conditioned on the utility involved updating on an annual basis the information contained in such plan to the extent provided under rules prescribed by the Secretary.

(c) PLAN REVISION.—A plan under subsection (b) may be revised but only if the Secretary, by order, approves such revision.

(d) EXTENSION FOR EMERGENCY OR PEAKLOAD PURPOSES.—(1) For purposes of subsection (b)(3)(B), the Secretary may extend the date specified therein for not more than 5 years with respect to the use of natural gas by any powerplant if it is demonstrated that such use of natural gas is to be—

(A) for emergency purposes consistent with section 312(e), or

(B) for peakload purposes, consistent with section 312(f).

(2) The Secretary may exempt from the requirements of subsection (b)(4) such quantities of natural gas as would otherwise exceed such requirement if it is demonstrated that such natural gas is used solely for emergency or peakload purposes described in paragraph (1)(A) or (B).

(e) DETERMINATION OF BASE PERIOD USAGE.—(1) For purposes of subsection (b)(4)(A), an electric utility's base period usage of natural gas shall be the sum of—

(A) the quantities of natural gas used in calendar year 1976 by powerplants which are owned or operated by such utility and which were placed in service on or before January 1, 1976; plus

(B) one-half of the quantities used during the first 24 calendar-months after being placed in service by powerplants which are owned or operated by such utility and which were placed in service after January 1, 1976, and before the effective date of this Act.

Higher percentage allowance.

(2) The Secretary may allow for the substitution of a higher percentage for the 20 percent specified in subparagraph (A) of subsection (b)(4) if he determines that the utility has demonstrated that such higher percentage is necessary—

(A) because of delays which occurred, despite diligent good faith efforts, in the construction of powerplants which will use a primary energy source other than natural gas, or

(B) because it would not be feasible for such utility to comply with the requirements of such subsection (b)(4) in the absence of such higher percentage without impairing reliability of service.

(f) DETERMINATION OF MINIMUM PEAKLOAD REQUIREMENT.—For purposes of subsection (b)(4)(B), an electric utility's minimum peakload requirement for any calendar year shall be defined as the total kilowatt hours generated during the calendar year by natural gas on the system of the applicant electric utility company system divided by the aggregate capacity of all the electric powerplants in such system, but not to exceed 1,500 full-load hours per year.

(g) APPROVAL OF NATURAL GAS CONTRACTS.—The Secretary shall approve any contract, or contract extension or renewal, for purposes of applying subsection (b)(5)(B) with respect to any plan, if he

determines that the electric utility which submitted such plan has demonstrated that the quantities available under such contract, or extension or renewal, do not exceed those which are necessary to meet the requirements of the powerplants under such plan. The Secretary may not approve any contract, or extension or renewal, which provides for the delivery of such natural gas after December 31, 1999.

(h) TERMS AND CONDITIONS.—Any approval by the Secretary under subsection (b) shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act.

TITLE VI—FINANCIAL ASSISTANCE

SEC. 601. ASSISTANCE TO AREAS IMPACTED BY INCREASED COAL OR URANIUM PRODUCTION.

(a) DESIGNATION OF IMPACTED AREAS.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State may designate any area within such State for the purposes of this section, if he finds that— 42 USC 8401.

(A) either (i) employment in coal or uranium production development activities in such area has increased for the most recent calendar year by 8 percent or more from the immediately preceding year or (ii) employment in such activities will increase 8 percent or more per year during each of the 3 calendar years beginning after the date of such finding;

(B) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and

(C) the State and the local government or governments serving such area lack the financial and other resources to meet any such increases in public facilities and services within a reasonable time.

The Secretary of Agriculture shall prescribe a rule containing criteria and guidelines for making a designation under this subsection, after consultation with the Secretary of Labor and the Secretary of Energy, not later than 180 days after the effective date of this Act. Rule. Consultation.

(2) For purposes of paragraph (1)(C), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments which are associated with the increase in coal or uranium development activities and which are not prohibited from being used under provisions of law in effect on the date of the enactment of this Act shall be taken into account in determining if a State or local government lacks financial resources.

(3) The Secretary shall, after consultation with the Secretary of Agriculture, approve any designation of an area under paragraph (1) only if— Consultation.

(A) the Governor of the State making the designation provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and Written data and information.

(B) the Secretary determines that the requirements of subparagraphs (A), (B), and (C) of paragraph (1) have been met.

(b) PLANNING GRANTS.—(1) The Secretary of Agriculture may make a grant to any State in which there is an area designated and

approved under subsection (a) for the purposes of developing a plan for such area which shall include determinations of—

(A) the anticipated level of coal or uranium production activities in such area;

(B) the socio-economic impacts which have occurred or which are reasonably projected to occur as a result of the increase in coal or uranium production activities;

(C) the availability and location of resources within such area to meet the increased needs resulting from socio-economic impacts determined under subparagraph (B) (such as any increased need for housing, or public facilities and services); and

(D) the nature and expense of measures necessary to meet within a reasonable time the increased needs resulting from such impact for which there are no resources reasonably available other than under this section.

(2)(A) Any grant for developing a plan under this subsection shall be for an amount equal to 100 percent of the costs of such plan, as determined by the Secretary of Agriculture.

(B) The aggregate amount granted under this subsection in any fiscal year may not exceed 10 percent of the total amount appropriated for purposes of this section for such year.

Plan copy, submittal to Secretary of Agriculture.

(3) The Governor of a State receiving a grant under this subsection for developing a plan shall submit a copy of such plan to the Secretary of Agriculture as soon as practicable after it has been prepared.

(c) LAND ACQUISITION AND DEVELOPMENT GRANTS.—(1) In the case of any real property—

(A) within an area for which a plan meeting the requirements of subsection (b)(1) has been approved;

(B) which is for housing or public facilities determined in such plan as necessary due to an increase in employment due to coal or uranium development activities;

(C) with respect to which the Secretary of Agriculture has determined that the State and the local governments serving such area do not have the financial resources to acquire or the legal authority to acquire by condemnation; and

(D) with respect to which there has been an approval in writing by the Governor of such State that the Secretary of Agriculture exercise his authority under this paragraph;

the Secretary of Agriculture may acquire such real property or interest therein, by purchase, donation, lease, or exchange. Property so acquired shall be transferred to the State under such terms and conditions as the Secretary of Agriculture deems appropriate. Such terms and conditions shall provide for the reimbursement to the Secretary of Agriculture for the fair market value of the property, as determined by the Secretary of Agriculture. The value of any improvement of such property made after such acquisition shall not be taken into account in determining the fair market value of such property under this subsection. Amounts so received by the Secretary of Agriculture shall be deposited in the Treasury of the United States as miscellaneous receipts.

Treasury deposits.

State commitment.

(2) Any approval by a Governor of a State under paragraph (1)(D) shall constitute a binding commitment of such State to accept the property to be acquired and to provide reimbursement for the amount of the fair market value of such property, as determined under paragraph (1).

(3) The Secretary of Agriculture may acquire property under paragraph (1) by condemnation only if he finds that—

(A) such property is not available by means other than condemnation at a price which does not substantially exceed the fair market value of such property;

(B) other real property is not similarly available which is within the same designated area and which is suitable for the purposes to which the property involved is to be applied; and

(C) the State and the local governments serving such area lack the legal authority to acquire such property by condemnation.

(4)(A) In the case of any real property which meets the requirements of subparagraphs (A), (B), and (C) of paragraph (1), the Secretary of Agriculture may make a grant to the State in which such property is located for the purposes of acquiring such property, and for any site development which is consistent with the plan developed under subsection (b).

(B) In the case of property acquired by the Secretary of Agriculture under paragraph (1) and transferred to the State, the Secretary of Agriculture may make a grant to such unit of government for the purposes of site development which is consistent with such plan.

(C) Grants for real property acquisition or site development or both under this paragraph may not exceed 75 percent of the costs thereof, as determined by the Secretary of Agriculture.

(5) In the selection of real property for acquisition and in such acquisition under this subsection, preference shall be given to real property which the Secretary of Agriculture determines at such time to be unoccupied or previously mined and abandoned.

Indian property.

(6)(A) Property held by the United States in trust for Indians or any Indian tribe may not be acquired by condemnation under this section.

National Forest property.
16 USC 1608.

(B) No property within the National Forest System (as defined in section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974) may be exchanged by the Secretary in any acquisition under paragraph (1).

(d) GENERAL REQUIREMENTS REGARDING ASSISTANCE.—(1) Assistance under this section shall be provided only upon application, which application shall contain such information as the Secretary of Agriculture shall prescribe.

(2) The Secretary of Agriculture may make any grant under this section in whole or in part to the local government or governments serving an area designated and approved under subsection (a), or to a council of local governments which includes one or more local governments serving such area (in lieu of making such grant solely to the State), if he has determined, after consultation with the Governor of the State, that to do so would be appropriate.

Allocation criteria.

(3) The Secretary of Agriculture shall prescribe, by rule, criteria for the allocation of assistance under this section. Such criteria shall give due weight to the magnitude of the employment increase involved, the financial resources of the designated area, and the ratio of the financial burden on the area to the resources available to such area.

(4) Assistance under this section shall be provided only if the Secretary of Agriculture is satisfied that—

(A) the amounts expended by the State and the local governments involved for the same purposes for which such assistance is provided will not be reduced; and

(B) the amount of such assistance does not reflect any amount for which other Federal financial assistance is provided or on proper application would be provided.

(e) DEFINITIONS.—For the purposes of this section—

(1) The term "coal or uranium development activities" means the production, processing, or transportation of coal or uranium.

(2) The term "site development" means necessary off-site improvements, such as the construction of sewer and water connections, construction of access roads, and appropriate site restoration, but does not include any portion of the construction of housing or public facilities.

Transmittal to Secretary of Energy.

(f) REPORTS.—Any person regularly engaged in any coal or uranium development activity within an area designated and approved under subsection (a) shall prepare and transmit a report to the Secretary of Energy within 90 days after a written request to such person by the Governor of the State in which such area is located. Such report shall include—

Contents.

(1) projected employment levels for such activity by such person within such area during each of the following 3 calendar years;

(2) the projected increase in employees in such area to engage in such activity during each of such calendar years;

(3) the projected quantity of coal (or uranium) to be produced, processed, or transported by such person during each of such calendar years; and

(4) actions such companies plan to take or are taking to provide needed housing and other facilities for their employees directly or by providing funds to the States or local communities for this purpose.

Copies, availability and public review. 15 USC 796.

Copies of the report shall be provided to the Secretary of Energy and the Secretary shall, subject to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, provide the report to the Secretary of Agriculture, the Governor, and the appropriate county or local officials and make it available for public review.

(g) ADMINISTRATION.—The Secretary of Agriculture shall carry out his responsibilities under this section through the Farmers Home Administration and such other agencies within the Department of Agriculture as he may determine appropriate.

(h) APPROPRIATIONS AUTHORIZATION.—(1) There is hereby authorized to be appropriated to the Secretary of Energy for purposes of this section, $60,000,000 for fiscal year 1979 and $120,000,000 for fiscal year 1980. The Secretary of Energy and the Secretary of Agriculture shall enter into an agreement for the allocation of funds appropriated pursuant to this section for carrying out their respective responsibilities under this section, including the amounts for personnel and administrative costs, and upon such agreement, the Secretary of Energy shall transfer to the Secretary of Agriculture amounts determined under that agreement.

Agreement, funds allocation and transfer.

(i) PROTECTION FROM CERTAIN HAZARDOUS ACTIONS.—Federal agencies having responsibilities concerning the health and safety of any person working in any coal, uranium, metal, or nonmetallic mine regulated by any Federal agency shall interpret and utilize their authorities fully and promptly, including the promulgation of standards and regulations, to protect existing and future housing, property, persons, and public facilities located adjacent to or near active and abandoned

coal, uranium, metal, and nonmetallic mines from actions occurring at such activities that pose a hazard to such property or persons.

(j) REORGANIZATION.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this section may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of this Act. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department. 5 USC 901 *et seq.*

SEC. 602. LOANS TO ASSIST POWERPLANT ACQUISITIONS OF AIR POLLUTION CONTROL EQUIPMENT.

(a) AUTHORITY TO MAKE LOANS.—The Secretary may, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, make a loan (and may make a commitment to loan) to any person who owns or operates any existing electric powerplant converting to coal or other alternate fuel as its primary energy source after the effective date of this Act for the purpose of financing the purchase and installation of one or more certified air pollution control devices for such electric powerplant. 42 USC 8402.

(b) LIMITATIONS AND CONDITIONS.—A loan made under this section shall—

(1) not exceed two-thirds of the cost of purchasing and installing the certified air pollution control devices;

(2) have a maturity date not extending beyond 10 years after the date such loan is made;

(3) bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield of outstanding Treasury obligations of comparable maturity, plus (B) 1 percent; Interest rate.

(4) be made on the condition of payment to the Secretary of a loan fee in an amount equal to (A) such insurance fee as the Secretary determines is necessary to avoid a Federal revenue loss under this section, plus (B) 1 percent of the loan amount; and

(5) be made only if the Secretary finds that—

(A) the financial assistance applied for is not otherwise available from other Federal agencies;

(B) the applicant is unable to obtain sufficient funds on reasonable terms and conditions from any other source;

(C) there is continued reasonable assurance of full repayment of the principal, interest, and fees; and

(D) competition among private entities for the provision of air pollution control devices for electric powerplants using coal as their primary energy source to be assisted under this section will be in no way limited or precluded.

(c) ALLOCATION AND PRIORITIES.—In making loans or commitments to loan pursuant to this section, the Secretary shall—

(1) allocate a minimum of 25 percent of available financial assistance to existing small municipal and rural powerplants; and

(2) give priority consideration to requests for financial assistance by existing electric powerplants subject to any prohibition under title III (or under section 2 of the Energy Supply and Environmental Coordination Act of 1974). *Ante*, p. 3305. 15 USC 792.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "certified pollution control device" means a new identifiable device which—

(A) is used, in connection with a powerplant, to abate or control atmospheric pollution by removing, altering, disposing, storing, or preventing the emission of pollutants;

(B) the appropriate State air pollution control agency has certified to the Administrator of the Environmental Protection Agency that such device is needed to meet, and is in conformity with, State requirements for abatement or control of atmospheric pollution or contamination;

(C) the Administrator of the Environmental Protection Agency has certified to the Secretary as not duplicating or displacing existing air pollution control devices with a remaining useful economic life in excess of 2 years and as otherwise being in furtherance of the requirements and purposes of the Clean Air Act;

42 USC 7401 note.

(D) does not constitute or include a building, or a structural component of a building, other than a building used exclusively for the purposes set forth in subparagraph (A); and

(E) the construction of which began after the effective date of this Act.

(2) The term "small municipal or rural cooperative electric powerplant" means an electric generating unit, which—

(A) by design is not capable of consuming fuel at a fuel heat input rate in excess of a rate determined appropriate by the Secretary by rule; and

(B) is owned or operated by a municipality or a rural electric cooperative.

(e) RECORDS.—(1) The Secretary shall require all persons receiving financial assistance under this section to keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Access.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the later of—

(A) the expiration of 3 years after completion of the project or undertaking referred to in subsection (a), or

(B) full repayment of interest and principal on a loan made under this section, occurs,

have access for the purposes of audit, evaluation, examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to such loan.

(f) DEFAULT.—(1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Secretary under this section and such default has continued for 90 days, the Secretary has the right to demand payment of such unpaid amount, unless the Secretary finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligor has been accepted by the Secretary.

(2) In demanding payment of unpaid interest or principal by the obligor, the Secretary has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such loan or related agreements.

(3) If there is a default under any loan, the Secretary shall notify the Attorney General who shall take such action against the obligator or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit. Notification of Attorney General.

(g) DEPOSIT OF RECEIPTS.—Amounts received by the Secretary as principal, interest, fees, proceeds from security acquired following default, or other amounts received by the Secretary in connection with loans made under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

(h) AUTHORIZATION OF APPROPRIATION.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section, but not to exceed $400,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980. Authority granted to the Secretary under subsection (a) may be exercised only to the extent as may be provided in advance in appropriation Acts.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

Subtitle A—Procedures

SEC. 701. ADMINISTRATIVE PROCEDURES.

(a) GENERAL RULE MAKING.— Except to the extent otherwise provided in this section or other provisions of this Act, rules prescribed under this Act shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code. 42 USC 8411.

(b) NOTICES OF RULES AND ORDERS IMPOSING PROHIBITIONS.—Before the Secretary prescribes any rule or issues any order imposing a prohibition under this Act (other than under section 402), he shall publish such proposed rule or order in the Federal Register, together with a statement of the reasons for such rule or order and, in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. A copy shall be transmitted to the person who operates any such powerplant or installation required to be specifically identified in such rule or order. Publication in Federal Register.

(c) PETITIONS FOR EXEMPTIONS.—(1) Any petition for an exemption from any prohibition under this Act or for any permit under section 405, shall be filed at such time and shall be in such form as the Secretary shall by rule prescribe. The Secretary, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a statement of the reasons set forth in such a petition for requesting such exemption or permit, and provide a period of public comment of at least 45 days for written comments thereon. Rules required under this paragraph shall be prescribed not later than 120 days after the date of the enactment of this Act. Publication in Federal Register. Public comment period.

(2) The Secretary, upon receipt of such petition, shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of the electric powerplant or, where appropriate, major fuel-burning installation which is the subject of such petition, and, to the maximum extent practicable, consult with such agencies.

Publication in Federal Register.

(3) The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption or permit, shall issue a final order granting or denying the petition for such exemption or permit, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.

(4) Any order for the approval of a system compliance plan under section 501, and any petition for such an order, shall be treated for purposes of this title the same as an order (or petition) for an exemption.

(d) PUBLIC COMMENT ON PROHIBITIONS AND EXEMPTIONS.—(1) In the case of any proposed rule or order by the Secretary imposing a prohibition or any petition for any order granting an exemption (or permit) under this Act (other than under section 402), any interested person shall be afforded an opportunity to present oral data, views,

Public hearing.

and arguments at a public hearing. At such hearing any interested person shall have an opportunity to question—

(A) other interested persons who make oral presentations,

(B) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of such petition, and

(C) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation,

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received,

Evidence.

but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

(2) A rule or order subject to this section may not be issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.

(e) TRANSCRIPT.—A transcript shall be kept of any public hearing made in accordance with this section.

(f) ENVIRONMENTAL PROTECTION AGENCY COMMENT.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404), or a petition for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency and the Secretary shall request such agency to comment thereon within the period provided to the public unless a longer period is provided

42 USC 7401 note.

under the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same oppor-

tunity to comment and question as is provided other interested persons under subsection (d).

(g) FEDERAL TRADE COMMISSION COMMENT.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404) with respect to a major fuel-burning installation or a boiler subject to section 401 or a petition by such installation or boiler for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public. In any such case, the Federal Trade Commission shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d).

(h) COORDINATION WITH OTHER PROVISIONS OF LAW.—(1) Except as provided in sections 702(c)(4), 723(d)(5), and 724 of this Act, title V of the Department of Energy Organization Act (42 U.S.C. 7191, et seq.) shall not apply with respect to this Act.

(2) The preceding provisions of this section shall not apply with respect to any exercise of authority under section 404.

(3) The procedures applicable under this Act shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this Act (or provisions of law cited herein), or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this Act, and declaring that such provision supersedes, in whole or in part, the procedures of this Act.

SEC. 702. JUDICIAL REVIEW.

(a) PUBLICATION AND DELAY OF PROHIBITION OR EXEMPTION TO ALLOW FOR REVIEW.—Any final rule or order prescribed by the Secretary imposing a prohibition or granting an exemption (or permit) under this Act shall be published in the Federal Register, and shall not take effect earlier than the 60th calendar day after such rule or order is published. 42 USC 8412. Publication in Federal Register.

(b) PUBLICATION OF DENIAL OF EXEMPTION OR PERMIT.—Any final order issued by the Secretary denying any petition for an exemption or a permit under this Act shall be published in the Federal Register, together with the reasons for such action. Publication in Federal Register.

(c) JUDICIAL REVIEW.—(1) Any person aggrieved by any final rule or order referred to in subsection (a) or in section 404, or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b), may at any time before the 60th day after the date such rule, order, or denial is published under subsection (a) or (b), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule or order was based as provided in section 2112 of title 28, United States Code. Transmittal to Secretary. Written submissions and transcript.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule, order, or denial in accordance with chapter 7 of title 5, United States Code, and to 5 USC 701 *et seq.*

grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule, order, or denial shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) Subject to the direction and control of the Attorney General, as provided in section 519 of title 28, United States Code, attorneys appointed by the Secretary may appear for and represent the Secretary in any proceeding instituted under this section in accordance with section 502(c) of the Department of Energy Organization Act.

42 USC 7192.

Subtitle B—Information and Reporting

SEC. 711. INFORMATION.

42 USC 8421.

(a) AUTHORITY OF SECRETARY.—For purposes of carrying out his responsibilities under this Act, the Secretary may require, under the authority of this Act or any other authority administered by him, any person owning, operating or controlling any electric powerplant or major fuel-burning installation, or any other person otherwise subject to this Act to submit such information and reports of any kind or nature directly to the Secretary necessary to implement the provisions of this Act and insure compliance with the provisions of this Act, and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.

15 USC 796.

(b) AUTHORITY OF PRESIDENT AND FEDERAL ENERGY REGULATORY COMMISSION.—In the case of responsibilities expressly given by this Act to the President or the Federal Energy Regulatory Commission, subsection (a) shall be applied as if the references to the Secretary were references to the President or the Federal Energy Regulatory Commission, as the case may be.

SEC. 712. COMPLIANCE REPORT.

42 USC 8422.

Any person owning, operating, or proposing to operate one or more existing electric powerplants required to come into compliance with the prohibitions of this Act shall on or before January 1, 1980, and annually thereafter, submit to the Secretary a report identifying all such existing electric powerplants owned or operated by such person. Such report shall—

Contents.

(1) set forth the anticipated schedule for compliance with the applicable requirements and prohibitions by each such electric powerplant;

(2) indicate proposed or existing contracts or other commitments or good faith negotiations for such contracts or commitments for coal or another alternate fuel, equipment, or combinations thereof, which would enable such powerplant to comply with such prohibitions; and

(3) identify those electric powerplants, if any, for which application for temporary or permanent exemption from the prohibitions of this Act may be filed.

Subtitle C—Enforcement

SEC. 721. NOTICE OF VIOLATION; OTHER GENERAL PROVISIONS.

(a) NOTICE OF VIOLATION.—(1) Whenever, on the basis of any information available, the Secretary finds that any person is in violation of any provision of this Act, or any rule or order thereunder, the Secretary shall issue notice of such violation. Any notice issued under this subsection shall be in writing and shall state with reasonable specificity the nature of the violation. 42 USC 8431.

(2) Paragraph (1) shall not be construed to relieve any person of liability under the other provisions of this Act for any act or omission occurring before the issuance of notice.

(b) INDIVIDUAL LIABILITY OF CORPORATE PERSONNEL.—Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this Act, or any rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under section 722, unless he also knew of noncompliance by the corporation or had received from the Secretary notice of noncompliance by the corporation.

(c) LIABILITY FOR CERTAIN PEAKLOAD OPERATION.—No person shall be subject to any penalty under this subtitle with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Secretary that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant—

(1) were unavailable for service—

(A) due to unit or system outages; or

(B) because operation of such other powerplants would result in their exceeding the hours of operation allowed under an exemption; and

(2) have not been operated other than to meet peakload demand.

(d) FEDERAL AGENCIES.—The provisions of sections 722 and 723 shall not be construed to apply to any Federal agency or officer or employee thereof acting in his official capacity.

SEC. 722. CRIMINAL PENALTIES.

Any person who willfully violates any provision of this Act (other than section 402), or any rule or order thereunder, shall be subject to a fine of not more than $50,000, or to imprisonment for not more than one year, or both, for each violation. 42 USC 8432.

SEC. 723. CIVIL PENALTIES.

(a) GENERAL CIVIL PENALTY.—Any person who violates any provision of this Act (other than section 402), or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Secretary, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation. 42 USC 8433.

(b) CIVIL PENALTIES FOR OPERATION OR USE OF FUELS IN EXCESS OF EXEMPTION.—(1) In the case of any electric powerplant granted an exemption, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per

barrel of petroleum or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(2) Any person operating a major fuel-burning installation granted an exemption which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per barrel of petroleum or $3 per Mcf of natural gas which was used in excess of that use allowed by such exemption.

(c) PENALTIES FOR VIOLATION OF SECTION 402.—(1) Any person who violates any prohibition under subsection (b)(1) of section 402 with respect to providing of natural gas service to any person for use in outdoor lighting shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 for each outdoor lighting fixture involved.

(2) Any industrial user who violates prohibition under subsection (b)(2) of section 402 shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 per day of violation for each outdoor lighting fixture involved which was used by an industrial customer, but not to exceed $5,000 per outdoor lighting fixture involved.

(3) The penalties under this subsection shall only apply in the case of a violation by any person who at the time of the violation had knowledge or reasonably should have had knowledge that the action involved was prohibited under section 402.

(d) ASSESSMENT.—(1) Before issuing an order assessing a civil penalty against any person under this Act, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

Agency hearing.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

5 USC 701 note.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

Payment.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A),

the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review. Failure to pay.

(5)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate. 42 USC 7192.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection. 42 USC 7172.

SEC. 724. INJUNCTIONS AND OTHER EQUITABLE RELIEF.

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this Act, or any rule or order thereunder, a civil action, may be brought, in accordance with section 502(c) of the Department of Energy Organization Act, in the appropriate district court of the United States to enjoin such acts or practices, and, upon a proper showing, the court shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief. 42 USC 8434. 42 USC 7192.

SEC. 725. CITIZENS SUITS.

(a) GENERAL RULE.—Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against the Secretary or the head of any Federal agency which has a responsibility under this Act if there is an alleged failure of the Secretary or such agency head to perform any act or duty under this Act which is not discretionary. The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties. 42 USC 8435.

(b) NOTICE TO SECRETARY OR AGENCY HEAD.—No action may be commenced under subsection (a) before the 60th calendar day after the date on which the plaintiff has given notice of such action to the Secretary or the agency head involved. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by rule.

(c) AUTHORITY OF SECRETARY TO INTERVENE.—In any action brought under subsection (a), the Secretary, if not a party, may intervene as a matter of right.

(d) COSTS OF LITIGATION.—The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) OTHER REMEDIES TO REMAIN AVAILABLE.—Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this Act or any rule thereunder, or to seek any other relief (including relief against the Secretary or the agency head involved).

Subtitle D—Preservation of Contractual Rights

SEC. 731. PRESERVATION OF CONTRACTUAL INTEREST.

42 USC 8441.

(a) RIGHT TO TRANSFER CONTRACTUAL INTERESTS.—(1) If any person receives natural gas, the use of which is prohibited by the provisions of title II or title III or any rule or order thereunder, and if such natural gas is received pursuant to a contract in effect on April 20, 1977, between such person and any other person, such person receiving such natural gas may transfer all or any portion of such person's contractual interests under such contract and receive consideration from the person to whom such contractual interests are transferred. The consideration authorized by this subsection shall not exceed the maximum consideration established as just compensation under this section.

(2) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred pursuant to paragraph (1) shall be entitled to receive just compensation (as determined by the Commission) from the person to whom such contractual interests are transferred.

(b) DETERMINATION OF CONSIDERATION.—(1) The Commission shall, by rule, establish guidelines for the application on a regional or national basis (as may be appropriate) of the criteria specified in subsection (e)(1) to determine the maximum consideration permitted as just compensation under this section.

(2) The person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are transferred may agree on the amount of, or method of determining, the consideration to be paid for such transfer and certify such consideration to the Commission. Except as provided in paragraph (4), such agreed-upon consideration shall not exceed the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1).

(3) In the event the person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are to be transferred fail to agree, under paragraph (2), on the amount of, or method of determining, the consideration to be paid for such trans-

fer, the Commission may, at the request of both such persons, prescribe the amount of, or method of determining, such consideration. Upon the request of either such person, the Commission shall make such determination on the record, after an opportunity for agency hearing. In any such latter case, the determination of the Commission shall be binding upon the party requesting that such determination be made on the record of the agency hearing. The consideration prescribed by the Commission shall not exceed the maximum consideration permitted as just compensation under this section. In prescribing the amount of, or method of determining, consideration under this paragraph, to the maximum extent practicable, the Commission shall utilize any liquidated damages provision set forth in the applicable contract, but in no event may the Commission prescribe consideration in excess of the maximum consideration permitted as just compensation under this section. Agency hearing.

(4) In the event that the consideration agreed upon under paragraph (2) exceeds the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1), the Commission may approve such agreed-upon consideration if the Commission determines such agreed-upon consideration does not exceed the maximum consideration permitted as just compensation under this section.

(5) If consideration is agreed upon under paragraph (2) and such consideration exceeds the consideration determined by application of the guidelines prescribed under paragraph (1), but does not exceed the maximum consideration permitted as just compensation under this section, the Commission may not require a refund of any portion of the agreed-upon consideration paid with respect to deliveries of natural gas occurring prior to the Commission's action under paragraph (4) approving or disapproving such consideration unless the Commission determines—

(A) such agreed-upon consideration was fraudulently established;

(B) the processing of the request for approval of such agreed-upon consideration under paragraph (4) was willfully delayed by a party to the transfer; or

(C) such agreed-upon consideration exceeds the maximum consideration permitted as just compensation under this section.

(c) RESTRICTIONS ON TRANSFERS UNENFORCEABLE.—(1) Any provision of any contract, which prohibits any transfer authorized by subsection (a)(1) or terminates such contract on the basis of such transfer, shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (a)(1).

(d) CONTRACTUAL OBLIGATIONS UNAFFECTED.—The person acquiring contractual interests transferred pursuant to subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This subsection shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "just compensation", when used with respect to any transfer of contractual interests authorized by subsection (a)(1),

means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (excluding capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred under subsection (a)(1), in direct association with the use of a fuel, other than natural gas, as a primary energy source by the applicable existing electric powerplant or major fuel-burning installation, exceed

(B) the price of natural gas under such contract during such period.

For purposes of subparagraph (A), the reasonable costs associated with the use of a fuel, other than natural gas, as a primary energy source shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises containing such electric powerplant or major fuel burning installation, which assets were directly associated with the use of natural gas and are not usable in connection with the use of such other fuel.

(2) The term "just compensation", when used with respect to subsection (a)(2), means an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (a)(1), to the extent such loss (A) is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to subsection (a)(1), and (B) is not offset by revenues derived from other transportation or distribution which would not have occurred if such contractual interests had not been transferred.

(3) The term "contractual interests", with respect to a contract described in subsection (a)(1), includes the right to receive natural gas as affected by any applicable curtailment plan filed with the Commission or the appropriate State regulatory authority.

(4) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(5) The term "interstate pipeline" means any person engaged in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission under the Natural Gas Act.

15 USC 717w.

(6) The term "Commission" means the Federal Energy Regulatory Commission.

(7) The term "contract", when used with respect to a contract for receipt of natural gas, which contract was in existence on April 20, 1977, does not include any renewal or extension occurring after such date unless such renewal or extension occurs pursuant to the exercise of an option by the person receiving natural gas under such contract.

(f) COORDINATION WITH THE NATURAL GAS ACT.—(1) Consideration paid by any interstate pipeline pursuant to this section shall be deemed just and reasonable for purposes of sections 4, 5, and 7 of the Natural Gas Act. The Commission shall not deny a passthrough by such interstate pipeline of such consideration based upon the amount of such consideration paid pursuant to this section.

15 USC 717c, 717d, 717f.

15 USC 717w.

(2) No person shall be subject to the jurisdiction of the Commission under the Natural Gas Act or to regulation as a common carrier under any provision of Federal or State law solely by reason of making any sale, or engaging in any transportation, of natural gas with respect to

which the transfer of contractual interests is authorized under subsection (a)(1).

(3) Nothing in this section shall exempt from the jurisdiction of the Commission under the Natural Gas Act any transportation in interstate commerce of natural gas, any sale in interstate commerce for resale of natural gas, or any person engaged in such transportation or such sale to the extent such transportation, sale or person is subject to the juridiction of the Commission under such Act without regard to the transfer of contractual interests under subsection (a)(1). 15 USC 717w.

(4) Nothing in this section shall exempt any person from any obligation to obtain a certificate of public convenience and necessity for the transportation by an interstate pipeline of natural gas with respect to which the transfer of contractual interests is authorized under subsection (a)(1). The Commission shall not deny such a certificate for the transportation in interstate commerce of natural gas based upon the amount of consideration paid pursuant to this section.

(g) VOLUME LIMITATION.—No supplier of natural gas under any contract, with respect to which contractual interests have been transferred under subsection (a)(1), shall be required to supply natural gas during any relevant period in volume amounts which exceed the lesser of—

(1) the volume determined by reference to the maximum delivery obligations specified in such contract;

(2) the volume which such supplier would have been required to supply, under the curtailment plan in effect for such supplier, to the person, who transferred contractual interests under subsection (a)(1), if no such transfer had occurred;

(3) the volume which would have been delivered, or for which payment would have been made, pursuant to such contract but for the prohibition on the use of such natural gas under title II or title III of this Act or any rule or order thereunder; and *Ante*, pp. 3298, 3305.

(4) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

(h) JUDICIAL REVIEW.—Any action by the Commission under this section is subject to judicial review in accordance with chapter 7 of title 5, United States Code.

Subtitle E—Studies

SEC. 741. NATIONAL COAL POLICY STUDY.

(a) STUDY.—The President, acting through the Secretary and the Administrator of the Environmental Protection Agency, shall make a full and complete investigation and study of the alternative national uses of coal available in the United States to meet the Nation's energy requirements consistent with national policies for the protection and enhancement of the quality of the environment and for economic recovery and full employment. In particular the study should identify and evaluate— 42 USC 8451.

(1) current and prospective coal requirements of the United States;

(2) current and prospective voluntary and mandatory energy conservation measures and their potential for reduction of the United States coal requirements;

(3) current and prospective coal resource production, transportation, conversion, and utilization requirements;

(4) the extent and adequacy of coal research, development, and demonstration programs being carried out by Federal, State, local, and nongovernmental entities (including financial resources, manpower, and statutory authority);

(5) programs for the development of coal mining technologies which increase coal production and utilization while protecting the health and safety of coal miners;

(6) alternative strategies for meeting anticipated United States coal requirements, consistent with achieving other national goals, including national security and environmental protection;

(7) existing and prospective governmental policies and laws affecting the coal industry with the view of determining what, if any, changes in and implementation of such policies and laws may be advisable in order to consolidate, coordinate, and provide an effective and equitable national energy policy consistent with other national policies; and

(8) the most efficient use of the Nation's coal resources considering economic (including capital and consumer costs, and balance of payments), social (including employment), environmental, technological, national defense, and other aspects.

(b) REPORT.—Within 18 months after the effective date of this Act, the President shall submit to the Congress a report with respect to the studies and investigations, together with findings and recommendations in order that the Congress may have such information in a timely fashion. Such report shall include the President's determinations and recommendations with respect to—

(1) the Nation's projected coal needs nationally and regionally, for the next 2 decades with particular reference to electric power;

(2) the coal resources available or which must be developed to meet those needs, including, as applicable, the programs for research, development, and demonstration necessary to provide technological advances which may greatly enhance the Nation's ability to efficiently and economically utilize its fuel resources, consistent with applicable environmental requirements;

(3) the air, water, and other pollution created by coal requirements, including any programs to overcome promptly and efficiently any technological or economic barriers to the elimination of such pollution;

(4) the existing policies and programs of the Federal Government and of State and local governments, which have any significant impact on the availability, production or efficient and economic utilization of coal resources and on the ability to meet the Nation's energy needs and environmental requirements; and

(5) the adequacy of various transportation systems, including roads, railroads, and waterways to meet projected increases in coal production and utilization.

Publication in Federal Register. Public availability.

Before submitting a report to the Congress under subsection (b), the President shall publish in the Federal Register a notice and summary of the proposed report, make copies of such report available, and accord interested persons an opportunity (of not less than 90 days' duration) to present written comments; and shall make such modifications of such report as he may consider appropriate on the basis of such comments.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary for allocation between the Department of Energy and the Environmental Protection Agency for fiscal years 1979 and 1980, not to exceed $18,000,000, for use in carrying out the purposes of this section.

SEC. 742. COAL INDUSTRY PERFORMANCE AND COMPETITION STUDY.

42 USC 8452.
Interagency participants.

(a) STUDY.—The Secretary shall make a complete investigation of the performance and competition of the coal industry. The study shall be an interagency effort under the direction of the Secretary and shall include participation by—

(1) the Federal Trade Commission,
(2) the Department of Justice,
(3) the Department of Energy,
(4) the Federal Energy Regulatory Commission,
(5) the Department of the Interior,
(6) the Department of Transportation,
(7) the Department of Commerce,
(8) the Department of Labor,
(9) the Department of State,
(10) the Department of the Treasury,
(11) the Interstate Commerce Commission,
(12) the Council on Wage and Price Stability,
(13) the Tennessee Valley Authority, and
(14) the Appalachian Regional Commission.

(b) COVERAGE OF STUDY.—The study shall consider the following elements relating to competition:

(1) interests in, or ownership or production of, coal reserves by firms which—
  (A) own or have an interest in commodity transportation systems by rail, water, or pipeline,
  (B) own or produce oil, natural gas, or uranium, or
  (C) use significant amounts of coal in their processes, including electrical generation and steelmaking,

(2) prices, profitability, and levels of concentration in sales of various identifiable submarket structures in the coal industry, including the market for—
  (A) steam and metallurgical coal,
  (B) low-sulfur coal,
  (C) lignite, anthracite, bituminous and subbituminous coal,
  (D) spot sales and long-term delivery contracts, and
  (E) exports,

(3) overall profitability of coal operations,

(4) capital requirements, sources and uses of funds,

(5) vertical integration of production, cleaning, processing, gasification, liquefaction, transportation, marketing, distribution, combustion, and other phases of the coal fuel cycle,

(6) the effect of interfuel ownership, vertical integration, and market concentration upon innovation, efficiency, prices and profits,

(7) costs of production, transportation, processing, and other components of coal prices for different regions and different types of mines,

(8) responsiveness of coal supply to market demand,

(9) productive capacity,

(10) productivity,

(11) economies and diseconomies of scale,
(12) distribution and flow of executive, managerial, and technical personnel between the various coal producers,
(13) management and directorate interlocks,
(14) relationships to financial institutions,
(15) government-industry relationships, including lease bidding, technology, research, development, demonstration and transfer, and personnel movement,
(16) joint ventures, consortia, and cross-ownership,
(17) identification of the major owners of coal industry stock,
(18) control of patents and technologies,
(19) barriers to greater competition in the market for coal, and
(20) Federal income tax policies.

(c) IMPACTS ON COAL-PRODUCING COUNTIES AND STATES.—The study shall evaluate the economic and social impacts upon coal-producing counties and States of present and prospective land ownership patterns and levels of income, property, severance and other taxes paid by coal producers.

(d) EXPORT OF METALLURGICAL COAL.—The study shall identify and evaluate national policies toward the export of metallurgical coal as they relate to—

(1) national security,
(2) national energy goals,
(3) balance of payments,
(4) comparative advantage in world trade,
(5) materials policy,
(6) United States and international reserves and resources, and
(7) likely future metallurgical technologies.

(e) REPORTS.—(1) Pursuant to the provisions of the preceding subsections of this section, the Secretary shall submit to the President for transmittal to the Congress such interim reports as he deems advisable and, not later than 18 months after the effective date of this Act, a comprehensive and final report to the Congress containing the findings with respect to such study and investigation. Such report may include such legislative and administrative recommendations as the President deems advisable.

Publication in Federal Register. Public availability.

(2) Before submitting a report to the Congress under paragraph (1), the President shall—

(A) publish in the Federal Register a notice and summary of the proposed report and make copies of such report available and afford interested persons an opportunity (of not less than 90 days' duration) to present written comments; and

(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for allocation between the Department of Energy and the other agencies participating in the study under this section for the fiscal years 1979 and 1980, not to exceed $18,000,000 to carry out the provisions of this section.

SEC. 743. IMPACT ON EMPLOYEES.

42 USC 8453.

(a) EVALUATION.—The Secretary shall conduct continuing evaluations of potential loss or shifts of employment which may result from any prohibition under this Act, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly

resulting from such prohibition. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) INVESTIGATION AND HEARINGS.—On a written request filed with the Secretary by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such prohibition, the Secretary shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Secretary shall require the parties, including any employer involved, to present information on the actual or potential effect of such prohibition on employment and on any alleged employee discharge, layoff, or other discrimination relating to prohibitions and the detailed reasons or justification therefor. At the completion of such investigation, the Secretary shall make findings of fact as to the effect of such prohibition on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. The Secretary of Labor shall participate in each such investigation.

Public availability.
Participation by Secretary of Labor.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require or authorize the Secretary to modify or withdraw any prohibition under this Act.

SEC. 744. STUDY OF COMPLIANCE PROBLEM OF SMALL ELECTRIC UTILITY SYSTEMS.

42 USC 8454.

(a) STUDY.—The Secretary shall conduct a study of the problems of compliance with this Act experienced by those electric utility systems which have a total system generating capacity of less than 2,000 megawatts. The Secretary shall report his findings and his recommendations to the Congress not later than 2 years after the effective date of this Act.

Report to Congress.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the fiscal year 1979 not to exceed $500,000 to carry out the provisions of this section.

SEC. 745. EMISSIONS MONITORING.

42 USC 8455.

(a) MONITORING PROGRAM.—The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other alternate fuels by reason of this Act or otherwise using coal or other alternate fuels and the effect thereof on the public health, safety, and welfare and the movement of such emissions in the atmosphere and their impact on land and water and other resources and the public health in various regions of the Nation. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

42 USC 7401 note.

Annual report to Congress.
Consultation.

(b) APPROPRIATIONS AUTHORIZATIONS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1979 for the report required under section 806.

SEC. 746. SOCIOECONOMIC IMPACTS OF INCREASED COAL PRODUCTION AND OTHER ENERGY DEVELOPMENT.

42 USC 8456.

(a) COMMITTEE.—There is hereby established an interagency committee composed of the heads of the Departments of Energy, Commerce, Interior, Transportation, Housing and Urban Development, and Health, Education, and Welfare, the Environmental Protection Agency, the Appalachian Regional Commission, the Farmers' Home Administration, the Office of Management and Budget, and such other Federal agencies as the Secretary shall designate. In carrying out its functions the committee shall consult with the National Governors' Conference and interested persons, organizations, and entities. The chairman of the committee shall be designated by the President. The committee shall terminate 90 days after the submission of its report under subsection (c).

Termination.

(b) FUNCTIONS OF COMMITTEE.—It is the function of the committee to conduct a study of the socioeconomic impacts of expanded coal production and rapid energy development in general, on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. The committee shall gather data and information on—

(1) the level of assistance provided under this Act and any other programs related to impact assistance,

(2) the timeliness of assistance in meeting impacts caused by Federal decisions on energy policy as well as private sector decisions, and

(3) the obstacles to effective assistance contained in regulations of existing programs related to impact assistance.

(c) REPORT.—Within 1 year after the effective date of this Act, the committee shall submit a detailed report on the results of such study to the Congress, together with any recommendations for additional legislation it may consider appropriate.

SEC. 747. USE OF PETROLEUM AND NATURAL GAS IN COMBUSTORS.

42 USC 8457.

The Secretary shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors and installations not subject to the prohibitions of this Act. In conducting such study, the Secretary shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other alternate fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Report to Congress.

Within 1 year after the effective date of this Act, the Secretary shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

Subtitle F—Appropriations Authorization

SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8461.

There is authorized to be appropriated to the Secretary for fiscal year 1979 $11,900,000, to carry out the provisions of this Act (other than provisions for which an appropriations authorization is otherwise expressly provided in this Act) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

15 USC 792.

Subtitle G—Coordination with other Provisions of Law

SEC. 761. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

(a) COMPLIANCE WITH APPLICABLE ENVIRONMENTAL REQUIREMENTS.—Except as provided in section 404, nothing in this Act shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements. 42 USC 8471. *Ante*, p. 3319.

(b) LOCAL ENVIRONMENTAL REQUIREMENTS.—In the case of any new or existing facility—

(1) which is subject to any prohibition under this Act, and

(2) which is also subject to any requirement of any local environmental requirement which may be stricter than any Federal or State environmental requirement,

the existence of such local requirement shall not be construed to affect the validity or applicability of such prohibition to such facility, except to the extent provided under section 212(b) or section 312(b); and the existence of such prohibition shall not be construed to preempt such local requirement with respect to that facility. *Ante*, pp. 3300, 3309.

SEC. 762. EFFECT OF ORDERS UNDER SECTION 2 OF ESECA; AMENDMENTS TO ESECA.

(a) EFFECT OF CONSTRUCTION ORDERS.—Any electric powerplant or major fuel-burning installation issued an order pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 that is pending on the effective date of this Act shall, notwithstanding the provisions of such section 2(c) or any other provision of this Act, be subject to the provisions of this Act as if it were a new electric powerplant or new major fuel-burning installation, as the case may be, except that if such order became final before such date, the provisions of title II of this Act shall not apply to such powerplant or installation. 42 USC 8472. 15 USC 792. *Ante*, p. 3298.

(b) EFFECT OF PROHIBITION ORDERS.—The provisions of titles II and III shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this Act is pending or final or which, on review, was held unlawful and set aside on the merits; except that any installation issued such an order under such section 2(a) which is pending on the effective date of this Act may elect to be covered by title II or III (as the case may be) rather than such section 2. Such an election shall be irrevocable and shall be made in such form and manner as the Secretary shall, within 90 days after the date of the enactment of this Act, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary prescribes the form and manner of making such election. *Ante*, pp. 3298, 3305. 15 USC 792.

(c) VALIDITY OF ORDERS.—The preceding provisions of this Act shall not affect the validity of any order issued under subsection (a), or any final order under subsection (c), of section 2 of the Energy Supply and Environmental Coordination Act of 1974, and the authority of the Secretary to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto, shall remain in effect notwithstanding any limitation of time otherwise applicable to such

authority. Except as provided in this section, the authority of the
15 USC 792. Secretary under section 2 of such Act shall terminate on the effective date of this Act.

(d) AMENDMENTS TO ESECA.—(1) Section 11(g) of the Energy
15 USC 796. Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out paragraph (2), and

(2) in paragraph (1), by striking out "(g)(1)" and inserting in lieu thereof "(g)".

SEC. 763. ENVIRONMENTAL IMPACT STATEMENTS UNDER NEPA.

42 USC 8473. The following actions are not deemed to be major Federal actions for purposes of section 102(2)(C) of the National Environmental
42 USC 4332. Policy Act of 1969:

(1) the grant or denial of any temporary exemption under this Act for any electric powerplant or major fuel-burning installation;

(2) the grant or denial of any permanent exemption under this Act for any existing electric powerplant or major fuel-burning installation, other than an exemption—

Ante, p. 3309. (A) under section 312(c), relating to cogeneration;

(B) under section 312(l), relating to scheduled equipment outages;

(C) under section 312(b), relating to certain State or local requirements;

(D) under section 312(g), relating to certain intermediate load powerplants; and

(3) the grant or denial of any exemption under this Act for any powerplant or major fuel-burning installation for which the Secretary finds, in consultation with the appropriate Federal agency, and publishes such finding that an environmental impact statement is required in connection with another Federal action and such statement will be prepared by such agency and will reflect the exemption adequately.

Except as provided in the preceding provisions of this section, any determination of what constitutes or does not constitute a major Federal action shall be made under section 102 of the National Environ-
42 USC 4332. mental Policy Act of 1969.

TITLE VIII—MISCELLANEOUS PROVISIONS

42 USC 8481. **SEC. 801. COAL RESERVES DISCLOSURE.**

(a) DISCLOSURE.—Within 2 years after the effective date of this Act, and annually thereafter, the Secretary shall require the disclosure, pursuant to section 11 of the Energy Supply and Environmental
15 USC 796. Coordination Act of 1974, of the extent, characteristics, and productive capacity of coal reserves, or interest therein, within the United States held by any person or governmental entity, as necessary, and shall publish a summary of such information.

Publication in Federal Register. (b) EXEMPTION FOR SMALL RESERVES.—The Secretary may exempt small reserves from the requirements of this section if the Secretary finds that the imposition of the requirements of this section would impose an unreasonable economic burden on such person (or entity) or would not be of significant aid to achievement of the purposes of this Act, and publishes such findings in the Federal Register.

SEC. 802. COAL PREPARATION FACILITIES.

Section 102(c)(4) of the Energy Policy and Conservation Act is amended by adding at the end thereof (42 U.S.C. 6211(c)(4)) the following new sentence: "Such term also includes construction of a coal preparation plant which is designed to reduce the sulfur content of coal produced from any coal mine.".

SEC. 803. RAILROAD REHABILITATION FOR CARRIAGE OF COAL.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum. 45 USC 822 note.

(b) AUTHORIZATION.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than $100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportaton of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose).

(c) CONFORMING AMENDMENTS.—(1) Section 501(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(2)) is amended by inserting "(except as provided in section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" immediately after "or other features".

(2) Section 502(b) of such Act (45 U.S.C. 822(b)) is amended by inserting at the end thereof the following: "Money appropriated to the Fund under section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.".

(3) Section 502(f) of such Act (45 U.S.C. 822(f) is amended—

(A) by striking out "and" at the end of paragraph (5) thereof;

(B) by inserting between paragraphs (5) and (6) the following new paragraph:

"(6) funds as may hereafter be appropriated to the Fund as authorized under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and"; and

(C) by redesignating paragraph (6) as paragraph (7).

(4) Section 502(i) of such Act (45 U.S.C. 822(i)) is amended—

(A) by striking out "and" at the end of paragraph (4) thereof;

(B) by striking out "Treasury." at the end of paragraph (5) and inserting in lieu thereof "Treasury, and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) to carry out the purposes of section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978".

(5) Section 505(b)(2) of such Act (45 U.S.C. 825) is amended by inserting between the fourth and fifth sentences thereof the following new sentence: "With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section

803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services.".

(6) Section 505(d)(3) of such Act (45 U.S.C. 825) is amended—

(A) by striking out in the first sentence "$600,000,000" and inserting in lieu thereof "$700,000,000", and

(B) by striking out in the second sentence "$100,000,000" and inserting in lieu thereof "$150,000,000".

SEC. 804. OFFICE OF RAIL PUBLIC COUNSEL.

49 USC 26b.

Section 27 of the Interstate Commerce Act is amended—

(1) by striking out "and" at the end of paragraph (4)(d),

(2) by striking out the period at the end of paragraph (4)(e) and inserting in lieu thereof "and", and

(3) by inserting after paragraph (4)(e) the following:

"(f) shall present the views of users, as well as the views of the general public and affected communities, and, where appropriate, providers of rail services in proceedings of Federal agencies concerning—

"(1) the impact of energy proposals and actions on rail transportation, and

"(2) whether transportation policies are consistent with National energy policies.".

SEC. 805. RETROACTIVE APPLICATION OF CERTAIN REMEDIAL ORDERS.

(a) GENERAL RULE.—Section 503 of the Department of Energy Organization Act (42 U.S.C. 7193) is amended by adding at the end thereof the following new subsection;

"(g) With respect to any person whose sole petroleum industry operation relates to the marketing of petroleum products, the Secretary or any person acting on his behalf may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against such person for any violation of any rule or regulation if—

"(1) such civil action or order is based on a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or ruling in effect on the date of the violation interpreting such rules or regulations.".

(b) TECHNICAL CONFORMING AMENDMENTS.—In subsections (e) and (f) of such section 503, insert "preceding provisions of" before "this section".

SEC. 806. ANNUAL REPORT.

42 USC 8482.

The Secretary shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this Act and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such report shall include data on the effectiveness of this Act in achieving the purposes of this Act.

15 USC 792.

SEC. 807. SUBMISSION OF REPORTS.

42 USC 8483.

Copies of any report required by this Act to be submitted to the Congress shall be separately submitted to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE IX—EFFECTIVE DATES

SEC. 901. EFFECTIVE DATES.

Unless otherwise provided in this Act, the provisions of this Act shall take effect 180 days after the date of the enactment of this Act, except that the Secretary may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment. 42 USC 8301 note.

SEC. 902. INTERIM PETITION AND CONSIDERATION FOR CERTAIN EXEMPTIONS.

(a) EXEMPTIONS IN THE CASE OF CERTAIN POWERPLANTS.—In the case of— 42 USC 8301 note.

(1) any electric powerplant which, as of April 20, 1977, has received a final decision from the appropriate State agency authorizing the construction of such powerplant, and

(2) any electric powerplant (A) consisting of one or more combined cycle units owned or operated by an electric utility which serves at least 2,000,000 customers and (B) for which an application has been filed for at least one year before the date of the enactment of this Act with the appropriate State agency for authorization to construct such powerplant,

the Secretary may receive, consider, and grant (or deny) any petition for an exemption under title II or III, notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time. *Ante*, pp. 3298, 3305.

(b) EXEMPTIONS UNDER SECTION 211(d).—The Secretary may receive, consider, and grant (or deny) any petition for any exemption under section 211(d), notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time. *Ante*, p. 3299.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-433 (Comm. on Ways and Means), No. 95-543, Vols. I and II accompanying H.R. 8444 (ad hoc Comm. on Energy), and No. 95-1749 (Comm. of Conference).

SENATE REPORT No. 95-988 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Sept. 8, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; insisted on House amendment to Senate amendment No. 6.

Vol. 124 (1978): July 14, 17, 18, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

○

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Natural Gas Policy Act of 1978". 15 USC 3301 note.

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—WELLHEAD PRICING

Subtitle A—Wellhead Price Controls

Sec. 101. Inflation adjustment; other general price ceiling rules.
Sec. 102. Ceiling price for new natural gas and certain natural gas produced from the Outer Continental Shelf.
Sec. 103. Ceiling price for new, onshore production wells.
Sec. 104. Ceiling price for sales of natural gas dedicated to interstate commerce.
Sec. 105. Ceiling price for sales under existing intrastate contracts.
Sec. 106. Ceiling price for sales under rollover contracts.
Sec. 107. Ceiling price for high-cost natural gas.
Sec. 108. Ceiling price for stripper well natural gas.
Sec. 109. Ceiling price for other categories of natural gas.
Sec. 110. Treatment of State severance taxes and certain production-related costs.

Subtitle B—Decontrol of Certain Natural Gas Prices

Sec. 121. Elimination of price controls for certain natural gas sales.
Sec. 122. Standby price control authority.
Sec. 123. Report to the Congress.

TITLE II—INCREMENTAL PRICING

Sec. 201. Industrial boiler fuel use.
Sec. 202. Amendment expanding application for other industrial uses.
Sec. 203. Acquisition costs subject to passthrough.
Sec. 204. Method of passthrough.
Sec. 205. Local distribution company passthrough requirements.
Sec. 206. Exemptions.
Sec. 207. Treatment of certain imports.
Sec. 208. Alaska natural gas.

TITLE III—ADDITIONAL AUTHORITIES AND REQUIREMENTS

Subtitle A—Emergency Authorities

Sec. 301. Declaration of Emergency.
Sec. 302. Emergency purchase authority.
Sec. 303. Emergency allocation authority.
Sec. 304. Miscellaneous provisions.

Subtitle B—Other Authorities and Requirements

Sec. 311. Authorization of certain sales and transportation.
Sec. 312. Assignment of contractual rights to receive surplus natural gas.
Sec. 313. Effect of certain natural gas prices on indefinite price escalator clauses.
Sec. 314. Clauses prohibiting certain sales, transportation, and commingling.
Sec. 315. Contract duration; right of first refusal; filing of contracts and agreements.

TITLE IV—NATURAL GAS CURTAILMENT POLICIES

Sec. 401. Natural gas for essential agricultural uses.
Sec. 402. Natural gas for essential industrial process and feedstock uses.
Sec. 403. Establishment and implementation of agricultural and industrial priorities.
Sec. 404. Limitation on revoking or amending certain pre-1969 certificates of public convenience and necessity.

TABLE OF CONTENTS—Continued

TITLE V—ADMINISTRATION, ENFORCEMENT, AND REVIEW

Sec. 501. General rulemaking authority.
Sec. 502. Administrative procedure.
Sec. 503. Determinations for qualifying under certain categories of natural gas.
Sec. 504. Enforcement.
Sec. 505. Intervention.
Sec. 506. Judicial review.
Sec. 507. Congressional review.
Sec. 508. Technical amendment.

TITLE VI—COORDINATION WITH THE NATURAL GAS ACT; EFFECT ON STATE LAWS

Sec. 601. Coordination with the Natural Gas Act.
Sec. 602. Effect on State laws.

SEC. 2. DEFINITIONS.

15 USC 3301.

For purposes of this Act—

(1) NATURAL GAS.—The term "natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

(2) WELL.—The term "well" means any well for the discovery or production of natural gas, crude oil, or both.

(3) NEW WELL.—The term "new well" means any well—

(A) the surface drilling of which began on or after February 19, 1977; or

(B) the depth of which was increased, by means of drilling on or after February 19, 1977, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before February 19, 1977.

(4) OLD WELL.—The term "old well" means any well other than a new well.

(5) MARKER WELL.—

(A) GENERAL RULE.—The term "marker well" means any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before April 20, 1977.

(B) NEW WELLS.—The term "marker well" does not include any new well under paragraph (3)(A) but includes any new well under paragraph (3)(B) if such well qualifies as a marker well under subparagraph (A) of this paragraph.

(6) RESERVOIR.—The term "reservoir" means any producible natural accumulation of natural gas, crude oil, or both, confined—

(A) by impermeable rock or water barriers and characterized by a single natural pressure system; or

(B) by lithologic or structural barriers which prevent pressure communication.

(7) COMPLETION LOCATION.—

(A) GENERAL RULE.—The term "completion location" means any subsurface location from which natural gas is being or has been produced in commercial quantities.

(B) MARKER WELL.—The term "completion location", when used with reference to any marker well, means any subsurface location from which natural gas was produced from such well in commercial quantities after January 1, 1970, and before April 20, 1977.

(8) PRORATION UNIT.—The term "proration unit" means—

(A) any portion of a reservoir, as designated by the State or Federal agency having regulatory jurisdiction with respect to production from such reservoir, which will be effectively and efficiently drained by a single well;

(B) any drilling unit, production unit, or comparable arrangement, designated or recognized by the State or Federal agency having jurisdiction with respect to production from the reservoir, to describe that portion of such reservoir which will be effectively and efficiently drained by a single well; or

(C) if such portion of a reservoir, unit, or comparable arrangement is not specifically provided for by State law or by any action of any State or Federal agency having regulatory jurisdiction with respect to production from such reservoir, any voluntary unit agreement or other comparable arrangement applied, under local custom or practice within the locale in which such reservoir is situated, for the purpose of describing the portion of a reservoir which may be effectively and efficiently drained by a single well.

(9) NEW LEASE.—The term "new lease", when used with respect to the Outer Continental Shelf, means a lease, entered into on or after April 20, 1977, of submerged acreage.

(10) OLD LEASE.—The term "old lease", when used with respect to the Outer Continental Shelf, means any lease other than a new lease.

(11) NEW CONTRACT.—The term "new contract" means any contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas which was not previously subject to an existing contract.

(12) ROLLOVER CONTRACT.—The term "rollover contract" means any contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after such date of enactment) specified by the provisions of such existing contract, as such contract was in effect on the date of the enactment of this Act, whether or not there is an identity of parties or terms with those of such existing contract.

(13) EXISTING CONTRACT.—The term "existing contract" means any contract for the first sale of natural gas in effect on the day before the date of the enactment of this Act.

(14) SUCCESSOR TO AN EXISTING CONTRACT.—The term "successor to an existing contract" means any contract, other than a rollover contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract.

(15) INTERSTATE PIPELINE.—The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act. 15 USC 717w.

(16) INTRASTATE PIPELINE.—The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act (other than any such pipeline which is not subject to the jurisdiction of the Commission solely by reason of section 1(c) of the Natural Gas Act). 15 USC 717.

(17) LOCAL DISTRIBUTION COMPANY.—The term "local distribution company" means any person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(18) COMMITTED OR DEDICATED TO INTERSTATE COMMERCE.—

(A) GENERAL RULE.—The term "committed or dedicated to interstate commerce", when used with respect to natural gas, means—

(i) natural gas which is from the Outer Continental Shelf; and

(ii) natural gas which, if sold, would be required to be sold in interstate commerce (within the meaning of the Natural Gas Act) under the terms of any contract, any certificate under the Natural Gas Act, or any provision of such Act.

15 USC 717w.

(B) EXCLUSION.—Such term does not apply with respect to—

(i) natural gas sold in interstate commerce (within the meaning of the Natural Gas Act)—

(I) under section 6 of the Emergency Natural Gas Act of 1977;

15 USC 717 note.

(II) under any limited term certificate, granted pursuant to section 7 of the Natural Gas Act, which contains a pregrant of abandonment of service for such natural gas;

15 USC 717f.

(III) under any emergency regulation under the second proviso of section 7(c) of the Natural Gas Act; or

(IV) to the user by the producer and transported under any certificate, granted pursuant to section 7(c) of the Natural Gas Act, if such certificate was specifically granted for the transportation of that natural gas for such user;

(ii) natural gas for which abandonment of service was granted before the date of enactment of this Act under section 7 of the Natural Gas Act; and

(iii) natural gas which, but for this clause, would be committed or dedicated to interstate commerce under subparagraph (A)(ii) by reason of the action of any person (including any successor in interest thereof, other than by means of any reversion of a leasehold interest), if on May 31, 1978—

(I) neither that person, nor any affiliate thereof, had any right to explore for, develop, produce, or sell such natural gas; and

(II) such natural gas was not being sold in interstate commerce (within the meaning of the Natural Gas Act) for resale (other than any sale described in clause (i) (I), (II), or (III)).

15 USC 717w.

(19) CERTIFICATED NATURAL GAS.—The term "certificated natural gas" means natural gas transported by any interstate pipeline in a facility for which there is in effect a certificate issued under section 7(c) of the Natural Gas Act. Such term does not include natural gas sold to the user by the producer and transported pursuant to a certificate which is specifically issued under

15 USC 717f.

section 7(c) of the Natural Gas Act for the transportation of that natural gas, for such user unless such natural gas is used for the generation of electricity. 15 USC 717f.

(20) SALE.—The term "sale" means any sale, exchange, or other transfer for value.

(21) FIRST SALE.—

(A) GENERAL RULE.—The term "first sale" means any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;

(ii) to any local distribution company;

(iii) to any person for use by such person;

(iv) which precedes any sale described in clauses (i), (ii), or (iii); and

(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

(B) CERTAIN SALES NOT INCLUDED.—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

(22) DELIVER.—The term "deliver" when used with respect to any first sale of natural gas, means the physical delivery from the seller; except that in the case of the sale of proven reserves in place to any interstate pipeline, any intrastate pipeline, any local distribution company, or any user of such natural gas, such term means the transfer of title to such reserves.

(23) CERTIFICATE.—The term "certificate", when used with respect to the Natural Gas Act, means a certificate of public convenience and necessity issued under such Act.

(24) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(25) FEDERAL AGENCY.—The term "Federal agency" has the same meaning as given such term in section 105 of title 5, United States Code.

(26) PERSON.—The term "person" includes the United States, any State, and any political subdivision, agency, or instrumentality of the foregoing.

(27) AFFILIATE.—The term "affiliate", when used in relation to any person, means another person which controls, is controlled by, or is under common control with, such person.

(28) ELECTRIC UTILITY.—The term "electric utility" means any person to the extent such person is engaged in the business of the generation of electricity and sale, directly or indirectly, of electricity to the public.

(29) MCF.—The term "Mcf", when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(30) BTU.—The term "Btu" means British thermal unit.

(31) MONTH. The term "month" means a calendar month.

(32) MILE.—The term "mile" means a statute mile of 5,280 feet.

(33) UNITED STATES.—The term "United States" means the several States and includes the Outer Continental Shelf.

(34) STATE.—The term "State" means each of the several States and the District of Columbia.

(35) OUTER CONTINENTAL SHELF.—The term "Outer Continental Shelf" has the same meaning as such term has under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

(36) PRUDHOE BAY UNIT OF ALASKA.—The term "Prudhoe Bay Unit of Alaska" means the geographic area subject to the voluntary unit agreement approved by the Commissioner of the Department of Natural Resources of the State of Alaska on June 2, 1977, and referred to as the "affected area" in Conservation Order No. 145 of the Alaska Oil and Gas Conservation Committee, Division of Oil and Gas Conservation, Department of Natural Resources of the State of Alaska, as such order was in effect on June 1, 1977, and determined without regard to any adjustments in the description of the affected area permitted to be made under such order.

(37) ANTITRUST LAWS.—The term "Federal antitrust laws" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 13, 14–19, 20, 21, 22–27), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8–9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

TITLE I—WELLHEAD PRICING

Subtitle A—Wellhead Price Controls

SEC. 101. INFLATION ADJUSTMENT; OTHER GENERAL PRICE CEILING RULES.

15 USC 3311.

(a) ANNUAL INFLATION ADJUSTMENT FACTOR.—

(1) GENERAL RULE.—For purposes of this title, the annual inflation adjustment factor applicable for any month shall be the sum of—

(A) a factor equal to one hundredth of the quarterly percent change in the GNP implicit price deflator; plus

(B) a correction factor of 1.002.

(2) QUARTERLY PERCENT CHANGE IN THE GNP IMPLICIT PRICE DEFLATOR.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "quarterly percent change in the GNP implicit price deflator", when used with respect to any month, means the quarterly percent change in the GNP implicit price deflator, computed and published as an annual rate by the Department of Commerce, for the most recent calendar quarter for which such quarterly percent change has been so published at least 8 days before the beginning of such month.

(B) MONTHS BEFORE ENACTMENT.—For purposes of applying such term with respect to any month in any calendar quarter which ends before the date of the enactment of this Act and for which a quarterly percent change in the GNP implicit price deflator has been published by the Department

of Commerce as of such date of enactment, the quarterly percent change in the GNP implicit price deflator for the calendar quarter in which such month occurs shall be used in lieu of the quarterly percent change in the GNP implicit price deflator for a preceding calendar quarter.

(3) GNP IMPLICIT PRICE DEFLATOR.—For purposes of paragraph (2)—

(A) IN GENERAL.—The term "GNP implicit price deflator" means, except as provided in subparagraph (B), the preliminary estimate of the implicit price deflator, seasonally adjusted, for the gross national product, as computed and published by the Department of Commerce for the calendar quarter involved.

(B) MOST RECENT DATA AVAILABLE ON ENACTMENT.—The most recent revision, if any, of such implicit price deflator which has been so published before the date of the enactment of this Act, shall be used in lieu of the preliminary estimate of such implicit price deflator.

(b) RULES OF GENERAL APPLICATION.—

(1) DEPTH.—Except where otherwise provided, the depth of the completion location of any well shall be the true vertical depth, measured from the surface location of the well.

(2) COMMERCIAL QUANTITIES.—In determining whether production of natural gas has occurred in commercial quantities, quantities of natural gas produced from a well and used for the testing of such well or for other field uses which are production related shall not be taken into account.

(3) COMPUTATION OF MONTHLY EQUIVALENT.—For purposes of computing any price under this title, the monthly equivalent of any factor shall be the twelfth root of such factor.

(4) APPLICATION OF CEILING PRICES.—The maximum lawful ceiling prices under this title—

(A) shall only apply to natural gas produced in the United States;

(B) shall apply to the month of delivery without regard to the date of the sale or the date of the contract under which the sale occurs; and

(C) shall not apply to deliveries occurring before the first day of the first month beginning after the date of the enactment of this Act.

(5) SALES QUALIFYING UNDER MORE THAN ONE PROVISION.—If any natural gas qualifies under more than one provision of this title providing for any maximum lawful price or for any exemption from such a price with respect to any first sale of such natural gas, the provision which could result in the highest price shall be applicable.

(6) COMPUTATION AND PUBLICATION OF CEILING PRICES.—The Commission shall—

(A) not later than 5 days before the beginning of any month, compute and make available the maximum lawful prices prescribed under this title for such month and the monthly equivalent of the annual inflation adjustment factor for such month, and

(B) as soon as possible thereafter, publish such maximum lawful prices and such factor for such month in the Federal Register. Publication in Federal Register.

(7) ROUNDING.—Any maximum lawful price under this title shall be computed to the nearest mill (rounding any fraction

thereof which is one-half a mill or higher to the next highest mill).

(8) COMPUTATION OF INITIAL CEILING PRICES.—In computing any maximum lawful price under the provisions of this title for the first month for which such provisions take effect, if the initial maximum lawful price is established by reference to any month before such month, such maximum lawful price shall be computed as if such provisions had been in effect during each such prior month.

(9) EFFECT ON CONTRACT PRICE.—In the case of—

(A) any price which is established under any contract for the first sale of natural gas and which does not exceed the applicable maximum lawful price under this title, or

(B) any price which is established under any contract for the first sale of natural gas which is exempted under subtitle B of this title from the application of a maximum lawful price under this title,

such maximum lawful price, or such exemption from such a maximum lawful price, shall not supersede or nullify the effectiveness of the price established under such contract.

SEC. 102. CEILING PRICE FOR NEW NATURAL GAS AND CERTAIN NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF.

15 USC 3312.

(a) APPLICATION.—The maximum lawful price computed under subsection (b) shall apply to any first sale of natural gas delivered during any month in the case of—

(1) new natural gas; and

(2) natural gas produced from any old lease on the Outer Continental Shelf and qualifying under subsection (d) for the new natural gas ceiling price.

(b) MAXIMUM LAWFUL PRICE.—The maximum lawful price under this section for any month shall be—

(1) $1.75 per million Btu's, in the case of April 1977; and

(2) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subsection for the preceding month multiplied by the monthly equivalent of a factor equal to the sum of—

(A) the annual inflation adjustment factor applicable for such month; plus

(B) (i) .035, in the case of any month beginning before April 20, 1981; or

(ii) .04, in the case of any month beginning after April 20, 1981.

(c) DEFINITION OF NEW NATURAL GAS.—

(1) GENERAL RULE.—For the purposes of this section, the term "new natural gas" means each of the following categories of natural gas:

(A) NEW OCS LEASES.—Natural gas determined in accordance with section 503 to be produced from a new lease on the Outer Continental Shelf.

Post, p. 3397.

(B) NEW ONSHORE WELLS.—Natural gas determined in accordance with section 503 to be produced (other than from the Outer Continental Shelf) from—

(i) any new well which is 2.5 miles or more (determined in accordance with paragraph (2)) from the nearest marker well; or

(ii) any completion location, of any new well, which is located at a depth at least 1,000 feet below the deepest completion location of each marker well within 2.5 miles (determined in accordance with paragraph (2)) of such new well.

(C) NEW ONSHORE RESERVOIRS.—

(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), natural gas determined in accordance with section 503 to be produced (other than from the Outer Continental Shelf) from a reservoir from which natural gas was not produced in commercial quantities before April 20, 1977. *Post*, p. 3397.

(ii) BEHIND-THE-PIPE EXCLUSION.—Clause (i) shall not not apply to natural gas produced from any reservoir if—

(I) the reservoir was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities (whether or not such production was from such reservoir); and

(II) natural gas could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977.

(iii) WITHHELD GAS EXCLUSION.—Clause (i) shall not apply to natural gas produced from any reservoir—

(I) if such natural gas is produced through an old well; and

(II) subject to clause (iv), suitable facilities for the production and delivery to a pipeline of such natural gas were in existence on April 20, 1977.

(iv) EMERGENCY SALE FACILITIES.—The criteria of clause (iii) (II) shall not be considered to be met by reason of the existence of production and delivery facilities which were installed to carry out sales and deliveries of natural gas—

(I) under section 6 of the Emergency Natural Gas Act of 1977; or 15 USC 717 note.

(II) under the emergency sale authority pursuant to Opinion 699–B issued by the Federal Power Commission under section 7(c) of the Natural Gas Act. 15 USC 717f.

(2) DETERMINATIONS OF DISTANCE.—For purposes of determining the distance from any new well to any marker well—

(A) SURFACE LOCATION TO SURFACE LOCATION.—The measurement shall be the horizontal distance from the surface location of the new well to the surface location of the marker well—

(i) in any case in which the new well meets requirements for the nondirectional drilling of wells prescribed by the appropriate State or Federal agency having regulatory jurisdiction over the drilling of such well; or

(ii) in any case in which—

(I) the surface drilling of such new well began on or after February 19, 1977;

(II) production of natural gas in commercial quantities began from such well before the date of the enactment of this Act; and

(III) the drilling of such well was not subject to any requirement regarding directional or nondirectional drilling, or the drilling of such well was subject to requirements regarding directional drilling but such requirements did not necessitate the obtaining of any permit or other certificate before drilling began.

(B) COMPLETION LOCATION TO SURFACE LOCATION.—In the case of any new well which is not covered by subparagraph (A), the measurements shall be the horizontal distance from—

(i) the closest point of any completion location of the new well, vertically projected to the same elevation as the surface location of the nearest marker well; to

(ii) the surface location of such marker well.

(3) DETERMINATION OF COMMERCIAL QUANTITIES.—For purposes of determining whether production of natural gas has occurred in commercial quantities under paragraph (1)(C)—

(A) a rebuttable presumption exists that production from a reservoir in commercial quantities has not occurred if natural gas has not been sold and delivered from such reservoir before April 20, 1977; and

(B) quantities of natural gas sold in interstate commerce (within the meaning of the Natural Gas Act) shall not be taken into account if such quantities were sold before the date of the enactment of this Act—

15 USC 717w.

(i) under section 6 of the Emergency Natural Gas Act of 1977; or

15 USC 717 note.

(ii) under the emergency sale authority pursuant to Opinion 699-B issued by the Federal Power Commission under section 7(c) of the Natural Gas Act.

15 USC 717f.

(4) NEW WELLS WHICH ARE ALSO MARKER WELLS.—For purposes of applying paragraph (c)(1)(B)(ii) in the case of any marker well which is also a new well under section 2(3)(B), the reference in such paragraph (c)(1)(B)(ii) to the deepest completion location of any marker well shall be deemed to be a reference to any subsurface location from which natural gas was produced in commercial quantities after January 1, 1970, and before February 19, 1977.

(d) OCS GAS QUALIFYING FOR NEW NATURAL GAS CEILING PRICE.—For purposes of this section—

(1) OCS RESERVOIRS DISCOVERED ON OR AFTER JULY 27, 1976.—Natural gas determined in accordance with section 503 to be produced from an old lease on the Outer Continental Shelf shall qualify for the new natural gas ceiling price if such natural gas is produced from a reservoir which was not discovered before July 27, 1976.

Post, p. 3397.

(2) RESERVOIRS PENETRATED BEFORE JULY 27, 1976.—For purposes of paragraph (1), a reservoir shall be considered as having been discovered before July 27, 1976, if—

(A) such reservoir was penetrated by a well before July 27, 1976; and

(B) with respect to such well—

(i) the results of any production test meeting the requirements of OCS Order No. 4 demonstrate that, as of the time of such test, the reservoir is capable of pro-

ducing in paying quantities (within the meaning of such Order);

(ii) any production capability evidence meeting the requirements of OCS Order No. 4 demonstrates that, as of the time such evidence is obtained, the reservoir is capable of producing in paying quantities (within the meaning of such Order); or

(iii) subject to paragraph (3), an induction-electric log, sidewall cores and core analysis, or a wire line formation test indicates that, as of the time of such test, the reservoir is commercially producible.

(3) EFFECT OF NEGATIVE PRODUCTION CAPABILITY TESTS.—For purposes of paragraph (1), a reservoir shall not be considered as having been discovered before July 27, 1976, by the penetration of such reservoir by a well before July 27, 1976, if, with respect to such well——

(A) a production test meeting the requirements of OCS Order No. 4 was performed and the results of such test fail to demonstrate that, as of the time of such test, such reservior was capable of producing in paying quantities (within the meaning of such Order); and

(B) production capability evidence meeting the requirements of OCS Order No. 4 does not exist or, if existing, does not demonstrate that, as of the date such evidence was obtained, such reservoir was capable of producing in paying quantities (within the meaning of such Order).

(4) BURDEN OF PROOF.—For purposes of paragraph (1), the producer shall have the burden of showing that—

(A) no test described in paragraph (2)(B) (i) or (iii) was performed and no evidence described in paragraph (2)(B) (ii) or (iii) exists; or

(B) if any such test was performed or such evidence exists, the results of such test or such evidence do not provide the applicable demonstration or indication specified under paragraph (2).

(5) DEFINITION OF OCS ORDER NO. 4.—For purposes of this subsection, the term "OCS Order No. 4" means the order numbered 4 of the Conservation Division, Geological Survey, Department of the Interior, as approved by the Chief of the Conservation Division on August 28, 1969.

(e) EXCLUSION OF CERTAIN ALASKA NATURAL GAS.—The preceding provisions of this section shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

SEC. 103. CEILING PRICE FOR NEW, ONSHORE PRODUCTION WELLS.

(a) APPLICATION.—In the case of natural gas determined in accordance with section 503 to be produced from any new, onshore production well, the maximum lawful price computed under subsection (b) shall apply to any first sale of such natural gas delivered during any month.

15 USC 3313.
Post, p. 3397.

(b) MAXIMUM LAWFUL PRICE.—

(1) GENERAL RULE.—The maximum lawful price under this section for any month shall be—

(A) $1.75 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this para-

graph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(2) PRODUCTION AFTER 1984 FROM WELLS 5,000 FEET OR LESS IN DEPTH.—Effective beginning with the month of January 1985 and in any month thereafter, in the case of any first sale of natural gas which was not committed or dedicated to interstate commerce on April 20, 1977, and which is produced from a new, onshore production well from a completion location located at a depth of 5,000 feet or less, the maximum lawful price under this section for any such natural gas delivered during any month shall be a price which is midway between—

(A) the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas); and

(B) the maximum lawful price, per million Btu's, computed for such month under paragraph (1).

(c) DEFINITION OF NEW, ONSHORE PRODUCTION WELL.—For purposes of this section, the term "new, onshore production well" means any new well (other than a well located on the Outer Continental Shelf)—

(1) the surface drilling of which began on or after February 19, 1977;

(2) which satisfies applicable Federal or State well-spacing requirements, if any; and

(3) which is not within a proration unit—

(A) which was in existence at the time the surface drilling of such well began;

(B) which was applicable to the reservoir from which such natural gas is produced; and

(C) which applied to a well (i) which produced natural gas in commercial quantities or (ii) the surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

(d) EXCLUSION OF CERTAIN ALASKA NATURAL GAS.—The preceding provisions of this section shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

SEC. 104. CEILING PRICE FOR SALES OF NATURAL GAS DEDICATED TO INTERSTATE COMMERCE.

15 USC 3314.

(a) APPLICATION.—In the case of natural gas committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and for which a just and reasonable rate under the Natural Gas Act was in effect on such date for the first sale of such natural gas, the maximum lawful price computed under subsection (b) shall apply to any first sale of such natural gas delivered during any month.

15 USC 717w.

(b) MAXIMUM LAWFUL PRICE.—

(1) GENERAL RULE.—The maximum lawful price under this section for any month shall be the higher of—

(A) (i) the just and reasonable rate, per million Btu's, established by the Commission which was (or would have been) applicable to the first sale of such natural gas on April 20, 1977, in the case of April 1977; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month, or

(B) any just and reasonable rate which was established by the Commission after April 27, 1977, and before the date of the enactment of this Act and which is applicable to such natural gas.

(2) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(A) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(B) just and reasonable within the meaning of the Natural Gas Act. 15 USC 717w.

SEC. 105. CEILING PRICE FOR SALES UNDER EXISTING INTRASTATE CONTRACTS.

(a) APPLICATION.—The maximum lawful price computed under subsection (b) shall apply to any first sale of natural gas delivered during any month in the case of natural gas, sold under any existing contract or any successor to an existing contract, which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act. 15 USC 3315.

(b) MAXIMUM LAWFUL PRICE.—

(1) GENERAL RULE.— Subject to paragraphs (2) and (3), the maximum lawful price under this section shall be the lower of—

(A) the price under the terms of the existing contract, to which such natural gas was subject on the date of the enactment of this Act, as such contract was in effect on such date; or

(B) the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(2) CONTRACT PRICE EXCEEDING NEW GAS CEILING PRICE ON ENACTMENT.—In the case of any natural gas described in subsection (a) for which the contract price applicable on the date of the enactment of this Act exceeds the maximum lawful price, per million Btu's, computed for such date under section 102 (relating to new natural gas), the maximum lawful price under this section shall be the higher of—

(A) the maximum lawful price, per million Btu's, computed for such month under section 102; or

(B) (i) the contact price on the date of the enactment of this Act, in the case of the month in which this Act is enacted; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(3) PRICE INCREASES RESULTING FROM INDEFINITE PRICE ESCALATOR CLAUSES.—

(A) IN GENERAL.—Effective January 1985, and each month thereafter, in the case of any first sale of natural gas, which is sold at a price established under any indefinite price escalator clause of any existing contract or successor to an existing contract and for which the contract price on December 31, 1984, is higher than $1.00 per million Btu's, the maximum lawful price under this section for any such natural gas delivered during any month shall be the higher of—

(i) the maximum lawful price, per million Btu's, computed under paragraph (2)(B); or

(ii)(I) in the case of January 1985, the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for such month; and

(II) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this clause for the immediately preceding month multiplied by the monthly equivalent of the sum of a factor equal to the annual inflation adjustment factor applicable for such month plus .03.

(B) DEFINITION OF INDEFINITE PRICE ESCALATOR CLAUSE.—For purposes of this paragraph, the term "indefinite price escalator clause" includes any provision of any contract—

(i) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to other prices for natural gas, for crude oil, or for refined petroleum products; or

(ii) which allows for the establishment or adjustment of the price of natural gas delivered under such contract by negotiation between the parties.

(C) CONTRACT MODIFICATIONS AFTER MAY 3, 1978, TO BE DISREGARDED.—In the case of any natural gas which was subject to any contract on May 3, 1978, that contained an indefinite price escalator clause on such date, no amendment to or modification of the operation of such contract made after such date may have the effect of limiting or precluding the application of this paragraph on or after January 1, 1985, to prices allowed with respect to such natural gas.

(D) EXCLUSION.—Subparagraph (A) shall not apply to any first sale of new natural gas (as defined in section 102(c)), stripper well natural gas (as defined in section 108(b)), high-cost natural gas (as defined in section 107(c)), natural gas produced from a new, onshore production well (as defined in section 103(c)) from a completion location located at a depth of more than 5,000 feet, and, beginning July 1, 1987, or, if later, the date of expiration of any price controls reimposed under section 122, natural gas produced from any new, onshore production well (as defined in section 103(c)) from a completion location located at a depth of 5,000 feet or less.

(c) DEFINITION OF CONTRACT PRICE.—For purposes of this section, the term "contract price", when used with respect to any specific date, means—

(1) the price paid, per million Btu's, under a contract for deliveries of natural gas occurring on such date; or

(2) if no deliveries of natural gas occurred under such contract on such date, the price, per million Btu's, that would have been paid had such deliveries occurred on such date.

SEC. 106. CEILING PRICE FOR SALES UNDER ROLLOVER CONTRACTS.

15 USC 3316.

(a) INTERSTATE ROLLOVER CONTRACTS.—In the case of any first sale under any rollover contract of natural gas which was committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, the maximum lawful price under this subsection for such natural gas delivered during any month shall be the higher of—

(1) (A) in the case of the month in which the effective date of such rollover contract occurs, the just and reasonable rate, if any, per million Btu's, established by the Commission and applicable on such date to the natural gas subject to the expired contract; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month; or

(2) (A) $0.54 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

"Rollover contract".

For purposes of this subsection, the term "rollover contract" includes any contract which would have been a rollover contract but for the fact that the expiration of the previous contract occurred prior to the day before the date of the enactment of this Act.

(b) INTRASTATE ROLLOVER CONTRACTS.—

(1) GENERAL RULE.—In the case of any first sale under any rollover contract of natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, the maximum lawful price under this subsection for such natural gas delivered during any month shall be the higher of—

(A) (i) the maximum price paid under the expired contract, per million Btu's, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month; or

(B) (i) $1.00 per million Btu's, in the case of April 1977; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(2) CERTAIN STATE OR INDIAN PRODUCTION OR ROYALTY SHARES.—

(A) GENERAL RULE.—In the case of any first sale under any rollover contract of natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which constitutes a State government's or Indian tribe's natural gas production, or royalty share or other interest (as of such day) in natural gas production, from real property (including subsurface mineral interests) owned on the date of the enactment of this Act by such State government or Indian tribe (as the case

may be), the maximum lawful price under this subsection for any such natural gas delivered during any month shall be the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(B) INDIAN TRIBAL LANDS.—For purposes of this paragraph, land shall be considered to be owned by an Indian tribe only if—

(i) such land is owned directly by such tribe; or

(ii) such land is held by the United States or any State in trust for Indian persons and is located within the boundaries of an Indian reservation (as such boundaries were in effect on the date of the enactment of this Act).

(C) DEFINITIONS.—For purposes of this paragraph—

(i) STATE GOVERNMENT.—The term "State government" means any State or any agency, instrumentality, or political subdivision of a State.

(ii) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe recognized as eligible for services provided by the Secretary of the Interior to Indians.

(c) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(1) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(2) just and reasonable within the meaning of the Natural Gas Act.

15 USC 717w.

SEC. 107. CEILING PRICE FOR HIGH-COST NATURAL GAS.

15 USC 3317.

(a) WELLS COMPLETED BELOW 15,000 FEET.—In the case of any first sale of high-cost natural gas produced from any well the surface drilling of which began on or after February 19, 1977, if such production is from any completion location which is located at a depth of more than 15,000 feet, the maximum lawful price under this section for such natural gas delivered during any month shall be the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(b) COMMISSION AUTHORITY TO PRESCRIBE HIGHER INCENTIVE PRICES.—The Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas.

(c) DEFINITION OF HIGH-COST NATURAL GAS.—For purposes of this section, the term "high-cost natural gas" means natural gas determined in accordance with section 503 to be—

Post, p. 3397.

(1) produced from any well the surface drilling of which began on or after February 19, 1977, if such production is from a completion location which is located at a depth of more than 15,000 feet;

(2) produced from geopressured brine;

(3) occluded natural gas produced from coal seams;

(4) produced from Devonian shale; and

(5) produced under such other conditions as the Commission determines to present extraordinary risks or costs.

(d) PROVISIONS FOR HIGH-COST NATURAL GAS TO BE ELECTIVE.—If any credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax is specifically allowable with respect to any high-cost natural gas (or category thereof) under any provision of law enacted after the date of the enactment of this Act, the provisions of subsections (a) and (b) of this section and the provisions of subtitle B shall not apply to such natural gas produced from any well unless an election to have such provisions apply (in lieu of such credit, exemption, deduction, or adjustment) with respect to such natural gas produced from such well is filed with the Commission on or before the later of—

(A) the 30th day after the date of the enactment of the Act under which such credit, exemption, deduction, or adjustment is provided; or

(B) the date the surface drilling of such well began.

SEC. 108. CEILING PRICE FOR STRIPPER WELL NATURAL GAS.

(a) GENERAL RULE.—In the case of any first sale of stripper well natural gas the maximum lawful price under this section for such natural gas delivered during any month shall be— 15 USC 3318.

(1) $2.09 per million Btu's, in the case of May 1978; and

(2) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subsection for the preceding month multiplied by the monthly equivalent of a factor equal to the sum of—

(A) the annual inflation adjustment factor applicable for such month; plus

(B)(i) .035, in the case of any month beginning before April 20, 1981; or

(ii) .04, in the case of any month beginning after April 20, 1981.

(b) DEFINITION OF STRIPPER WELL NATURAL GAS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the term "stripper well natural gas" means natural gas determined in accordance with section 503 to be nonassociated natural gas produced during any month from a well if— *Post*, p. 3397.

(A) during the preceding 90-day production period, such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day during such period; and

(B) during such period such well produced at its maximum efficient rate of flow, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas.

(2) PRODUCTION IN EXCESS OF 60 MCF.—The Commission shall, by rule, provide that, if nonassociated natural gas produced from a well which previously qualified as a stripper well under paragraph (1) exceeds an average of 60 Mcf per production day during any 90-day production period, such natural gas may continue to qualify as stripper well natural gas if the increase in nonassociated natural gas produced from such well was the result of the application of recognized enhanced recovery techniques.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRODUCTION DAY.—The term "production day" means—

(i) any day during which natural gas is produced; and

(ii) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency having regulatory jurisdiction over the production of natural gas.

(B) 90-DAY PRODUCTION PERIOD.—The term "90-day production period" means any period of 90 consecutive calendar days excluding any day during which natural gas is not produced for reasons other than voluntary action of any person with the right to control production of natural gas from such well.

(C) NONASSOCIATED NATURAL GAS.—The term "nonassociated natural gas" means natural gas which is not produced in association with crude oil.

SEC. 109. CEILING PRICE FOR OTHER CATEGORIES OF NATURAL GAS.

15 USC 3319. (a) APPLICATION.—The maximum lawful price computed under subsection (b) shall apply to any first sale of any natural gas delivered during any month, in the case of any natural gas which is not covered by any maximum lawful price under any other section of this subtitle, including—

(1) natural gas produced from any new well not otherwise qualifying for a higher maximum lawful price under this title;

(2) natural gas committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and for which a just and reasonable rate under the Natural Gas Act was not in effect on such date for the first sale of such natural gas;

15 USC 717w.

(3) natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which was not subject to an existing contract on such day; and

(4) natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

(b) MAXIMUM LAWFUL PRICE.—

(1) The maximum lawful price under this section for any month shall be—

(A) $1.45 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adustment factor applicable for such month.

(2) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(A) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(B) just and reasonable within the meaning of the Natural Gas Act.

15 USC 717w.

SEC. 110. TREATMENT OF STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.

15 USC 3320. (a) ALLOWANCE FOR STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.—Except as provided in subsection (b), a price for the first sale of natural gas shall not be considered to exceed the

maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover—

(1) State severance taxes attributable to the production of such natural gas and borne by the seller, but only to the extent the amount of such taxes does not exceed the limitation of subsection (b); and

(2) any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

(b) LIMITATION ON STATE SEVERANCE TAXES.—The State severance tax allowable under subsection (a)(1) with respect to the production of any natural gas may not include any amount of State severance taxes borne by the seller which results from a provision of State law enacted on or after December 1, 1977, unless such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(c) DEFINITION OF STATE SEVERANCE TAX.—For purposes of this section, the term "State severance tax" means any severance, production, or similar tax, fee, or other levy imposed on the production of natural gas—

(1) by any State or Indian tribe (as defined in section 106(b)(2)(B)(ii)); and

(2) by any political subdivision of a State if the authority to impose such tax, fee, or other levy is granted to such political subdivision under State law.

Subtitle B—Decontrol of Certain Natural Gas Prices

SEC. 121. ELIMINATION OF PRICE CONTROLS FOR CERTAIN NATURAL GAS SALES.

(a) GENERAL RULE.—Subject to the reimposition of price controls as provided in section 122, the provisions of subtitle A respecting the maximum lawful price for the first sale of each of the following categories of natural gas shall, except as provided in subsections (d) and (e), cease to apply effective January 1, 1985: 15 USC 3331.

(1) NEW NATURAL GAS.—New natural gas (as defined in section 102(c)).

(2) NEW, ONSHORE PRODUCTION WELLS.—Natural gas produced from any new, onshore production well (as defined in section 103(c)), if such natural gas—

(A) was not committed or dedicated to interstate commerce on April 20, 1977; and

(B) is produced from a completion location which is located at a depth of more than 5,000 feet.

(3) INTRASTATE CONTRACTS IN EXCESS OF $1.00.—Natural gas sold under an existing contract, any successor to an existing contract, or any rollover contract, if—

(A) such natural gas was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act; and

(B) the price paid for the last deliveries of such natural gas occurring on December 31, 1984, or, if no deliveries

occurred on such date, the price would have been paid had deliveries occurred on such date is higher than $1.00 per million Btu's.

(b) HIGH-COST NATURAL GAS.—Effective beginning on the effective date of the incremental pricing rule required under section 201, the provisions of subtitle A respecting the maximum lawful price for the first sale of natural gas shall cease to apply to the first sale of high-cost natural gas which is described in section 107(c) (1), (2), (3), or (4).

(c) NATURAL GAS PRODUCED FROM 5,000 OR LESS.—Effective beginning July 1, 1987, or, if later, the date of expiration of any price controls reimposed under section 122, the provisions of subtitle A respecting the maximum lawful price for any first sale of natural gas shall, except as provided in subsection (d), cease to apply to any first sale of natural gas produced from any new, onshore production well (as defined in section 103(c)), if such natural gas—

(1) was not committed or dedicated to interstate commerce on April 20, 1977; and

(2) is produced from a completion location which is located at a depth of 5,000 feet or less.

(d) EXCLUSION OF CERTAIN ALASKA NATURAL GAS.—The provisions of subsections (a) and (c) shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

(e) LIMITATION ON INDEFINITE PRICE ESCALATORS.—Natural gas which is not subject to maximum lawful prices under subtitle A solely by reason of subsection (a)(3) and which is sold under any existing contract or successor to an existing contract at a price established under an indefinite price escalator clause (as defined in section 105(b)(3)(B)) shall be subject to the provisions of section 105(b)(3).

SEC. 122. STANDBY PRICE CONTROL AUTHORITY.

15 USC 3332.

(a) REIMPOSITION OF PRICE CONTROLS.—The President, in accordance with subsection (c)(1), or the Congress, in accordance with subsection (c)(2), may reimpose maximum lawful prices for first sales of natural gas to which section 121(a) applies and delivery of which occurs after the effective date of the reimposition of such maximum lawful prices.

(b) LIMITATIONS.—A reimposition of maximum lawful prices under this section—

(1) may not take effect earlier than July 1, 1985, nor later than June 30, 1987; and

(2) shall remain in effect for a period of 18 months.

(c) PROCEDURE FOR REIMPOSING PRICE CONTROLS.—For purposes of this section—

(1) PRESIDENTIAL REIMPOSITION.—Any exercise of authority by the President under subsection (a) shall be by written order issued after May 31, 1985, and, subject to subsection (b), shall take effect for the first month beginning after the first 30 calendar days of continuous session of Congress (as determined in accordance with section 507(b)) after a copy of such order has been submitted to each House of the Congress unless during such 30 calendar days of continuous session of Congress, the Congress adopts a concurrent resolution of disapproval described in section 507(c)(1).

Post, p. 3406.

(2) CONGRESSIONAL REIMPOSITION.—Any exercise of authority by the Congress under subsection (a) shall be by the adoption of a concurrent resolution after May 31, 1985, described in section 507(c)(2) and, subject to subsection (b), shall take effect for the first month beginning after the date of the adoption of such resolution. *Post*, p. 3406.

(d) MAXIMUM LAWFUL PRICES APPLICABLE UNDER REIMPOSITION OF PRICE CONTROL.—If maximum lawful prices are reimposed under this section on first sales of natural gas to which section 121(a) applies, the maximum lawful price under this section for any first sale of such natural gas delivered during any month shall be—

(1) except as provided in paragraph (2), the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas); and

(2) the maximum lawful price, per million Btu's, computed for such month under section 103(b)(2) (relating to new, onshore production wells 5,000 feet or less in depth), in the case of natural gas produced from any new, onshore production well (as defined in section 103(c)) if such natural gas—

(A) was not committed or dedicated to interstate commerce on April 20, 1977; and

(B) is produced from a completion location which is located at a depth of 5,000 feet or more.

(e) ALLOWANCE FOR STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.—A price may exceed the maximum lawful price applicable for such natural gas under this section to the same extent as is provided under section 110 with respect to maximum lawful prices under subtitle A.

(f) LIMITATION.—Maximum lawful prices may be reimposed only once under this section.

SEC. 123. REPORT TO THE CONGRESS.

(a) REPORTS.—On or before July 1, 1984, and on or before January 1, 1985, the Department of Energy shall prepare and transmit to the President and to each House of the Congress a report on natural gas prices, supplies, and demand, and the competitive conditions and market forces in the natural gas industry in the United States. Each such report shall include an evaluation by the Department of Energy whether equilibrium exists between supply and demand for natural gas. 15 USC 3333.

(b) PUBLIC COMMENT.—In preparing each report required under subsection (a), the Department of Energy shall provide an opportunity for public comment with respect to matters required under subsection (a) to be included in such report.

TITLE II—INCREMENTAL PRICING

SEC. 201. INDUSTRIAL BOILER FUEL USE.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Commission shall prescribe and make effective (and may from time to time amend) a rule designed to provide for the passthrough, in accordance with the provisions of this title, of the costs of natural gas which are— 15 USC 3341.

(1) described in section 203; and

(2) incurred by any interstate pipeline.

(b) INITIAL APPLICATION.—The requirements of the rule under this section shall apply with respect to the boiler fuel use of natural gas by any industrial boiler fuel facility.

(c) DEFINITIONS.—For purposes of this section—

(1) INDUSTRIAL BOILER FUEL FACILITY.—The term "industrial boiler fuel facility" means any industrial facility, as defined by the Commission, which uses natural gas as a boiler fuel and which is not exempt under section 206.

(2) BOILER FUEL USE.—The term "boiler fuel use" means the use of any fuel for the generation of steam or electricity.

SEC. 202. AMENDMENT EXPANDING APPLICATION FOR OTHER INDUSTRIAL USES.

15 USC 3342.

(a) IN GENERAL.—

(1) COMMISSION RULE.—Not later than 18 months after the date of the enactment of this Act, the Commission shall, by rule, prescribe an amendment to the rule required under section 201 designed to provide for the passthrough, in accordance with the provisions of this title, of the costs of natural gas which are—

(A) described in section 203; and

(B) incurred by any interstate pipeline.

(2) EFFECTIVENESS.—The amendment required by this section, and any amendment to the rule under section 201 which is applicable to facilities to which the amendment required by this section applies (other than a technical or clerical amendment), shall take effect only as provided under subsection (c).

(b) EXPANDED APPLICATION.—The requirements of the rule under section 201, as amended under subsection (a), shall apply with respect to the industrial use of natural gas (as defined by the Commission in such rule), including boiler fuel use of natural gas (as defined in section 201(C)(2)) by—

(1) any industrial boiler fuel facility (as defined in section 201(c)(1)); and

(2) any industrial facility which is within a category defined by the Commission in such amendment as subject thereunder to the requirements of such rule which is not exempt under section 206.

(c) CONGRESSIONAL REVIEW.—

(1) IN GENERAL.—Any amendment, the effectiveness of which is subject to this subsection, shall take effect beginning with the first month which begins more than 30 days after the first 30 calendar days of continuous session of Congress (determined in accordance with section 507(b) after a copy of such amendment has been submitted to each House of the Congress or on such later date, not more than 90 days thereafter, as may be provided in such amendment unless, during such 30 day period of continuous session of Congress, either House of the Congress adopts a resolution of disapproval described in section 507(c)(3) with respect to such amendment.

Post, p. 3406.

(2) AUTHORITY IN THE EVENT OF CONGRESSIONAL DISAPPROVAL.—

(A) AUTHORITY TO RESUBMIT.—If either House of the Congress adopts a resolution of disapproval with respect to the amendment required under subsection (a) (or any amendment proposed and submitted under this subparagraph), the Commission may thereafter submit to each House of the Congress an amendment, satisfying the requirements of subsections (a) and (b), which amendment shall take effect as provided under paragraph (1).

(B) LIMITATION.—The authority of subparagraph (A) may not be exercised—

(i) earlier than 6 months after the date of the adoption of the most recent resolution of disapproval with respect to any such amendment under this section; and

(ii) later than 2 years after the date of the adoption of any resolution of disapproval described in section 507(c)(3) with respect to the amendment required under subsection (a). *Post*, p. 3406.

SEC. 203. ACQUISITION COSTS SUBJECT TO PASSTHROUGH.

(a) IN GENERAL.—The following costs shall be subject to the pass-through requirements of the rule prescribed under section 201 (including any amendment under section 202): 15 USC 3343.

(1) NEW NATURAL GAS.—In the case of new natural gas (as defined in section 102(c)), any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs.

(2) NATURAL GAS UNDER INTRASTATE ROLLOVER CONTRACT.—In the case of natural gas, delivered under a rollover contract, which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which such delivery occurs.

(3) NEW, ONSHORE PRODUCTION WELL GAS.—In the case of natural gas produced from any new, onshore production well (as defined in section 103(c)), any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs.

(4) LNG IMPORTS.—Subject to section 207, in the case of liquefied natural gas imported into the United States, any portion of the first sale acquisition cost of such natural gas (whether or not liquefied when acquired) which exceeds the incremental pricing threshold applicable for the month in which such liquefied natural gas enters the United States.

(5) NATURAL GAS (OTHER THAN LNG) IMPORTS.—Subject to section 207, in the case of natural gas (other than liquefied natural gas) imported into the United States, any portion of the first sale acquisition cost of such imported natural gas which exceeds the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for the month in which such natural gas enters the United States, without regard to section 110.

(6) STRIPPER WELL NATURAL GAS.—In the case of stripper well natural gas (as defined in section 108(b)), any portion of the first sale acquisition cost of such natural gas which exceeds the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for the month in which the delivery of such natural gas occurs, without regard to section 110.

(7) HIGH-COST NATURAL GAS.—In the case of high-cost natural gas (as defined in section 107(c)), any portion of the first sale acquisition cost of such natural gas which exceeds 130 percent of the amount the Commission determines represents—

(A) the weighted average per barrel cost of Number 2 fuel oil landed in the greater New York City metropolitan area,

during an appropriate period preceding the month during which delivery of such natural gas occurs; divided by

(B) a Btu conversion factor of 5.8 mililon Btu's per barrel.

(8) ALASKA NATURAL GAS TRANSPORTATION SYSTEM.—In the case of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976—

15 USC 719 note.

(A) any portion of the first sale acquisition cost of such natural gas which is not described in subparagraph (B) and which exceeds the maximum lawful price, per million Btu's, computed under section 109 (relating to other categories of natural gas) for the month in which delivery of such natural gas occurs, without regard to section 110; and

(B) any amount paid to any person (other than the producer of such natural gas or an affiliate of such producer) for, or attributable to, any compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or any similar service provided with respect to such natural gas, before the delivery of such natural gas to such system.

(9) INCREASED STATE SEVERANCE TAXES.—

(A) INCREASES INCLUDED.—Any portion of the cost of natural gas at any first sale attributable to any increase in the amount of State severance taxes (as defined in section 110(c)) which results from a provision of State law enacted on or after December 1, 1977.

(B) CERTAIN CHANGES ALLOWED IN METHOD OF COMPUTING TAX.—Subparagraph (A) shall not apply to any increase in State severance taxes resulting from a change in the method of computation of such tax by reason of any provision of State law enacted on or after December 1, 1977, if—

(i) as of the effective date of such change in method of computation, such increase does not result in an increase in the level of such tax, expressed as a percentage of the weighted average first sale price of natural gas produced in such State, above the percentage of such average first sale price which such tax constituted on the day before such effective date; and

(ii) such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(C) DETERMINATION OF AVERAGE PRICE.—The price to be used in determining the weighted average first sale price for purposes of clause (i) shall be the price paid at the first sale which is used by such State in administering such tax (or an imputed value, if the State uses an event other than a first sale in administering such tax).

(10) PURCHASES UNDER SECTION 311.—In the case of any sale of natural gas authorized under section 311, any portion of any amount paid, per million Btu's, in the acquisition of such natural gas in any such sale which exceeds the incremental pricing threshold applicable for the month in which such acquisition occurs.

(11) SURCHARGES PAID TO OTHER PIPELINES.—The amount of any surcharge (described in section 204(c)(3)) paid by any interstate pipeline for natural gas acquired by such pipeline from another interstate pipeline.

(b) FIRST SALE ACQUISITION COSTS.—

(1) GENERAL RULE.—For purposes of this section, the first sale acquisition cost of natural gas is—

(A) the price paid, per million Btu's, in any first sale of such natural gas, in the case of any natural gas produced in the United States and acquired in such first sale; and

(B) the price paid for such natural gas, per million Btu's, at the point of entry to the United States, in the case of natural gas or liquefied natural gas imported into the United States.

Any amount of State severance taxes paid at any first sale shall not be included under subparagraph (A) or (B).

(2) INTERSTATE PIPELINE PRODUCTION.—For purposes of this section, in the case of any natural gas produced by any interstate pipeline or any affiliate of such pipeline, the first sale acquisition cost of such natural gas shall be determined in accordance with rules prescribed by the Commission.

(c) INCREMENTAL PRICING THRESHOLD.—For purposes of this section, the incremental pricing threshold applicable for any month shall be—

(1) $1.48 per million Btu's, in the case of March 1978; and

(2) in the case of any month thereafter, the amount, per million Btu's, determined under this subsection for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor (as defined in section 101(a)) applicable for such month.

(d) CLASSIFICATION TO BE BASED ON PROVISIONS UNDER WHICH SALE PRICE IS DETERMINED.—In the case of natural gas which is described in more than one paragraph of paragraphs (1) through (8) of subsection (a), the Commission shall, by rule, prescribe the method for determining under which such paragraph the first sale acquisition costs of such natural gas shall be subject to the passthrough requirements of this title, based upon the classification of such natural gas under which the price of such national gas is determined under title I.

SEC. 204. METHOD OF PASSTHROUGH.

(a) ESTABLISHMENT OF INCREMENTAL PRICING ACCOUNT.—The rule required under section 201 (including any amendment under section 202 to such rule) shall provide that any interstate pipeline subject to such rule shall establish and maintain an incremental pricing account (hereinafter in this title referred to as the "account"). 15 USC 3344.

(b) CREDITS TO ACCOUNT.—The rule required under section 201 (including any amendment under section 202 to such rule) shall provide that any costs subject to the passthrough requirements of this title under section 203 (and any carrying charges permitted by the Commission) shall be credited to the account of such pipeline. Amounts so credited may not be allocated to the rates and charges of such pipeline except to the extent provided under this section.

(c) REQUIREMENT FOR DIRECT PASSTHROUGH.—

(1) IN GENERAL.—The rule required under section 201 (including any amendment under section 202 to such rule) shall be designed to provide that any amounts in any interstate pipeline's account will be passed through, in accordance with a method prescribed under paragraph (2), by means of a surcharge determined in accordance with a method prescribed under paragraph (3).

(2) SURCHARGE PASSTHROUGH.—The rule required under section 201 (including any amendment under section 202) shall provide—

(A) that any surcharge calculated under paragraph (3) may not be imposed by any interstate pipeline except in accordance with a method prescribed under subparagraph (B); and

(B) one or more methods for imposing such surcharge on the rates and charges of such pipeline applicable to any volume of natural gas delivered, during the calendar period involved, for industrial use to any incrementally priced industrial facilities served directly by such interstate pipeline and to incrementally priced industrial facilities served indirectly through any other interstate pipeline or any local distribution company.

(3) SURCHARGE.—

(A) CALCULATION OF SURCHARGE.—Subject to subparagraphs (B) and (C), the amount of any surcharge imposed by any interstate pipeline under this subsection on deliveries of natural gas during the calendar period involved shall be based on the dollar amount in such pipeline's account at the beginning of such period and on the volume of natural gas delivered directly or indirectly by such pipeline during such period or a preceding calendar period to incrementally priced industrial facilities for industrial use with such adjustments as the Commission determines necessary to carry out the purposes of this title.

(B) ELIMINATION OR REDUCTION OF SURCHARGE APPLICABLE TO A FACILITY.—The rule under section 201 (including any amendment under section 202 to such rule) shall provide one or more methods which have the effect of eliminating or reducing the amount of the surcharge determined under subparagraph (A) to be passed through under paragraph (2) with respect to volumes of natural gas to be delivered directly or indirectly to any incrementally priced industrial facility for industrial use to the extent that such surcharge, in the absence of such elimination or reduction, would cause the rates and charges, per million Btu's, paid for such volumes of natural gas by that incrementally priced industrial facility to exceed the appropriate alternative fuel cost.

(C) INCREASE IN GENERAL SURCHARGE TO REFLECT AN ADJUSTMENT UNDER SUBPARAGRAPH (B).—The rule under section 201 (including any amendment under section 202 to such rule) shall provide one or more methods by which, in any case in which the surcharge is eliminated or reduced under subparagraph (5) with respect to certain deliveries of natural gas, the interstate pipeline involved may recover from incrementally priced industrial facilities which are not subject to any surcharge elimination or reduction under subparagraph (B) the dollar amount which would have been so passed through if the elimination or reduction under subparagraph (B) had not occurred.

(D) EXCEPTION.—The methods prescribed under subparagraphs (B) and (C) need not require—

(i) elimination or reduction under subparagraph (B) of the surcharge with respect to any specific deliveries of natural gas; or

(ii) the increase under subparagraph (C) of the surcharge generally applicable due to any adjustment under subparagraph (B),

if the Commission determines that to do so would be impracticable or unnecessary to carry out the purposes of this title.

(4) LOCAL DISTRIBUTION COMPANY DIRECT PURCHASES.—In any case in which a local distribution company directly incurs any first sale acquisition cost subject to the passthrough requirements of this title under section 203 or otherwise directly incurs any other cost subject to such requirements under sections 203(a)(8)(B), (9), or (10), such local distribution company shall, with respect to the natural gas involved, be treated for purposes of this title as if it were an interstate pipeline.

(5) PIPELINES AND LOCAL DISTRIBUTION COMPANIES WITH MORE THAN ONE SOURCE OF NATURAL GAS.—The rule under section 201 (including any amendment under section 202 to such rule) shall prescribe one or more methods for determining, for purposes of paragraph (2)(B) and paragraph (3)(A), the volume of natural gas delivered indirectly by any interstate pipeline to any incrementally priced industrial facility through any other interstate pipeline or local distribution company for purposes of applying subsection (d)(2).

(d) DEDUCTIONS FROM ACCOUNT.—

(1) IN GENERAL.—Amounts passed through by any interstate pipeline by means of any surcharge under this section shall be deducted from such pipeline's account.

(2) NORMAL ALLOCATION TO OCCUR WHERE BTU EQUIVALENCY IS REACHED FOR ALL FACILITIES SERVED BY A PIPELINE.—In any case in which the rates and charges to incrementally priced industrial facilities for natural gas delivered, directly or indirectly, by any interstate pipeline for industrial use to incrementally priced industrial facilities subject to the rule required under section 201 (including any amendment under section 202 to such rule), are not less than the appropriate alternative fuel cost, such rule shall prescribe one or more methods by which amounts in excess of that reasonably necessary to maintain such rates and charges applicable to such industrial facilities at the appropriate alternative fuel cost may be deducted from such pipeline's account and may be allocated to the rates and charges of such interstate pipeline in any manner which would be permitted in the absence of this title.

(e) DETERMINATION OF ALTERNATIVE FUEL COST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the appropriate alternative fuel cost for any region (as designated by the Commission) shall be the price, per million Btu's, for Number 2 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel.

(2) REDUCTION OF APPROPRIATE ALTERNATIVE FUEL COST ALLOWED.—The Commission may, by rule or order, reduce the appropriate alternative fuel cost—

(A) for any category of incrementally priced industrial facilities, subject to the rule required under section 201 (including any amendment under section 202 to such rule) located within any region and served by the same interstate pipeline; or

(B) for any specific incrementally priced industrial facility which is subject to such requirements and which is located in any region;

to an amount not lower than the price, per million Btu's, for Number 6 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel, if and to the extent the Commission determines, after an opportunity for written and oral presentation of views, data, and arguments, that such reduction is necessary to prevent increases in the rates and charges to residential, small commercial, and other high-priority users of natural gas which would result from a reallocation of costs caused by the conversion of such industrial facility or facilities from natural gas to other fuels, which conversion is likely to occur if the level of the appropriate alternative fuel cost were not so reduced.

(f) DETERMINATION OF APPROPRIATE ACCOUNTING PERIOD.—The rule required to be prescribed in section 201 shall specify the appropriate calendar periods used for purposes of such rule (including any amendment under section 202 to such rule).

(g) INCREMENTALLY PRICED INDUSTRIAL FACILITY DEFINED.—For purposes of this section, the term "incrementally priced industrial facility" means any industrial facility subject to the requirements of the rule under section 201 (including any amendment under section 202 to such rule).

(h) INDUSTRIAL USE DEFINED.—For purposes of this section, the term "industrial use", when used with respect to natural gas, means the boiler fuel use of natural gas (as defined in section 201(c)(2)) and any other use defined, by rule, by the Commission as an industrial use.

SEC. 205. LOCAL DISTRIBUTION COMPANY PASSTHROUGH REQUIREMENTS.

15 USC 3345.

(a) GENERAL RULE.—Any surcharge under this title, paid by any local distribution company with respect to natural gas which is indirectly delivered by any interstate pipeline to incrementally priced industrial facilities which are served by such local distribution company, shall be directly passed through to such industrial facilities.

(b) PROHIBITION ON OFFSETTING MODIFICATIONS IN RATES AND CHARGES.—Any modification of the method of allocating costs to the rates and charges of such local distribution company in effect on the date of the enactment of this Act is prohibited if a court, in any action brought under section 504(b)(3), determines that such modification has the effect of creating any offset, in the rates and charges for natural gas applicable to any incrementally priced industrial facility served by such company, for the amount of any surcharge under this title paid by such local distribution company with respect to natural gas delivered by any interstate pipeline indirectly to that incrementally priced industrial facility.

Post, p. 3401.

(c) SPECIAL ENFORCEMENT AUTHORITY OF ATTORNEY GENERAL.—In addition to such enforcement authority as may be available to the Commission or any person, the Attorney General may enforce the requirements of this subsection in accordance with the provisions of section 504(b)(3).

(d) PREEMPTION OF STATE OR LOCAL LAW.—The requirements of this title shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any surcharge under this title or prevent the application of the requirements of this section.

(e) STATE COMMISSION DEFINED.—For the purposes of this subsection, the term "State commission" means the State, political subdivision, or an agency of either, having jurisdiction with respect to the rates and charges of any local distribution company.

SEC. 206. EXEMPTIONS.

(a) SMALL EXISTING INDUSTRIAL BOILER FUEL USERS.—

(1) INTERIM EXEMPTION.—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule required under section 201 shall not apply with respect to any boiler fuel use of natural gas by any industrial boiler fuel facility in existence on the date of the enactment of this Act if such use of natural gas by such facility does not exceed an average of 300 Mcf per day during any month of a base period determined appropriate by the Commission. 15 USC 3346.

(2) PERMANENT EXEMPTION.—

(A) GENERAL RULE.—Not later than 18 months after the date of the enactment of this Act, the Commission shall prescribe and make effective a rule providing for the exemption of any small industrial boiler fuel facility from the rule required under section 201 (including any amendment under section 202 to such rule).

(B) DEFINITION.—For purposes of this paragraph, the term "small industrial boiler fuel facility" means any industrial boiler fuel facility in existence on the date of the enactment of this Act that had an average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977 which did not exceed the lesser of—

(i) 300 Mcf; or

(ii) such average daily rate of use during a month of peak use as the Commission determines in such rule is necessary to assure that the volume of natural gas estimated by the Commission to have been used for boiler fuel during calendar year 1977 by facilities which are exempted under this paragraph does not exceed 5 percent of the total volume of natural gas estimated by the Commission to have been used for boiler fuel transported by interstate pipelines and used during calendar year 1977 as a boiler fuel.

(b) AGRICULTURAL USERS OF NATURAL GAS.—

(1) INTERIM EXEMPTION.—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule prescribed under section 201 shall not apply to any facility to the extent of any agricultural use of natural gas.

(2) EXEMPTION BY RULE.—Not later than 18 months after the date of the enactment of this Act, the Commission shall prescribe and make effective a rule providing for the exemption from the rule required under section 201 (including any amendment under section 202 to such rule) any facility with respect to any agricultural use of natural gas for which the Commission determines that an alternative fuel or feedstock is not—

(A) economically practicable; or

(B) reasonably available.

(3) AGRICULTURAL USE DEFINED.—For purposes of this subsection, the term "agricultural use", when used with respect to natural gas, means the use of natural gas to the extent such use is—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

(c) SCHOOLS, HOSPITALS, AND CERTAIN OTHER FACILITIES.—The rule under section 201 (including any amendment to such rule under section 202) shall not apply to—

(1) any school, hospital, or other similar institution;

(2) the generation of electricity by any electric utility; or

(3) to the extent provided by the Commission by rule, any qualifying cogenerator (as defined in section 3(18)(B) of the Federal Power Act, as amended by the Public Utility Regulatory Policies Act of 1978).

16 USC 796.
Ante, p. 3134.

(d) OTHER EXEMPTIONS.—

(1) IN GENERAL.—The Commission may, by rule or order, provide for the exemption, in whole or in part, of any other incrementally priced industrial facility or category thereof from the rule prescribed under section 201 (including any amendment under section 202 to such rule).

(2) CONGRESSIONAL REVIEW.—Any rule which provides for any exemption under this subsection may take effect after the expiration of the first 30 calendar days of continuous session of Congress (determined in accordance with section 507(b)) after a copy of such rule has been submitted to each House of the Congress, unless, during such 30 day period of continuous session of Congress, either House of the Congress adopts a resolution of disapproval described in section 507(c)(3), with respect to such rule.

Post, p. 3406.

SEC. 207. TREATMENT OF CERTAIN IMPORTS.

15 USC 3347.

(a) CERTAIN LNG IMPORTS.—Except to the extent of a determination otherwise under subsection (c)(1), the provisions of section 203(a)(4) shall not apply to the passthrough of the first sale acquisition costs of liquefied natural gas (or natural gas vaporized from liquefied natural gas) imported into the United States if—

(1) the importation of such liquefied natural gas has been authorized under section 3 of the Natural Gas Act on or before May 1, 1978;

15 USC 717b.

(2) an application for such authority was pending under such section on such date; or

(3) in connection with the granting of any authority under the Natural Gas Act to import such liquefied natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the Department of Energy Organization Act (or any delegation or assignment thereunder), determines that a contract binding on the importer or other substantial financial commitment of the importer has been made on or before such date.

15 USC 717w.

42 USC 7101 note.

(b) CERTAIN NATURAL GAS IMPORTS (OTHER THAN LNG).—Subject to subsection (c)(2), the provisions of section 203(a)(5) shall only apply to the passthrough of the first sale acquisition costs of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceeds both—

(1) the maximum delivery obligations, for the month in which such delivery of such natural gas occurs, which is specified in contracts entered into on or before May 1, 1978, and in effect when such delivery occurs; and

(2) the volume of natural gas imported into the United States by the interstate pipeline involved during any corresponding period (determined appropriate by the Commission) of calendar year 1977.

(c) AUTHORITY WITH RESPECT TO INCREMENTAL PRICING OF NATURAL GAS OR LNG IMPORTS.—

(1) LNG IMPORTS.—Subsection (a) (2) and (3) shall not apply with respect to any liquefied natural gas imports if, in connection with the granting of any authority under the Natural Gas Act to import such liquefied natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the assignment of functions under the Department of Energy Organization Act, determines that the provisions of section 203(a)(4) shall apply with respect to such liquefied natural gas imports. 15 USC 717w. 42 USC 7101 note.

(2) NATURAL GAS IMPORTS (OTHER THAN LNG).—The provisions of section 203(a)(5) shall apply to the passthrough of the first sale acquisition costs of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceed the volume of natural gas imported into the United States by the interstate pipeline involved during any corresponding period (determined appropriate by the Commission) of calendar year 1977 if, in connection with the granting of any authority under the Natural Gas Act to import such natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the assignment of functions under the Department of Energy Organization Act, determines that the provisions of section 203(a)(5) shall apply with respect to such natural gas imports. 15 USC 717w. 42 USC 7101 note.

SEC. 208. ALASKA NATURAL GAS.

In the case of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976— 15 USC 3348. 15 USC 719 note.

(1) any portion of the first sale acquisition cost of such natural gas incurred by any interstate pipeline which is not required to be incrementally priced under this title, and

(2) any amount incurred by any interstate pipeline, for transportation of such natural gas after delivery of such natural gas to such system,

shall be allocated to the rates and charges of such interstate pipeline in accordance with the general principles applicable on the date of the enactment of this Act for establishing rates in connection with the issuing of certificates under the Natural Gas Act for interstate pipelines. 15 USC 717w.

TITLE III—ADDITIONAL AUTHORITIES AND REQUIREMENTS

Subtitle A—Emergency Authority

SEC. 301. DECLARATION OF EMERGENCY.

(a) PRESIDENTIAL DECLARATION.—The President may declare a natural gas supply emergency (or extend a previously declared emergency) if he finds that— 15 USC 3361.

(1) a severe natural gas shortage, endangering the supply of natural gas for high-priority uses, exists or is imminent in the United States or in any region thereof; and

(2) the exercise of authorities under section 302 or section 303 is reasonably necessary, having exhausted other alternatives to the maximum extent practicable, to assist in meeting natural gas requirements for such high-priority uses.

(b) LIMITATION.—

(1) EXPIRATION.—Any declaration of a natural gas supply emergency (or extension thereof) under subsection (a), shall terminate at the earlier of—

(A) the date on which the President finds that any shortage described in subsection (a) does not exist or is not imminent; or

(B) 120 days after the date of such declaration of emergency (or extension thereof).

(2) EXTENSIONS.—Nothing in this subsection shall prohibit the President from extending, under subsection (a), any emergency (or extension thereof), previously declared under subsection (a), upon the expiration of such declaration of emergency (or extension thereof) under paragraph (1) (B).

SEC. 302. EMERGENCY PURCHASE AUTHORITY.

15 USC 3362.

(a) PRESIDENTIAL AUTHORIZATION.—During any natural gas supply emergency declared under section 301, the President may, by rule or order, authorize any interstate pipeline or local distribution company served by any interstate pipeline to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for the purchase of emergency supplies of natural gas—

(1) from any producer of natural gas (other than a producer who is affiliated with the purchaser, as determined by the President) if—

(A) such natural gas is not produced from the Outer Continental Shelf; and

15 USC 717w.

(B) the sale or transportation of such natural gas was not pursuant to a certificate issued under the Natural Gas Act immediately before the date on which such contract was entered into; or

(2) from any intrastate pipeline, local distribution company, or other person (other than an interstate pipeline or a producer of natural gas).

(b) CONTRACT DURATION.—The duration of any contract authorized under subsection (a) may not exceed 4 months. The preceding sentence shall not prohibit the President from authorizing under subsection (a) a renewal of any contract, previously authorized under such subsection, following the expiration of such contract.

(c) RELATED TRANSPORTATION AND FACILITIES.—The President may, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natural gas, as he determines necessary to carry out any contract authorized under subsection (a). The costs of any construction or transportation ordered under this subsection shall be paid by the purchaser of natural gas under the contract with respect to which such order is issued. No order to transport natural gas under this subsection shall require any pipeline to transport natural gas in excess of such pipeline's available capacity.

(d) MAINTENANCE OF ADEQUATE RECORDS.—The Commission shall require any interstate pipeline or local distribution company contracting under the authority of this section for natural gas to maintain and make available full and adequate records concerning transactions under this section, including records of the volumes of natural gas purchased under the authority of this section and the rates and charges for purchase and receipt of such natural gas.

(e) SPECIAL LIMITATION.—No sale under any emergency purchase contract under this section for emergency supplies of natural gas for sale and delivery from any intrastate pipeline which is operating under court supervision as of January 1, 1977, may take effect unless the court approves.

SEC. 303. EMERGENCY ALLOCATION AUTHORITY.

(a) IN GENERAL.—In order to assist in meeting natural gas requirements for high-priority uses of natural gas during any natural gas supply emergency declared under section 301, the President may, by order, allocate supplies of natural gas under subsections (b), (c), and (d) to— 15 USC 3363.

(1) any interstate pipeline;

(2) any local distribution company—

(A) which is served by any interstate pipeline;

(B) which is providing natural gas only for high-priority uses; and

(C) which is in need of deliveries of natural gas to assist in meeting natural gas requirements for high-priority uses of natural gas; and

(3) any person for meeting requirements of high-priority uses of natural gas.

(b) ALLOCATION OF CERTAIN BOILER FUEL GAS.—

(1) REQUIRED FINDING.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, emergency purchase authority under section 302 has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) emergency purchases of natural gas supplies under section 302 are not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses; and

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to to the maximum extent practicable to terminate such deliveries.

(2) ALLOCATION AUTHORITY.—Subject to paragraph (1), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of natural gas the use of which has been prohibited by the President pursuant to authority under section 607 of the Public Utility Regulatory Policies Act of 1978 (relating to the use of natural gas as a boiler fuel during any natural gas supply emergency). *Ante*, p. 3171.

(c) ALLOCATION OF GENERAL PIPELINE SUPPLY.—

(1) REQUIRED FINDINGS.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, allocation of supplies of natural gas under subsection (b) has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) the exercise of such authority is not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses;

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to the maximum extent practicable to terminate such deliveries;

(E) such allocation will not create, for the interstate pipeline delivering certificated natural gas, a supply shortage which will cause such pipeline to be unable to meet the natural gas requirements for high-priority uses of natural gas served, directly or indirectly, by such pipeline; and

(F) such allocation will not result in a disproportionate share of deliveries and resulting curtailments of natural gas being experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders issued under this subsection applicable to other interstate pipelines (as determined by the President).

(2) REQUIRED NOTIFICATION FROM STATE.—

(A) NOTIFICATION.—The President shall not allocate supplies of natural gas under this subsection unless he is notified by the Governor of any State that—

(i) a shortage of natural gas supplies available to such State exists or is imminent;

(ii) such shortage or imminent shortage endangers the supply of natural gas for high-priority uses in such State; and

(iii) the exercise of authority under State law is inadequate to protect high-priority uses of natural gas in such State from an interruption in natural gas supplies.

(3) BASIS OF FINDING.—To the maximum extent practicable, the Governor shall submit, together with any notification under subparagraph (A), information upon which he has based his finding under such subparagraph, including—

(i) volumes of natural gas required to meet the natural gas requirements for high-priority uses of natural gas in such State;

(ii) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas supplies available to such State;

(iii) information on the authority under State law which will be exercised to protect high-priority uses; and

(iv) such other information which the President requests or which the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed by such State.

(4) ALLOCATION AUTHORITY.—Subject to paragraphs (1), (2), and (5), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of certificated natural gas from any interstate pipeline.

(5) CONSIDERATION OF ALTERNATIVE FUEL AVAILABILITY.—In issuing any order under this subsection the President shall consider

the relative availability of alternative fuel to natural gas users supplied by the interstate pipeline ordered to make deliveries pursuant to this subsection.

(d) ALLOCATION OF USER-OWNED GAS.—

(1) REQUIRED FINDING.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, allocation of supplies of natural gas under subsection (c) has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) the exercise of such authority is not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses;

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to the maximum extent practicable to terminate such deliveries; and

(E) such allocation will not create, for the person who owns and would otherwise use such natural gas, a supply shortage which will cause such person to be unable to satisfy such person's natural gas requirements for high-priority uses.

(2) ALLOCATION AUTHORITY.—Subject to paragraphs (1) and (3), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of natural gas which would be certificated natural gas but for the second sentence of section 2(19).

(3) CONSIDERATION OF ECONOMIC FEASIBILITY OF ALTERNATIVE FUELS.—In issuing any order under this subsection, the President shall consider the economic feasibility of alternative fuels available to the user which owned the natural gas subject to an order under this subsection.

(e) LIMITATION.—No order may be issued under this section unless the President determines that such order will not require transportation of natural gas by any pipeline in excess of its available transportation capacity.

(f) INDUSTRY ASSISTANCE.—The President may request that representatives of pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

(g) COMPENSATION.—

(1) IN GENERAL.—If the parties to any order issued under subsection (b), (c), (d), or (h) fail to agree upon the terms of compensation for natural gas deliveries or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting natural gas.

(2) CALCULATION OF COMPENSATION FOR CERTAIN BOILER FUEL NATURAL GAS.—For purposes of any supplemental order under paragraph (1) with respect to emergency deliveries pursuant to subsection (b), the President shall calculate the amount of compensation—

(A) for supplies of natural gas based upon the amount required to make whole the user subject to the prohibition

order, but in no event may such compensation exceed just compensation prescribed in section 607 of the Public Utility Regulatory Policies Act of 1978; and

Ante, p. 3171.

(B) for transportation, storage, delivery, and other services, based upon reasonable costs, as determined by the President.

(3) COMPENSATION FOR OTHER NATURAL GAS ALLOCATED.—For the purpose of any supplemental order under paragraph (1), if the party making emergency deliveries pursuant to subsection (c) or (d)—

(A) indicates a preference for compensation in kind, the President shall direct that compensation in kind be provided as expeditiously as practicable;

(B) indicates a preference for compensation, or the President determines that, notwithstanding paragraph (A) of this subsection, any portion thereof cannot practicably be compensated in kind, the President shall calculate the amount of compensation—

(i) for supplies of natural gas, based upon the amount required to make the pipeline and its local distribution companies whole, in the case of any order under subsection (c), or to make the user from whom natural gas is allocated whole, in the case of any order under subsection (d), including any amount actually paid by such pipeline and its local distribution companies or such user for volumes of natural gas or higher cost synthetic gas acquired to replace natural gas subject to an order under subsection (c) or (d); and

(ii) for transportation, storage, delivery, and other services, based upon reasonable costs, as determined by the President. Compensation received by an interstate pipeline under this subsection shall be credited to the account of any local distribution company served by that pipeline to the extent ordered by the President to make such local distribution company whole.

(h) RELATED TRANSPORTATION AND FACILITIES.—The President may, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natual gas, as he determines necessary to carry out any order under subsection (b), (c), or (d). Compensation for the costs of any construction or transportation ordered under this subsection shall be determined under subsection (g) and shall be paid by the person to whom supplies of natural gas are ordered allocated under this section.

(i) MONITORING.—In order to effect the purposes of this subtitle, the President shall monitor the operation of any order made pursuant to this section to assure that natural gas delivered pursuant to this section is applied to high-priority uses only.

Report to Congress.

(j) COMMISSION STUDY.—Not later than June 1, 1979, the Commission shall prepare and submit to the Congress a report regarding whether authority, to allocate natural gas, which is not otherwise subject to allocation under this subtitle, is likely to be necessary to meet high-priority uses.

(k) DEFINITION OF HIGH-PRIORITY USE.—For purposes of this section, the term "high-priority use" means any—

(1) use of natural gas in a residence;

(2) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; or

(3) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

SEC. 304. MISCELLANEOUS PROVISIONS.

15 USC 3364.

(a) INFORMATION.—

(1) OBTAINING OF INFORMATION.—In order to obtain information to carry out his authority under this subtitle, the President may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(c) secure, upon request, any information from any Federal agency.

(2) ENFORCEMENT OF SUBPENAS AND ORDERS.—The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(b) REPORTING OF PRICES AND VOLUMES.—In issuing any order under section 302 or 303, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order shall be reported to him on a weekly basis. Such reports shall be made available to the Congress.

(c) PRESIDENTIAL REPORTS TO CONGRESS.—The President shall report to the Congress, not later than 90 days following the termination under section 301(b) of any declaration of a natural gas supply emergency (or extension thereof) under section 301(a), respecting the exercise of authority under section 301, 302, 303, or this section.

(d) DELEGATION OF AUTHORITIES.—The President may delegate all or any portion of the authority granted to him under section 301, 302, 303, or this section to such Federal officers or agencies as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any Federal officer or agency to which authority is delegated or redelegated under this subsection shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

(e) ANTITRUST PROTECTIONS.—

(1) DEFENSES.—There shall be available as a defense for any person to civil or criminal action brought for violation of the Federal antitrust laws (or any similar law of any State) with respect to any action taken, or meeting held, pursuant to any order of the President under section 303 (b), (c), (d), or (i), or any meeting held pursuant to a request of the President under section 303(g), if—

(A) such action was taken or meeting held solely for the purpose of complying with the President's request or order;

(B) such action was not taken for the purpose of injuring competition; and

(C) any such meeting complied with the requirements of paragraph (2).

Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(2) REQUIREMENTS OF MEETINGS.—With respect to any meeting held pursuant to a request by the President under section 303(g) or pursuant to an order under section 303—

(A) there shall be present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

(B) a full and complete record of such meeting shall be taken and deposited, together with any agreements resulting therefrom, with the Attorney General, who shall make it available for public inspection and copying;

(C) the Attorney General and the Federal Trade Commission shall have the opportunity to participate from the beginning in the development and carrying out of agreements and actions under section 303, in order to propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of section 303 and any order thereunder; and

(D) such other procedures as may be specified by the President in such request or order shall be complied with.

(f) EFFECT ON CERTAIN CONTRACTUAL OBLIGATIONS.—There shall be available as a defense to any action brought for breach of contract under Federal or State Law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order issued under section 303.

(g) PREEMPTION.—Any order issued pursuant to this title shall preempt any provision of any program for the allocation, emergency delivery, transportation, or purchase of natural gas established by any State or local government if such program is in conflict with any such order.

Subtitle B—Other Authorities and Requirements

SEC. 311. AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION.

15 USC 3371.

(a) COMMISSION APPROVAL OF TRANSPORTATION.—

(1) INTERSTATE PIPELINES.—

(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

(i) any intrastate pipeline; and

(ii) any local distribution company.

(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

15 USC 717w.

(2) INTRASTATE PIPELINES.—

(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

(i) any interstate pipeline; and

(ii) any local distribution company served by any interstate pipeline.

(B) RATES AND CHARGES.—

(i) MAXIMUM FAIR AND EQUITABLE PRICE.—The rates and charges of any intrastate pipeline with respect to any transportation authorized under subparagraph (A), including any amount computed in accordance with the rule prescribed under clause (ii), shall be fair and equitable and may not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(ii) COMMISSION RULE.—The Commission shall, by rule, establish the method for calculating an amount necessary to—

(I) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, delivery, or similar service provided by such pipeline in connection with any transportation of natural gas authorized under subparagraph (A); and

(II) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(b) COMMISSION APPROVAL OF SALES.—

(1) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to—

(A) any interstate pipeline; and

(B) any local distribution company served by any interstate pipeline.

(2) RATES AND CHARGES.—

(A) MAXIMUM FAIR AND EQUITABLE PRICE.—The rates and charges of any intrastate pipeline with respect to any sale of natural gas authorized under paragraph (1) shall be fair and equitable and may not exceed the sum of—

(i) such intrastate pipeline's weighted average acquisition cost of natural gas;

(ii) an amount, computed in accordance with the rule prescribed under subparagraph (B); and

(iii) any adjustment permitted under subparagraph (C).

(B) COMMISSION RULE.—The Commission shall, by rule, establish the method for calculating an amount necessary to—

(i) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, or delivery service provided by such pipeline in connection with any sale of natural gas authorized under paragraph (1); and

(ii) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(C) ADJUSTMENT.—

(i) APPLICATION.—This subparagraph shall apply in any case in which, in order to deliver any volume of natural gas pursuant to any sale authorized under paragraph (1), any intrastate pipeline acquires quantities of natural gas under any existing contract, if—

(I) such intrastate pipeline acquires any volume of natural gas under such contract in excess of that which such pipeline would otherwise have acquired; and

(II) the price paid for such additional volume of natural gas acquired under such contract is greater than such pipeline's weighted average acquisition cost of natural gas, computed without regard to the acquisition of such additional volume of natural gas.

(ii) COMMISSION ADJUSTMENT.—In any case to which this subparagraph applies, the Commission shall permit an adjustment to the maximum fair and equitable price provided under subparagraph (A) to increase the revenue to the intrastate pipeline under such sale by an amount determined by the Commission to be adequate to offset the additional cost incurred by such pipeline due to any increase in such pipeline's weighted average acquisition cost of natural gas.

(3) LIMITATION.—

(A) TWO-YEAR DURATION.—No authorization of any sale (or any extension thereof) under paragraph (1) may be for a period exceeding two years.

(B) EXTENSION.—Any authorization of any sale under paragraph (1), and any extension of any such authorization under this subparagraph, may be extended by the Commission if such extension satisfies the requirements of this subsection.

(4) ADEQUACY OF SERVICE TO INTRASTATE CUSTOMERS.—Any sale authorized under paragraph (1) shall be subject to interruption to the extent that natural gas subject to such sale is required to enable the intrastate pipeline involved to provide adequate service to such pipeline's customers at the time of such sale.

(5) PROCEDURAL REQUIREMENTS.—

(A) AFFIDAVIT.—Any application for authorization of any sale under paragraph (1) shall be accompanied by an affidavit filed by the intrastate pipeline involved and setting forth—

(i) the identity of the interstate pipeline or local distribution company involved;

(ii) each point of delivery of the natural gas from the intrastate pipeline;

(iii) the estimated total and daily volumes of natural gas subject to such sale;

(iv) the price or prices of such volumes; and

(v) such other information as the Commission may, by rule, require.

(B) VERIFICATION OF COMPLIANCE.—Any application for authorization of any sale under paragraph (1) shall be accompanied by a statement by the intrastate pipeline involved verifying by oath or affirmation that such sale, if authorized, would comply with all requirements applicable to such sale

under this subsection and all terms and conditions established, by rule or order, by the Commission and applicable to such sale.

(6) TERMINATION OF SALES.—

(A) HEARING.—Upon complaint of any interested person, or upon the Commission's own motion, the Commission shall, after affording an opportunity for oral presentation of views and arguments, terminate any sale authorized under paragraph (1) if the Commission determines—

(i) such termination is required to enable the intrastate pipeline involved to provide adequate service to the customers of such pipeline at the time of such sale;

(ii) such sale involves the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);

(iii) such sale violates any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or

(iv) such sale circumvents or violates any provision of this Act.

(B) SUSPENSION PENDING HEARING.—Prior to any hearing or determination required under subparagraph (A), upon complaint of any interested person or upon the Commission's own motion, the Commission may suspend any sale authorized under paragraph (1) if the Commission finds that it is likely that the determinations described in subparagraph (A) will be made following the hearing required under subparagraph (A).

(C) DETERMINATION.—The determination of whether any interruption of any sale authorized under paragraph (1) is required under subparagraph (A)(i) shall be made by the Commission without regard to the character of the use of natural gas by any customer of the intrastate pipeline involved.

(D) STATE INTERVENTION.—Any interested State may intervene as a matter of right in any proceeding before the Commission relating to any determination under this section.

(7) DISAPPROVAL OF APPLICATION.—The Commission shall disapprove any application for authorization of any sale under paragraph (1) if the Commission determines—

(A) such sale would impair the ability of the intrastate pipeline involved to provide adequate service to its customers at the time of such sale (without regard to the character of the use of natural gas by such customer);

(B) such sale would involve the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);

(C) such sale would violate any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or

(D) such sale would circumvent or violate any provision of this Act.

(c) TERMS AND CONDITIONS.—Any authorization granted under this section shall be under such terms and conditions as the Commission may prescribe.

SEC. 312. ASSIGNMENT OF CONTRACTUAL RIGHTS TO RECEIVE SURPLUS NATURAL GAS.

15 USC 3372. (a) AUTHORIZATION OF ASSIGNMENTS.—The Commission may, by rule or order, authorize any intrastate pipeline to assign, without compensation, to any interstate pipeline or local distribution company all or any portion of such intrastate pipeline's right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate.

(b) EFFECT OF AUTHORIZATION UNDER SUBSECTION (a).—For the effect of an authorization under subsection (a), see section 601 (relating to the coordination of this Act with the Natural Gas Act).

15 USC 717w.

(c) SURPLUS NATURAL GAS.—For purposes of this section, the term "surplus natural gas" means any natural gas—

(1) which is not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act;

(2) the first sale of which is subject to a maximum lawful price established under title I of this Act; and

Ante, p. 3356.

(3) which is determined, by the State agency having regulatory jurisdiction over the intrastate pipeline which would be entitled to receive such natural gas in the absence of any assignment to exceed the then current demands on such pipeline for natural gas.

SEC. 313. EFFECT OF CERTAIN NATURAL GAS PRICES ON INDEFINITE PRICE ESCALATOR CLAUSES.

15 USC 3373. (a) HIGH-COST NATURAL GAS.—No price paid in any first sale of high-cost natural gas (as defined in section 107(c)) may be taken into account in applying any indefinite price escalator clause (as defined in section 105(b)(3)(B)) with respect to any first sale of any natural gas other than high-cost natural gas (as defined in section 107(c)).

Ante, p. 3366.

Ante, p. 3363.

(b) OTHER TRANSACTIONS.—No price paid—

(1) in any sale authorized under section 302(a), or

(2) pursuant to any order issued under section 303 (b), (c), (d), or (g),

may be taken into account in applying any indefinite price escalator clause (as defined in section 105(b)(3)(B)).

SEC. 314. CLAUSES PROHIBITING CERTAIN SALES, TRANSPORTATION, AND COMMINGLING.

15 USC 3374. (a) GENERAL RULE.—Any provision of any contract for the first sale of natural gas is hereby declared against public policy and unenforceable with respect to any natural gas covered by this Act if such provision—

(1) prohibits the commingling of natural gas subject to such contract with natural gas subject to the jurisdiction of the Commission under the provisions of the Natural Gas Act;

15 USC 717w.

(2) prohibits the sale of any natural gas subject to such contract to, or transportation of any such natural gas by, any person subject to the jurisdiction of the Commission under the Natural Gas Act, or otherwise prohibits the sale or transportation in interstate commerce (within the meaning of the Natural Gas Act) of natural gas subject to such contract; or

(3) terminates, or grants any party the option to terminate, any obligation under any such contract as a result of such commingling, sale, or transportation.

(b) NATURAL GAS COVERED BY THIS ACT.—For purposes of subsection (a), the term "natural gas covered by this Act" means—

(1) natural gas which is not committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act;

(2) natural gas, the sale in interstate commerce of which—
(A) is authorized under section 302(a) or 311(b); or
(B) is pursuant to an assignment under section 312(a); and

(3) natural gas, the transportation in interstate commerce of which is—
(A) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h); or
(B) authorized by the Commission under section 311(a).

SEC. 315. CONTRACT DURATION; RIGHT OF FIRST REFUSAL; FILING OF CONTRACTS AND AGREEMENTS.

15 USC 3375.

(a) CONTRACT DURATION.—

(1) GENERAL RULE.—The Commission may, by rule or order, specify the minimum duration of any contract (other than any existing contract) for the purchase of natural gas to which section 601(a)(1) (A) or (B) is applicable. In no case may the minimum contract duration specified under this paragraph applicable to natural gas produced from any reservoir exceed 15 years or, if less, the commercially producible life of such reservoir. The provisions of this paragraph shall not apply to contracts of natural gas subject to the requirements of paragraph (3).

(2) NONDISCRIMINATORY APPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may not exercise the authority provided under paragraph (1) in a manner which—

(i) provides an advantage to interstate pipelines by diverting supplies of natural gas to interstate pipelines and thereby denying adequate supplies of natural gas to intrastate pipelines; or

(ii) otherwise discriminates between purchases by interstate pipelines and intrastate pipelines of natural gas.

(B) SPECIAL CIRCUMSTANCES.—The Commission may vary any requirement established under paragraph (1) with respect to any contract by an interstate pipeline or intrastate pipeline to the extent necessary to respond to special circumstances.

(3) CONTRACTS FOR PURCHASE OF OCS NATURAL GAS.—The Commission shall prescribe a rule which shall require that any first sale contract (other than any existing contract) for the purchase of natural gas which is produced from any reservoir on the Outer Continental Shelf and which is new natural gas (as defined in section 102(b)) or high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4)) shall be for a duration of not less than 15 years or, if less, the commercially producible life of the reservoir.

Ante, p. 3358.
Ante, p. 3366.

(b) OFFERS; RIGHT OF FIRST REFUSAL.—

(1) APPLICATION.—This subsection shall apply with respect to any natural gas which is committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which is—

(A) high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4));

(B) new natural gas (as defined in section 102(c)); or

(C) natural gas produced from any new, onshore production well (as defined in section 103(c)).

Ante, p. 3361.

This subsection shall not apply to any natural gas committed or dedicated to interstate commerce solely by reason of section 2(18)(A)(i).

Ante, p. 3352.

(2) OFFER OF SALE.—The Commission shall, by rule, require that if natural gas subject to the requirements of this subsection is produced on or after the first day of the first month beginning after the date of the enactment of this Act, a bona fide offer to sell such natural gas must be made to the person who, but for the provisions of section 601(a)(1)(B) (relating to deregulation), would have been entitled pursuant to the commitment or dedication of such natural gas to interstate commerce to receive such natural gas if such natural gas were sold (or any successor in interest to such person).

(3) RIGHT OF FIRST REFUSAL.—The Commission shall, by rule, require that following—

(A) the expiration or termination of any contract with respect to the first sale of natural gas subject to the requirements of this subsection to the person who, but for the provisions of section 601(a)(1)(B) (relating to deregulation), would have been entitled pursuant to the commitment or dedication of such natural gas to interstate commerce to receive such natural gas if such natural gas were sold (or any successor in interest to such person), or

(B) any rejection of any bona fide offer, described in paragraph (2), to sell natural gas subject to the requirements of this subsection,

such person who would have been entitled to receive such natural gas shall be granted a right of first refusal of the first offer to sell such natural gas which, subject to the exercise of any right of first refusal under this paragraph, has been substantially accepted in principle by another person in an arms-length transaction.

(c) FILING OF CONTRACTS AND ANCILLARY AGREEMENTS.—The Commission may, by rule or order, require any first sale purchaser of natural gas under a new contract, a successor to an existing contract, or a rollover contract to file with the Commission a copy of such contract, together with all ancillary agreements and any existing contract applicable to such natural gas.

TITLE IV—NATURAL GAS CURTAILMENT POLICIES

SEC. 401. NATURAL GAS FOR ESSENTIAL AGRICULTURAL USES.

15 USC 3391.

(a) GENERAL RULE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe and make effective a rule, which may be amended from time to time, which provides that, notwithstanding any other provision of law (other than subsection (b)) and to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless such curtailment—

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c); or

(2) is necessary in order to meet the requirements of high-priority users.

(b) CURTAILMENT PRIORITY NOT APPLICABLE IF ALTERNATIVE FUEL AVAILABLE.—If the Commission, in consultation with the Secretary of Agriculture, determines, by rule or order, that use of a fuel (other than natural gas) is economically practicable and that the fuel is reasonably available as an alternative for any agricultural use of natural gas, the provisions of subsection (a) shall not apply with respect to any curtailment of deliveries for such use.

(c) DETERMINATION OF ESSENTIAL AGRICULTURAL USE REQUIREMENTS.—The Secretary of Agriculture shall certify to the Secretary of Energy and the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production.

(d) AUTHORITY OF SECRETARY OF AGRICULTURE TO INTERVENE.—The Secretary of Agriculture may intervene as a matter of right in any proceeding before the Commission which is conducted in connection with implementing the requirements of the rule prescribed under subsection (a).

(e) LIMITATION.—The Secretary of Agriculture may not exercise any authority under this section for the purpose of restricting the production of any crop.

(f) DEFINITIONS.—For purposes of this section—

(1) ESSENTIAL AGRICULTURAL USE.—The term "essential agricultural use", when used with respect to natural gas, means any use of natural gas—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production.

(2) HIGH-PRIORITY USER.—The term "high-priority user" means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day;

(C) uses natural gas in any school, hospital, or similar institution; or

(D) uses natural gas in any other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property.

SEC. 402. NATURAL GAS FOR ESSENTIAL INDUSTRIAL PROCESS AND FEEDSTOCK USES.

(a) GENERAL RULE.—The Secretary of Energy shall prescribe and make effective a rule which provides that, notwithstanding any other provision of law (other than subsection (b)) and to the maximum extent practicable, no interstate pipeline may curtail deliveries of natural gas for any essential industrial process or feedstock use, unless such curtailment— 15 USC 3392.

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c);

(2) is necessary in order to meet the requirements of high-priority users; or

(3) is necessary in order to meet the requirements for essential agricultural uses of natural gas for which curtailment priority is established under section 401.

(b) CURTAILMENT PRIORITY APPLICABLE ONLY IF ALTERNATIVE FUEL NOT AVAILABLE.—The provisions of subsection (a) shall apply with respect to any curtailment of deliveries for any essential industrial process or feedstock use only if the Commission determines that use of a fuel (other than natural gas) is not economically practicable and that no fuel is reasonably available as an alternative for such use.

(c) DETERMINATION OF ESSENTIAL INDUSTRIAL USE REQUIREMENTS.—The Secretary of Energy shall determine and certify to the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential industrial process and feedstock uses (other than those referred to in section 401 (f)(1)(B)).

(d) DEFINITIONS.—For purposes of this section—

(1) ESSENTIAL INDUSTRIAL PROCESS OR FEEDSTOCK USE.—The term "essential industrial process or feedstock use" means any use of natural gas in an industrial process or as a feedstock which the Secretary determines is essential.

(2) HIGH-PRIORITY USER.—The term "high-priority user" has the same meaning as given such term in section 401(f)(2).

SEC. 403. ESTABLISHMENT AND IMPLEMENTATION OF PRIORITIES.

15 USC 3393. (a) ESTABLISHMENT OF PRIORITIES.—The Secretary of Energy shall prescribe the rules under sections 401 and 402 pursuant to his authority under the Department of Energy Organization Act to establish and review priorities for curtailments under the Natural Gas Act.

42 USC 7101 note.

15 USC 717w. (b) IMPLEMENTATION OF PRIORITIES.—The Commission shall implement the rules prescribed under sections 401 and 402 pursuant to its authority under the Department of Energy Organization Act to establish, review, and enforce curtailments under the Natural Gas Act.

SEC. 404. LIMITATION ON REVOKING OR AMENDING CERTAIN PRE-1969 CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

15 USC 3394. (a) GENERAL RULE.—The Commission may not, during the 10-year period beginning on the date of the enactment of this Act, revoke or amend any certificate of public convenience and necessity issued before

15 USC 717f. January 1, 1969, under section 7 of the Natural Gas Act for the transportation of natural gas owned by any electric utility except upon the application of the person to whom such certificate was issued.

(b) COMMISSION CURTAILMENT AUTHORITY.—The limitation under subsection (a) shall not affect the authority of the Commission to enforce any curtailment of deliveries of natural gas under the Natural

15 USC 717w. Gas Act.

TITLE V—ADMINISTRATION, ENFORCEMENT, AND REVIEW

SEC. 501. GENERAL RULEMAKING AUTHORITY.

15 USC 3411. (a) IN GENERAL.—Except where expressly provided otherwise, the Commission shall administer this Act. The Commission, or any other Federal officer or agency in which any function under this Act is vested or delegated, is authorized to perform any and all acts (including any appropriate enforcement activity), and to prescribe, issue, amend, and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this Act.

(b) AUTHORITY TO DEFINE TERMS.—Except where otherwise expressly provided, the Commission is authorized to define, by rule, accounting, technical, and trade terms used in this Act. Any such definition shall be consistent with the definitions set forth in this Act.

(c) DELEGATION OF CERTAIN DETERMINATIONS.—The Commission may delegate to any State agency (with the consent of such agency) any of its functions with respect to sections 105, 106(b), and 109(a)(1) and (3). *Ante*, pp. 3363, 3365, 3368.

SEC. 502. ADMINISTRATIVE PROCEDURE.

(a) ADMINISTRATIVE PROCEDURE ACT.—Subject to subsection (b), the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order issued under this Act having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code; except that sections 554, 556, and 557 of such title 5 shall not apply to any order under such section 301, 302, or 303. 15 USC 3412. 5 USC 551.

(b) OPPORTUNITY FOR ORAL PRESENTATIONS.—To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in subsection (a) (other than an order under section 301, 302, or 303). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 30 days after such date in the case of a waiver of the entire comment period under section 553(d)(3) of title 5, United States Code, and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation. Transcript.

(c) ADJUSTMENTS.—The Commission or any other Federal officer or agency authorized to issue rules or orders described in subsection (a) (other than an order under section 301, 302, or 303) shall, by rule, provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. Such rule shall establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such applicable rules or orders. If any person is aggrieved or adversely affected by the denial of a request for adjustment under the preceding sentence, such person may request a review of such denial by the officer or agency and may obtain judicial review in accordance with section 506 when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for adjustment under this subsection. Review.

(d) PROCEDURES APPLICABLE FOR INCREMENTAL PRICING DETERMINATIONS RESPECTING IMPORTS.—Notwithstanding the preceding provisions of this section, any determination made under section 207(c) shall be made in accordance with the procedures applicable to the granting of any authority under the Natural Gas Act to import natural gas or liquefied natural gas (as the case may be). 15 USC 717w.

SEC. 503. DETERMINATIONS FOR QUALIFYING UNDER CERTAIN CATEGORIES OF NATURAL GAS.

(a) GENERAL RULE.— 15 USC 3413.

(1) DETERMINATION.—If any State or Federal agency makes any final determination which it is authorized to make under subsection (c) for purposes of—

(A) applying the definition of new natural gas under section 102(c); *Ante*, p. 3358.

Ante, p. 3358.

(B) deciding if certain natural gas produced from the Outer Continental Shelf qualifies under section 102(d) for the new natural gas ceiling price;

Ante, p. 3361.

(C) applying the definition of new, onshore production well under section 103(c);

Ante, p. 3366.

(D) applying the definition of high-cost natural gas under section 107(c); or

Ante, p. 3367.

(E) applying the definition of stripper well natural gas under section 108(b);

such determination shall be applicable under this Act for such purposes unless such determination is reversed under the provisions of subsection (b) or unless such State or Federal agency has waived its authority under the provisions of subsection (c).

(2) NOTICE TO COMMISSION.—Any Federal or State agency making a determination under paragraph (1) shall provide timely notice in writing of such determination to the Commission. Such notice shall include such substantiation and be in such a manner as the Commission may, by rule, require.

(b) COMMISSION REVIEW.—

(1) AUTHORITY TO REVIEW AND REVERSE.—The Commission shall reverse any final State or Federal agency determination described in subsection (a) if—

(A) it makes a finding that such determination is not supported by substantial evidence in the record upon which such determination was made; and

(B) such preliminary finding and notice thereof under paragraph (3) is made within 45 days after the date on which the Commission received notice of such determination under subsection (a)(2) and the final such finding is made within 120 days after the date of the preliminary finding.

(2) REMAND ON BASIS OF COMMISSION INFORMATION.—If—

(A) the Commission finds that a State or Federal agency determination is not consistent with information contained in the public records of the Commission, and which is not part of the record upon which such determination was made; and

(B) such preliminary finding and notice thereof under paragraph (3) is made within 45 days after the date on which the Commission received notice of such determination under subsection (a)(2) and the final such finding is made within 120 days after the date of the preliminary finding,

it may remand the matter to such State or Federal agency for consideration of such information. If such agency, after consideration of the information transmitted to it by the Commission, affirms its previous determination, such determination, as so affirmed, shall be subject to review in accordance with this subsection (other than this paragraph).

(3) NOTICE.—The Commission shall provide notice of any proposed finding under this subsection to the State or Federal agency which made such determination and those parties identified in the notice to the Commission of such determination.

(4) JUDICIAL REVIEW OF COMMISSION ACTIONS.—

(A) REMANDS.—Any party identified in the notice to the Commission of a determination by a State or Federal agency may obtain review of any final decision by the Commission to remand under paragraph (2) in the United States Court

of Appeals for any circuit in which such party is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. The reviewing court shall reverse any such decision if it finds such decision is arbitrary or capricious.

(B) FINDINGS.—Any person aggrieved or adversely affected by a final finding of the Commission under paragraph (1) may within 60 days thereafter file a petition for review of such finding in the United States Court of Appeals for any circuit in which the party involved in such determination is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. The reviewing court shall reverse any such finding of the Commission if the State or Federal agency determination involved is supported by substantial evidence.

(c) STATE AUTHORITY.—

(1) GENERAL RULE.—A Federal or State agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations referred to in subsection (a).

(2) WAIVER.—

(A) IN GENERAL.—Any Federal or State agency may, in whole or in part, waive its authority to make determinations referred to in subsection (a)(1) by entering into an agreement in accordance with subparagraph (B). If such agency executes such a waiver, the Commission shall, consistent with the agreement, make the determinations which would otherwise be made by such Federal or State agency until the earlier of—

(i) the expiration of the period specified in the agreement; or

(ii) the date such agency transmits to the Commission written notice that it terminates such waiver and assumes the authority to make determinations referred to in subsection (a)(1).

Any waiver, or termination of any waiver, shall not apply to any determination with respect to any petition therefor which is pending before such agency or the Commission (as the case may be) on the date on which such a waiver or revocation is made.

(B) AGREEMENTS.—Any waiver under subparagraph (A) may be made only by a written agreement between the Federal or State agency involved and the Commission. Any such agreement shall set forth the terms and conditions applicable to such waiver.

(3) PROCEDURES APPLICABLE.—Determinations of a Federal or State agency referred to in subsection (a)(1) shall be made in accordance with the procedures generally applicable to such agency for the making of such determinations or comparable determinations under the provisions of Federal or State law, as the case may be, pursuant to which they exercise their regulatory jurisdiction. The Commission may prescribe the form and content of filings with a Federal or State agency in connection with determinations made under this section.

(4) JUDICIAL REVIEW.—Any such determination referred to in subsection (a)(1) made in accordance with procedures described in paragraph (3) shall not be subject to judicial review under any Federal or State law except as provided under subsection (b).

(d) EFFECT OF DETERMINATIONS.—For purposes of this Act—

(1) GENERAL RULE.—Any final determination referred to in subsection (a)(1) made by a Federal or State agency (or by the Commission under subsection (c)(2)) which relates to any natural gas and which is no longer subject to review by the Commission under this section or to judicial review shall thereafter be binding with respect to such natural gas. The preceding sentence shall not apply to any final determination—

(A) if in making such determination the Commission or such Federal or State agency relied on any untrue statement of a material fact; or

(B) if there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made, to the Federal or State agency in making such final determination or to the Commission in reviewing such determination.

(2) APPLICATION OF TITLE 18.—Any untrue statement or omission of material fact to a Federal or State agency upon which the Commission relied shall be deemed to be statement or entry under section 1001 of title 18, United States Code.

(e) INTERIM COLLECTION OF MAXIMUM LAWFUL PRICE.—

(1) COLLECTION OF SECTION 109 PRICE.—

(A) GENERAL RULE.—Effective beginning on the first day of the first month beginning after the date of the enactment of this Act, a seller of natural gas which is produced from a new well may, in accordance with subparagraph (B), charge and collect the appropriate maximum lawful price under section 109 for any first sale of such natural gas.

Ante, p. 3368.

(B) REQUIREMENTS.—A seller may charge and make collections under subparagraph (A) only in accordance with the following requirements:

(i) SWORN STATEMENT.—Before any such collection is made, the seller shall file with the Commission, and any Federal or State agency having authority to make determinations referred to in subsection (a)(1), a written sworn statement that such natural gas is produced from a new well and that such seller believes in good faith that such natural gas is eligible under this Act to be sold at a price not less than the appropriate maximum lawful price under section 109.

(ii) PETITION FOR DETERMINATION.—Within 90 days after the date of the enactment of this Act, the seller files a petition to such Federal or State agency for a determination under this section.

(iii) COLLECTION SUBJECT TO REFUND.—Any such collection made by the seller pending a determination under this section shall be collected subject to a condition of refund, with interest, in the event it is determined by such Federal or State agency that the applicable maximum lawful price is lower than that provided under section 109.

(2) ALTERNATE INTERIM COLLECTION AUTHORITY.—

(A) GENERAL RULE.—Promptly after the date of the enactment of this Act, the Commission shall, by rule or order, provide one or more methods under which a seller of natural gas may, in accordance with requirements established, and

for such period as may be prescribed, under such rule or order, charge and collect for any first sale of such natural gas the maximum lawful price under title I for which a petition is filed for a determination under this section in any case in which such price exceeds the appropriate maximum lawful price under section 109.

Ante, p. 3356.

Ante, p. 3368.

(B) COLLECTION SUBJECT TO REFUND.—Any such collection made by the seller pending a determination under section 503 shall be collected subject to a condition of refund, with interest. Such refund with interest shall be paid, in accordance with the rule under subparagraph (A), unless it is determined under this Act that the applicable maximum lawful price is equal to or greater than that collected. In addition, such seller shall comply with such requirements as the Commission shall prescribe in the applicable rule or order to provide adequate assurance that funds, to the extent attributable to a price in excess of the appropriate maximum lawful price under title I are available in the event of such refund.

(3) COLLECTION AFTER INITIAL DETERMINATION.—

(A) GENERAL RULE.—Effective beginning on the date of the notice of a determination under subsection (a) (2), a seller of natural gas covered by such determination may, in accordance with subparagraph (B), charge and collect the appropriate maximum lawful price applicable under such determination.

(B) REQUIREMENTS.—A seller may charge and make collections under subparagraph (A) if such collection is subject to conditions prescribed by the Commission to assure refund, with interest, in the event it is determined under this Act that the applicable maximum lawful price is lower than that provided under section 109.

SEC. 504. ENFORCEMENT.

(a) GENERAL RULE.—It shall be unlawful for any person— 15 USC 3414.

(1) to sell natural gas at a first sale price in excess of any applicable maximum lawful price under this Act; or

(2) to otherwise violate any provision of this Act or any rule or order under this Act.

(b) CIVIL ENFORCEMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), whenever it appears to the Commission that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Act, or of any rule or order thereunder, the Commission may bring an action in the District Court of the United States for the District of Columbia or any other appropriate district court of the United States to enjoin such act or practice and to enforce compliance with this Act, or any rule or order thereunder.

(2) ENFORCEMENT OF EMERGENCY ORDERS.—Whenever it appears to the President that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order under section 302 or any order or supplemental order issued under section 303, the President may bring a civil action in any appropriate district court of the United States to enjoin such acts or practices.

(3) ENFORCEMENT OF INCREMENTAL PRICING.—The Secretary, the Commission, or, on the request of the Secretary of Energy or the Commission, the Attorney General, may institute a civil action for injunctive or other equitable relief as may be appropriate to assure compliance with the provisions of section 205 requiring the passthrough of surcharges paid under section 204 by any local distribution company with respect to nautral gas delivered to incrementally priced industrial facilities served by such company. Such action may be instituted in any district court of the United States in the State in which such local distribution company conducts business or in the District Court of the United States for the District of Columbia.

Ante, p. 3378.
Ante, p. 3375.

(4) RELIEF AVAILABLE.—In any action under paragraph (1), (2), or (3), the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction without bond. In any such action, the court may also issue a mandatory injunction commanding any person to comply with any applicable provision of law, rule, or order, or ordering such other legal or equitable relief as the court determines appropriate, including refund or restitution.

(5) CRIMINAL REFERRAL.—The Commission may transmit such evidence as may be available concerning any acts or practices constituting any possible violations of the Federal antitrust laws to the Attorney General who may institute appropriate criminal proceedings.

(6) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly violates any provision of this Act, or any provision of any rule or order under this Act, shall be subject to—

(i) except as provided in clause (ii) a civil penalty, which the Commission may assess, of not more than $5,000 for any one violation; and

(ii) a civil penalty, which the President may assess, of not more than $25,000, in the case of any violation of an order under section 302 or an order or supplemental order under section 303.

Ante, p. 3382.
Ante, p. 3383.

(B) DEFINITION OF KNOWING.—For purposes of subparagraph (A), the term "knowing" means the having of—

(i) actual knowledge; or

(ii) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

(C) EACH DAY SEPARATE VIOLATION.—For purposes of this paragraph, in the case of a continuing violation, each day of violation shall constitute a separate violation.

(D) STATUTE OF LIMITATIONS.—No person shall be subject to any civil penalty under this paragraph with respect to any violation occurring more than 3 years before the date on which such person is provided notice of the proposed penalty under subparagraph (E). The preceding sentence shall not apply in any case in which an untrue statement of material fact was made to the Commission or a State or Federal agency by, or acquiesced to by, the violator with respect to the acts or omissions constituting such violation, or if there was omitted a material fact necessary in order to make any statement made by, or acquiesced to by, the violator with

respect to such acts or omissions not misleading in light of circumstances under such statement was made.

(E) ASSESSED BY COMMISSION.—Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. Following receipt of notice of the proposed penalty by such person, the Commission shall, by order, asssess such penalty.

(F) JUDICIAL REVIEW.—If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (E), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(c) CRIMINAL PENALTIES.—

(1) VIOLATIONS OF ACT.—Except in the case of violations covered under paragraph (3), any person who knowingly and willfully violates any provision of this Act shall be subject to—

(A) a fine of not more than $5,000; or

(B) imprisonment for not more than two years; or

(C) both such fine and such imprisonment.

(2) VIOLATION OF RULES OR ORDERS GENERALLY.—Except in the case of violations covered under paragraph (3), any person who knowingly and willfully violates any rule or order under this Act (other than an order of the Commission assessing a civil penalty under subsection (b)(4)(E)), shall be subject to a fine of not more than $500 for each violation.

(3) VIOLATIONS OF EMERGENCY ORDERS.—Any person who knowingly and willfully violates an order under section 302 or an order or supplemental order under section 303 shall be fined not more than $50,000 for each violation.

Ante, p. 3382.
Ante, p. 3383.

(4) EACH DAY SEPARATE VIOLATION.—For purposes of this subsection, each day of violation shall constitute a separate violation.

(5) DEFINITION OF KNOWINGLY.—For purposes of this subsection, the term "knowingly", when used with respect to any act or omission by any person, means such person—

(A) had actual knowledge; or

(B) had constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

SEC. 505. INTERVENTION.

(a) AUTHORITY TO INTERVENE.— 15 USC 3415.

(1) INTERVENTION AS MATTER OF RIGHT.—The Secretary of Energy may intervene as a matter of right in any proceeding relating to the prorationing of, or other limitations upon, natural gas production which is conducted by any State agency having regulatory jurisdiction over the production of natural gas.

(2) ENFORCEMENT OF RIGHT TO INTERVENE.—The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene under paragraph (1).

(3) ACCESS TO INFORMATION.—As an intervenor in a proceeding described in subsection (a), the Secretary shall have access to information available to other parties to the proceeding if such

information is relevant to the issues to which his participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State agency.

(b) ACCESS TO STATE COURTS.—

(1) REVIEW IN STATE COURTS.—The Secretary may obtain review of any determination made in any proceeding described in subsection (a)(1) in the appropriate State court if the Secretary intervened or otherwise participated in the original proceeding or if State law otherwise permits such review.

(2) PARTICIPATION AS AMICUS CURIAE.—In addition to his authority to obtain review under paragraph (1), the Secretary may also participate an amicus curiae in any judicial review of any proceeding described in subsection (a)(1).

SEC. 506. JUDICIAL REVIEW.

15 USC 3416.

(a) ORDERS.—

(1) IN GENERAL.—The provisions of this subsection shall apply to judicial review of any order, within the meaning of section 551(6) of title 5, United States Code (other than an order assessing a civil penalty under section 504(b)(4) or any order under section 302 or any order under section 303), issued under this Act and to any final agency action under this Act required to be made on the record after an opportunity for an agency hearing.

Ante, pp. 3382, 3383.

(2) REHEARING.—Any person aggrieved by any order issued by the Commission in a proceeding under this Act to which such person is a party may apply for a rehearing within 30 days after the issuance of such order. Any application for rehearing shall set forth the specific ground upon which such application is based. Upon the filing of such application, the Commission may grant or deny the requested rehearing or modify the original order without further hearing. Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied. No person may bring an action under this section to obtain judicial review of any order of the Commission unless—

(A) such person shall have made application to the Commission for a rehearing under this subsection; and

(B) the Commission shall have finally acted with respect to such application.

For purposes of this section, if the Commission fails to act within 30 days after the filing of such application, such failure to act shall be deemed final agency action with respect to such application.

(3) AUTHORITY TO MODIFY ORDERS.—At any time before the filing of the record of a proceeding in a United States Court of Appeals, pursuant to paragraph (4), the Commission may, after providing notice it determines reasonable and proper, modify or set aside, in whole or in part, any order issued under the provisions of this Act.

(4) JUDICIAL REVIEW.—Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by

filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 60 days after the final action of the Commission on the application for rehearing required under paragraph (2). A copy of such petition shall forthwith be transmitted by the clerk of such court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part. No objection to such order of the Commission shall be considered by the court if such objection was not urged before the Commission in the application for rehearing unless there was reasonable ground for the failure to do so. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and shall file with the court such modified or new findings, which if supported by substantial evidence, shall be conclusive. The Commission shall also file with the court its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) ORDERS REMAIN EFFECTIVE.—The filing of an application for rehearing under paragraph (2) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(b) REVIEW OF RULES AND ORDERS.—Except as provided in subsections (a) and (c), judicial review of any rule or order, within the meaning of section 551(4) of title 5, United States Code, issued under this Act may be obtained in the United States Court of Appeals for any appropriate circuit pursuant to the provisions of chapter 7 of title 5, United States Code, except that the second sentence of section 705 thereof shall not apply.

5 USC 701 *et seq.*
5 USC 705.

(c) JUDICIAL REVIEW OF EMERGENCY ORDERS.—Except with respect to enforcement of orders or subpenas under section 304(a), the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended, shall have exclusive original jurisdiction to review all civil cases and controversies under section 301, 302, or 303, including any order issued, or other action taken, under such section. The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from

12 USC 1904 note.

Ante, pp. 3381–3383.

the district courts of the United States in cases and controversies arising under section 304(a)(2); such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days after the entry of judgment by the district court. Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, under section 301, 302, or 303.

Ante, pp. 3381-3383.

(d) JUDICIAL REVIEW OF CERTAIN INCREMENTAL PRICING DETERMINATIONS.—Notwithstanding the preceding provisions of this section, any final determination made under section 207(c) shall be subject to judicial review in accordance with the provisions of the Natural Gas Act applicable to judicial review of any final determination respecting the grant or denial of any authority to import natural gas or liquefied natural gas.

Ante, p. 3380.

15 USC 717w.

SEC. 507. CONGRESSIONAL REVIEW.

15 USC 3417.

(a) APPLICATION.—This section applies with respect to—

(1) any disapproval by concurrent resolution of a Presidential reimposition of maximum lawful prices under section 122;

Ante, p. 3370.

(2) any congressional reimposition by concurrent resolution of maximum lawful prices under section 122; and

(3) any resolution of disapproval relating to incremental pricing under section 202(c) or 206(d)(2).

Ante, pp. 3372, 3379.

(b) DETERMINATION OF CALENDAR DAYS OF CONTINUOUS SESSION.—In determining calendar days of continuous session for purposes of provisions of this Act providing for disapproval under this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period involved.

If both Houses are not in session on the day any submittal subject to disapproval is received by the appropriate officers of each House, for purposes of this section such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If both Houses of the Congress do not receive a submittal on the same day, it shall not be considered to be received by either House until the day on which both Houses receive it.

(c) RESOLUTION.—For purposes of this section, and sections 122, 202, and 206—

(1) CONCURRENT RESOLUTION DISAPPROVING REIMPOSITION OF PRICE CEILINGS.—The term "concurrent resolution of disapproval", when used with respect to reimposition of maximum lawful prices under section 122(c)(1), means a resolution the matter after the resolving clause of which is as follows: "That the Congress does not approve of the reimposition of maximum lawful prices for first sales of natural gas under section 122(c)(1) of the Natural Gas Policy Act of 1978 pursuant to the transmittal by the President to the Congress on , 19 .", the blank spaces being filled with the appropriate date.

(2) CONCURRENT RESOLUTION EFFECTING REIMPOSITION OF PRICE CEILINGS.—The term "concurrent resolution", when used with respect to reimposition of maximum lawful prices under section 122(c)(2), means a resolution the matter after the resolving clause of which is as follows: That the Congress favors reimposition of maximum lawful prices for first sales of natural gas as

provided for under section 122(c)(2) of the Natural Gas Policy Act of 1978.". *Ante*, p. 3370.

(3) RESOLUTION OF DISAPPROVAL OF INCREMENTAL PRICING ACTION.—The term "resolution of disapproval", when used with respect to incremental pricing rules, means a resolution the matter after the resolving clause of which is as follows: "That the does not approve the proposed rule under section of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was trasnmitted to the Congress on .", the first blank being filled with the House in which such resolution is introduced, the second blank space being filled with the section under which proposed rule was issued, and the following blank spaces being filled with the appropriate date. For purposes of this paragraph, the term "rule" means any rule or any amendment thereto (other than a technical or clerical amendment). *Ante*, p. 3350.

(d) EXPEDITED PROCEDURE.—

(1) CONGRESSIONAL RULEMAKING POWER.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) REFERRAL.—A resolution described by paragraph (2) once introduced with respect to any submittal shall immediately be referred to a committee (and all resolutions with respect to the same submittal shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(3) DISCHARGE.—

(A) IN GENERAL.—If the committee to which a resolution with respect to a submittal has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such submittal which has been referred to the committee.

(B) MOTIONS.—A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

SEC. 508. TECHNICAL PROVISIONS.

42 USC 7255.

(a) SECTION 645 OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT.—Section 645 of the Department of Energy Organization Act is amended by inserting at the end thereof the following new sentence: "For purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978, the Commission shall have the same powers and authority as the Secretary has under this section.".

Ante, p. 3351.

15 USC 3418.
42 USC 7151.

(b) SECTION 301(a) OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT.—In order to obtain information for the purpose of carrying out its functions under this Act, the Commission shall have the same authority as is vested in the Secretary under section 301(a) of the Department of Energy Organization Act with respect to the exercise of authority under section 11(b) of the Energy Supply and Environmental Coordination Act of 1974 and sections 13 (b), (c), and (d) of the Federal Energy Administration Act of 1974.

15 USC 796.
15 USC 772.

TITLE VI—COORDINATION WITH NATURAL GAS ACT; MISCELLANEOUS PROVISIONS

SEC. 601. COORDINATION WITH THE NATURAL GAS ACT.

(a) JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT.— 15 USC 3431. 15 USC 717w.

(1) SALES.—

(A) NATURAL GAS NOT COMMITTED OR DEDICATED.—For purposes of section 1(b) of the Natural Gas Act, effective on the first day of the first month beginning after the date of the enactment of this Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to natural gas which was not committed or dedicated to interstate commerce as of the day before the date of enactment of this Act solely by reason of any first sale of such natural gas. 15 USC 717.

(B) COMMITTED OR DEDICATED NATURAL GAS.—Effective beginning on the first day of the first month beginning after the date of the enactment of this Act, for purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act and which is—

(i) high-cost natural gas (as defined in section 107(c)(1), (2), (3), or (4) of this Act); *Ante*, p. 3366.

(ii) new natural gas (as defined in section 102(c) of this Act); or *Ante*, p. 3358.

(iii) natural gas produced from any new, onshore production well (as defined in section 103(c) of this Act). *Ante*, p. 3361.

(C) AUTHORIZED SALES OR ASSIGNMENTS.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply by reason of any sale of natural gas— 15 USC 717. 15 USC 717w. *Ante*, pp. 3382, 3388.

(i) authorized under section 302(a) or 311(b); or

(ii) pursuant to any assigned authorized under section 312(a).

(D) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term "natural-gas company" (as defined in section 2(6) of such Act) shall not include any person by reason of, or with respect to, any sale of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission do not apply to such sale solely by reason of subparagraph (A), (B), or (C) of this paragraph. 15 USC 717w. 15 USC 717a.

(E) ALASKAN NATURAL GAS.—Subparagraph (B) (ii) and (iii) shall not apply with respect to natural gas produced from the Prudhoe Bay unit of Alaska and transported through the transportation system approved under the Alaska Natural Gas Transportation Act of 1976. 15 USC 719 note.

(2) TRANSPORTATION.—

(A) JURISDICTION OF THE COMMISSION.—For purposes of section 1(b) of the Natural Gas Act the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply to any transportation in interstate commerce of natural gas if such transportation is— 15 USC 717.

(i) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h) of this Act; or

Ante, pp. 3382, 3383.

(ii) authorized by the Commission under section 311 (a) of this Act.

Ante, p. 3388.

(B) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term "natural-gas company" (as defined in section 2(6) of such Act) shall not include any person by reason of, or with respect to, any transportation of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission under the Natural Gas Act do not apply to such transportation by reason of subparagraph (A) of this paragraph.

15 USC 717w.
15 USC 717a.

(b) CHARGES DEEMED JUST AND REASONABLE.—

(1) SALES.—

(A) FIRST SALES.—Subject to paragraph (4), for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if—

15 USC 717c, 717d.

(i) such amount does not exceed the applicable maximum lawful price established under title I of this Act; or

Ante, p. 3356.

(ii) there is no applicable maximum lawful price solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act.

Ante, p. 3369.

(B) EMERGENCY SALES.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any sale authorized under section 302(a) shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established under such section and applicable to such sale.

15 USC 717c, 717d.
Ante, p. 3382.

(C) SALES BY INTRASTATE PIPELINES.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any sale authorized by the Commission under section 311(b) shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established by the Commission and applicable to such sale.

15 USC 717c, 717d.
Ante, p. 3388.

(D) ASSIGNMENTS.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid pursuant to the terms of any contract with respect to that portion of which the Commission has authorized an assignment authorized under section 312(a) shall be deemed to be just and reasonable if such amount does not exceed the applicable maximum lawful price established under title I of this Act.

15 USC 717c, 717d.
Ante, p. 3356.

(E) AFFILIATED ENTITIES LIMITATION.—For purposes of paragraph (1), in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid in any first sale shall be deemed to be just and reasonable if, in addition to satisfying the requirements of such paragraph, such amount does not exceed the amount paid in comparable first sales between persons not affiliated with such interstate pipeline.

(2) OTHER CHARGES.—

(A) ALLOCATION.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid by any interstate pipeline for transportation, storage, delivery or other services provided pursuant to any order under section 303 (b), (c), or (d) of this Act shall be deemed to be just and reasonable if

15 USC 717c, 717d.
Ante, p. 3383.

such amount is prescribed by the President under section 303(h)(1). *Ante*, p. 3383.

(B) TRANSPORTATION.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid by any interstate pipeline for any transportation authorized by the Commission under section 311(a) of this Act shall be deemed to be just and reasonable if such amount does not exceed that approved by the Commission under such section. 15 USC 717c, 717d. *Ante*, p. 3388.

(c) GUARANTEED PASSTHROUGH.—

(1) CERTIFICATE MAY NOT BE DENIED BASED UPON PRICE.—The Commission may not deny, or condition the grant of, any certificate under section 7 of the Natural Gas Act based upon the amount paid in any sale of natural gas, if such amount is deemed to be just and reasonable under subsection (b) of this section. 15 USC 717f.

(2) RECOVERY OF JUST AND REASONABLE PRICES PAID.—For purposes of sections 4 and 5 of the Natural Gas Act, the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if— 15 USC 717c, 717d.

(A) under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act, and

(B) such recovery is not inconsistent with any requirement of any rule under section 201 (including any amendment under section 202), *Ante*, p. 3371. *Ante*, p. 3372.

except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

SEC. 602. EFFECT ON STATE LAWS.

(a) AUTHORITY TO PRESCRIBE LOWER MAXIMUM LAWFUL PRICES.—Nothing in this Act shall affect the authority of any State to establish or enforce any maximum lawful price for the first sale of natural gas produced in such State which does not exceed the applicable maximum lawful price, if any, under title I of this Act. 15 USC 3432. *Ante*, p. 3356.

(b) COMMON CARRIERS.—No person shall be subject to regulation as a common carrier under any provision of Federal or State law by reason of any transportation—

(1) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (i) of this Act; or *Ante*, pp. 3382, 3383.

(2) authorized by the Commission under section 311(a) of this Act. *Ante*, p. 3388.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-437 (Comm. on Ways and Means) and No. 95-1752 (Comm. of Conference).

SENATE REPORTS: No. 95-423 (Comm. on Finance) and No. 95-1126 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; agreed to Senate amendment No. 8 with an amendment.

Vol. 124 (1978): Sept. 12-15, 18, 19, 25, 27, Senate agreed to conference report and to House amendment of Senate amendment No. 8.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-622
95th Congress

An Act

Nov. 9, 1978
[S. 2450]

To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community Mental Health Centers Act, amendments.

TITLE I—COMMUNITY MENTAL HEALTH CENTERS EXTENSION

SHORT TITLE; REFERENCE TO ACT

Community Mental Health Centers Extension Act of 1978.

SEC. 101. (a) This title may be cited as the "Community Mental Health Centers Extension Act of 1978".

42 USC 2689 note.

(b) Whenever in this title (other than in sections 109 and 110(d)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

42 USC 2689 note.

EXTENSIONS OF AUTHORIZATIONS

42 USC 2689a.

SEC. 102. (a) Section 202(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$1,500,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689b.

(b)(1) Section 203(d)(1) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$34,500,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980".

(2) Section 203(d)(2) is amended (A) by striking out "1978" and inserting in lieu thereof "1980", and (B) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years".

42 USC 2689c.

(c) Section 204(c) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689d.

(d) Section 205(c) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689g.

(e) Section 212(c) is amended by striking out "three" and inserting in lieu thereof "five".

42 USC 2689h.

(f) Section 213 is amended by striking out "and" after "1977,", and inserting after "1978," the following: "and $25,000,000 for the fiscal year ending September 30, 1979,".

42 USC 2689q.

(g) Section 231(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following:

"$8,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980".

USE OF UNOBLIGATED FUNDS

SEC. 103. (a)(1) Subsection (b)(1) of section 203 is amended by adding before the period a comma and the following: "except that if at the end of such period a center or entity has not obligated all the funds received by it under a grant, the center or entity may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center or entity is eligible to receive a grant under subsection (a) for such succeeding year". Grants. 42 USC 2689b.

(2) Subsection (c) of such section is amended by adding at the end the following: "The amount of a grant prescribed by paragraph (1) or (2) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in that year. If in a fiscal year the sum of (i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (ii) the amount of the grant received under this section, by a center or entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such a center or entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

(b)(1) Paragraph (1)(A) of subsection (e) of such section is amended (A) by striking out "and" at the end of clause (i), (B) by redesignating clause (ii) as clause (iii), and (C) by inserting after clause (i) the following:

"(ii) the amount prescribed for a grant under the applicable repealed section for an entity for any year shall be reduced by the amount of unobligated funds from the preceding fiscal year which the entity is authorized, under subparagraph (B) of this paragraph, to use in that year, and".

(2) Paragraph (1)(B) of such subsection is amended by inserting before the period a comma and the following: "except that if at the end of any period for which such a grant is made an entity has not obligated all of the funds received by it under the grant, the entity may use the unobligated funds under such grant in the succeeding grant period for the same purposes for which such grant was made but only if the entity is eligible to receive such a grant for such grant period".

(3) Paragraph (1) of such subsection is amended by adding at the end the following new sentence: "If in a fiscal year the sum of (I) the

total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (II) the amount of the grant received under the applicable repealed section, by an entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the entity is eligible to receive a grant under such an applicable repealed section in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such an entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

COMMUNITY MENTAL HEALTH CENTERS REQUIREMENTS

42 USC 2689.

SEC. 104. (a)(1) Section 201(b)(1) is amended to read as follows:

"(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

"(A) Beginning on the date the community mental health center is established for purposes of this title, the services provided through the center shall include—

"(i) inpatient services, emergency services, and outpatient services;

"(ii) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

"(iii) provision of followup care for residents of its catchment area who have been discharged from inpatient treatment at a mental health facility;

"(iv) consultation and education services which—

"(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

"(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's catchment area, promote the coordination of the provision of mental health services among various entities serving the center's catchment area, increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and promote the preven-

tion and control of rape and the proper treatment of the victims of rape; and

"(v) the services described in subparagraph (B) or, in lieu of such services, providing a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

"(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

"(i) day care and other partial hospitalization services;

"(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

"(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

"(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics. Alcohol abuse program.

"(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.". Drug abuse program. 42 USC 2689c.

(2) Section 204 is amended by striking out "section 201(b)(1)(D)" each place it appears and inserting in lieu thereof "section 201(b)(1)(A)(iv)".

(b) Clause (A) of section 201(b)(2) is amended by inserting after "in the center's catchment area" the following: ", or, with the approval of the Secretary, in the case of inpatient services, emergency services, and transitional half-way house services, through appropriate arrangements with health professionals and others serving the residents of the catchment area". 42 USC 2689.

(c)(1) Section 201(c)(1) is amended—

(A) by striking out "The governing board of a community mental health center (other than a center described in subparagraph (B))" and inserting in lieu thereof "Except as provided in subparagraph (B), the governing board of a community mental health center"; and

(B) by amending subparagraph (B) to read as follows:

"(B) In the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in

lieu of meeting the requirements of subparagraph (A), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.".

42 USC 2689e.

(2) Section 206(e) is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), not more than 5 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to provide grants under those sections to community mental health centers which do not meet the governing board requirements of section 201(c)(1)(A).

42 USC 2689b, 2689c, 2689d.

42 USC 2689.

"(B) Subparagraph (A) shall not apply, during the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980, to any community mental health center which received a grant under this title in a fiscal year beginning before the date of the enactment of the Community Mental Health Centers Amendments of 1975.".

42 USC 2689 note.

OPERATIONS GRANTS TECHNICAL ASSISTANCE AND MONITORING

Contract authority.

SEC. 105. Section 206(e), as amended by section 104(c)(2) of this title, is amended by adding at the end the following new paragraph:

"(3) Not more than 1 per centum of the total amount appropriated under section 203, 204, and 205 for any fiscal year shall be used by the Secretary to enter into contracts with State mental health authorities under which the authorities (A) would monitor activities of community mental health centers (other than centers operated by such authorities) receiving grants under this title to determine if the requirements of this title applicable to the receipt of such grants are being met, and (B) would be provided funds to meet the expenses of conducting such monitoring. The authority of the Secretary to enter into contracts under this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

APPLICATIONS

SEC. 106. Section 206(c)(2) is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows: "The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application meets the requirements of paragraph (1) and, except as provided in paragraph (3)—";

(2) by inserting "the Secretary" before "determines" in subparagraphs (A) and (B); and

(3) by striking out "and" at the end of clause (iii) of subparagraph (B), by striking out the period at the end of clause (iv) of such subparagraph and inserting in lieu thereof a semicolon, and by adding after such subparagraph the following new subparagraphs:

National Advisory Mental Health Council, grant approval.

"(C) in the case of an application for the first grant under section 203, 204, or 205, or an application for a grant under such section which requests a grant in an amount greater than the

amount specified by the applicant in its plan and budget submitted in accordance with paragraph (1)(A)(i), the application is recommended for approval by the National Advisory Mental Health Council; and

"(D) in the case of an application of a community mental health center which does not meet the governing board requirements of section 201(c)(1)(A), the committee appointed pursuant to section 201(c)(1)(B) has approved the application or, if such committee has not approved the application, the Secretary determines that the committee's failure to approve the application was unreasonable.". 42 USC 2689.

CATCHMENT AREAS

SEC. 107. Section 238(2) is amended by inserting "health service areas," after "political subdivisions,". 42 USC 2689u.

RAPE CONTROL

SEC. 108. Section 231(c) is amended by inserting after the first sentence the following: "The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee.". 42 USC 2689q.

STATE MENTAL HEALTH PROGRAMS

SEC. 109. Subsection (g) of section 314 of the Public Health Service Act is amended to read as follows: 42 USC 246.

"STATE MENTAL HEALTH PROGRAMS

"(g)(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State mental health authorities to assist them in meeting the costs of carrying out their functions under title XV of this Act and under section 237 of the Community Mental Health Centers Act and, after September 30, 1979, in meeting the costs of providing mental health services. Grants. 42 USC 300k-1. 42 USC 2689t.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the mental health services provided within the State under the grant applied for will be provided in accordance with the State health plan in effect for such State under section 1524(c); 42 USC 300m-3.

"(B) funds received under the grant applied for will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

"(C) the State mental health authority will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds received under grants under paragraph (1);

Reports.

"(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the mental health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

"(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

State mental health authority, duties. 42 USC 2689t.

"(D) the State mental health authority will—

"(i) perform the duties prescribed by section 237 of the Community Mental Health Centers Act;

"(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) within the State;

"(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or, if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities; and

"(iv) establish and carry out a plan which—

"(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate, and

Consultation with Labor Secretary.

"(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum effort will be made to guarantee the employment of such employees.

State authority, annual review of activities.

"(3)(A) The Secretary shall review annually the activities undertaken by each State mental health authority with an approved application to determine if it complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) he cannot be assured that the State will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply substantially with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or, in his discretion, that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant, or shall limit payment under such grant to activities in which there is no such failure. Grant payments, termination.

"(4) For the purpose of determining the total amount of grants that may be made to the State mental health authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

"(5)(A) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(B) The Secretary, at the request of a State mental health authority, may reduce the amount of the grant to the authority under paragraph (1) by—

"(i) the fair market value of any supplies or equipment furnished the State mental health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee.

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State mental health authority and for the purpose of carrying out any project with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State mental health authority.

"(6) In any fiscal year not less than 70 per centum of the amount of a State's grant shall be available only for the provision of mental health services and for the conduct of mental health planning activities in communities of the State.

"(7) For the purpose of making grants under this subsection there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $25,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization.

"(8) Regulations (including substantive amendments to regula- Regulations.

tions) under this subsection shall be promulgated by the Secretary after consultation with a conference of State mental health authorities. The Secretary shall consult with such conference before the publication of proposals for such regulations or amendments.".

MISCELLANEOUS

42 USC 2689f.

SEC. 110. (a) Section 211(1)(A) is amended (1) by inserting "for compensation of personnel for its initial operation" after "1975)", and (2) by inserting "for such compensation of personnel" after "under that section".

42 USC 2689b.
42 USC 2689.
42 USC 2688u.

(b) Section 203(e)(1)(A)(i) is amended by striking out "unless it meets the requirements of section 201" and inserting in lieu thereof the following: "(other than section 271) unless it provides at least the comprehensive mental health services described in clauses (i) through (iv) of section 201(b)(1)(A)".

42 USC 2689m.

(c) Effective July 29, 1975, section 225 is amended by striking out "this part" and inserting in lieu thereof "this title".

42 USC 4588.

(d) Section 504(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (2) the following: "Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable geographic distribution of Centers.".

EFFECTIVE DATE

42 USC 2689 note.

SEC. 111. The amendments made by this title (other than by section 110(c)) to the Community Mental Health Centers Act shall apply with respect to grants made under the Community Mental Health Centers Act from appropriations for fiscal years ending after September 30, 1978.

Biomedical Research and Research Training Amendments of 1978.

TITLE II—BIOMEDICAL RESEARCH EXTENSION AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

42 USC 201 note.

SEC. 201. (a) This title may be cited as the "Biomedical Research and Research Training Amendments of 1978".

42 USC 201 note.

(b) Whenever in this title (other than in sections 267 and 268) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

PART A—LIBRARIES OF MEDICINE

EXTENSION OF AUTHORIZATIONS

42 USC 280b.

SEC. 211. Section 390(c) is amended by striking out "and" after "1976," and by inserting before the period the following: ", $15,000,000 for the fiscal year ending September 30, 1979, $16,500,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981".

BOARD OF REGENTS' APPOINTMENTS

SEC. 212. Section 383 is amended (1) by striking out "by the President, by and with the advice and consent of the Senate" in the first sentence of subsection (a) and inserting in lieu thereof "by the Secretary", and (2) by striking out "by the President" in the first sentence of subsection (c) and inserting in lieu thereof "by the Secretary". 42 USC 277.

PART B—PROGRAMS OF THE NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

EXTENSION OF AUTHORIZATIONS

SEC. 221. (a) Section 414(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $40,000,000 for the fiscal year ending September 30, 1979, and $45,000,000 for the fiscal year ending September 30, 1980". 42 USC 287c.

(b) Section 419B is amended in the first sentence by striking out "and" after "1977," and by inserting before the period the following: ", $470,000,000 for the fiscal year ending September 30, 1979, and $515,000,000 for the fiscal year ending September 30, 1980". 42 USC 287i.

SUBMISSION OF REPORTS

SEC. 222. (a) Section 413(b)(2) is amended by striking out "submit to the President for transmittal to the Congress a report" and inserting in lieu thereof "submit a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,". 42 USC 287b.

(b) Section 418(b)(2) is amended by inserting "by the Secretary" after "transmittal". 42 USC 287g.

INFORMATION PROGRAMS

SEC. 223. (a) Section 412(5) is amended by striking out "make available" and inserting in lieu thereof "make available on a timely basis". 42 USC 287a.

(b) Section 413(d) is amended (1) by striking out "to provide" in the second sentence and inserting in lieu thereof "to provide on a timely basis", and (2) by striking out "diet" in the third sentence and inserting in lieu thereof "diet and nutrition, environmental pollutants". 42 USC 287b.

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

SEC. 224. Section 415(a)(2) is amended by adding after subparagraph (D) the following: 42 USC 287d.

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases."

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

Subpart I—Extension of and Substantive Changes in Programs of the National Cancer Institute

EXTENSION OF AUTHORIZATIONS

42 USC 286c.

SEC. 231. (a) Section 409(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $90,500,000 for the fiscal year ending September 30, 1979, and $103,000,000 for the fiscal year ending September 30, 1980".

42 USC 286g.

(b) Section 410C is amended by striking out "and" after "1977;" and by inserting before the period the following: "$924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980".

NATIONAL CANCER ADVISORY BOARD

42 USC 286f.

SEC. 232. (a)(1)(A) Subsection (a) of section 410B is amended by striking out "twenty-three" and inserting in lieu thereof "twenty-nine".

(B) Paragraph (1) of such subsection is amended by inserting after "Veterans' Administration" the following: ", the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission".

(2) The first sentence of such subsection following paragraph (2) is amended (A) by striking out "and not more" and inserting in lieu thereof ", not more", and (B) by inserting before the period ", and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)".

(3) The second sentence of such subsection following paragraph (2) is amended by inserting before the period a comma and the following: "and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer".

(4) Such subsection is amended by adding at the end the following: "The ex officio members of the Board shall be nonvoting members.".

Reports.

(5) Section 410B(g) is amended by striking out "a report to the President for transmittal to the Congress not later than January 31 of each year on the progress" and inserting in lieu thereof "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress, on the progress during the preceding fiscal year".

42 USC 286f note.

(b) The amendments made by subsection (a) of this section respecting the manner of appointing members of the National Cancer Advisory Board and the composition of such Board shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board

after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendments.

SUBMISSION OF REPORTS

SEC. 233. Section 410A(b) is amended (1) by striking out "end of each calendar year" and inserting in lieu thereof "end of each fiscal year", (2) by striking out "submit to the President for transmittal to the Congress" and inserting in lieu thereof "submit to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,", and (3) by striking out "the preceding calendar year" and inserting in lieu thereof "the preceding fiscal year". 42 USC 286e.

FUNCTIONS OF CENTERS

SEC. 234. (a) Subsections (a) and (b) of section 408 are each amended by striking out "clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer" and inserting in lieu thereof "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer". 42 USC 286b.

(b) Clause (3) of the second sentence of section 408(b) is amended by inserting after the comma the following: "continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer,".

NATIONAL CANCER PROGRAM

SEC. 235. (a) Paragraph (1) of subsection (b) of section 407 is amended by striking out ", plan and develop" and inserting in lieu thereof "(A) plan and develop", and by inserting before the period the following: "; and (B) implement an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens". 42 USC 286a.

(b) Paragraph (7) of such subsection is amended to read as follows:

"(7) Support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards."

(c) The first sentence of subsection (c)(3) of such section is amended by striking out "twelve times" and inserting in lieu thereof "four times".

CANCER CONTROL PROGRAMS

SEC. 236. (a) Subsection (a) of section 409 is amended to read as follows: 42 USC 286c.

"(a) The Director of the National Cancer Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this subsection shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research

results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.".

Subpart II—Technical Revision of the Authority of the National Cancer Institute

TECHNICAL REVISION

42 USC 281.

SEC. 241. (a)(1) Part A of title IV (as amended by subpart I of this part) is amended to read as follows:

"PART A—NATIONAL CANCER INSTITUTE

"A DIVISION OF THE NATIONAL INSTITUTES OF HEALTH

42 USC 281.

"SEC. 400. The National Cancer Institute (in this part referred to as the 'Institute') is a division of the National Institutes of Health.

"CANCER RESEARCH AND OTHER ACTIVITIES

42 USC 282.
42 USC 241.

"SEC. 401. (a) In carrying out the purposes of section 301 with respect to cancer, the Secretary, through the Institute and in cooperation with the National Cancer Advisory Board, shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies and organizations and by individuals;

"(3) provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

"(4) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

"(5) cooperate with State health agencies in the prevention, control, and eradication of cancer; and

"(6) procure, use, and lend radium as provided in subsection (b).

"(b) In carrying out subsection (a), all appropriate provisions of section 301 shall be applicable to the authority of the Secretary, and the Secretary is authorized—

41 USC 5.

"(1) to purchase radium, from time to time and without regard to section 3709 of the Revised Statutes, and to make such radium

available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe; and

"(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to the diagnosis and treatement of cancer to persons found by the Secretary to have proper technical qualifications and designated by him for such training or instruction and to fix and pay them a per diem allowance during such training or instruction.

"NATIONAL CANCER PROGRAM

"SEC. 402. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute. 42 USC 283.

"CANCER CONTROL PROGRAMS

"SEC. 403. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include— 42 USC 284.

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"DUTIES AND FUNCTIONS OF THE DIRECTOR

"SEC. 404. (a) The Director of the Institute in carrying out the National Cancer Program shall— 42 USC 285.

"(1) collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the

results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

"(2) establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;

"(3) support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States;

"(4) support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards;

"(5) expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise;

"(6) encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(7) provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer;

Report to President and Congress.

"(8)(A) prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute; and

Report to President and Congress.

"(9) as soon as practicable after the end of each fiscal year, prepare in consultation with the National Cancer Advisory Board and submit to the Secretary, for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress, a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding fiscal year, which shall include a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the Program, and a plan for the Program during the next five years.

"(b) The Director of the Institute (after consultation with the National Cancer Advisory Board) in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act is authorized—

"(1) to obtain (in accordance with section 3109 of title 5, United States Code and if authorized by the National Cancer Advisory

Board, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution;

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally;

"(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program; and Grants.

"(10) to call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"SCIENTIFIC REVIEW

"SEC. 405. (a) The Director of the Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, 42 USC 286.

and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

Grants.

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

"(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit, and

"(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by the National Cancer Advisory Board under section 407(b)(3).

42 USC 286a.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

Establishment.
42 USC 286a.

"SEC. 406. (a) The Director of the Institute is authorized to provide for the establishment of new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

Cooperative agreements.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 477), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the cost of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 472. Support of a center under this section may

Post, p. 3432.

42 USC 289*l*-1.

be for a period of not to exceed three years and may be extended by the Director of the Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the Institute.

"NATIONAL CANCER ADVISORY BOARD

"SEC. 407. (a)(1) There is established in the Institute a National Cancer Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-nine members as follows: Establishment. 42 USC 286b.

"(A) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

"(B) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians, not more than eight of the appointed members shall be representatives from the general public, and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors). The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto, and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the Institute. The ex officio members of the Board shall be nonvoting members.

"(2)(A) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(B) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(C) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

"(3) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

"(4) The Board shall meet at the call of the Director of the Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the Institute with respect to the National Cancer Program.

"(5) The Director of the Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

Hearings.

"(6) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

Reports.

"(7) The Board shall submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and the Congress, on the progress during the preceding fiscal year of the National Cancer Program toward the accomplishment of its objectives.

Compensation.

"(8) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

5 USC 5332 note.

"(9) The Director of the Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"(b) The Board is authorized—

"(1) to review research projects or programs conducted or authorized to be conducted under section 401 relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

Ante, p. 3424.

"(2) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

"(3) to review applications for grants for research projects relating to cancer and to recommend to the Director for approval under section 405(b)(2) those applications which show promise of making valuable contributions to human knowledge with respect to the cause or prevention of cancer or to methods of diagnosis or treatment of cancer;

Ante, p. 3427.

"(4) to recommend to the Secretary for acceptance conditional gifts pursuant to section 501 of this Act; and

42 USC 219.

"(5) to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"PRESIDENT'S CANCER PANEL

Establishment.
42 USC 286c.

"SEC. 408. (a)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qual-

ified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code. 5 USC 5332 note.

"(3) The Panel shall meet at the call of the Chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public. Information available to public.

"(b) The Panel shall monitor the development and execution of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. Report to President.

"GIFTS

"SEC. 409. The Secretary shall recommend acceptance of conditional gifts pursuant to section 501 for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of real property or the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors. 42 USC 286d. 42 USC 219.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410. (a) For the purpose of carrying out this part (other than section 403), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; $985,000,000 for the fiscal year ending September 30, 1977; $923,590,000 for the fiscal year ending September 30, 1978; $924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980. 42 USC 286e.

"(b) There are authorized to be appropriated to carry out section 403 $20,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; $53,500,000 for the fiscal year ending June 30, 1975; $68,500,000 for the fiscal year ending June 30, 1976; $88,500,000 for the fiscal year ending September 30, 1977; $84,560,000 for the fiscal year ending September 30, 1978; $90,500,000 for the fiscal year ending September 30, 1979; and $103,000,000 for the fiscal year ending September 30, 1980.

Contract authority.
Ante, p. 3425.

"(c) The authority of the Secretary to enter into any contract for the conduct of a program under section 404(a)(7) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

42 USC 286b note.

(2) The change in the manner of appointing members of the National Cancer Advisory Board and in the composition of such Board prescribed by the amendment made by paragraph (1) shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendment.

(b) Part I of title IV is amended by adding at the end the following:

"APPROPRIATIONS

42 USC 289*l*-6.

"SEC. 477. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

41 USC 5.

"OTHER AUTHORITY

42 USC 289*l*-7.

"SEC. 478. This title shall not be construed as limiting (1) the functions or authority of the Secretary under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (2) the expenditure of money therefor.".

CONFORMING AMENDMENTS

42 USC 287d.

SEC. 242. (a) Section 415(b)(1) is amended by striking out "section 405" and inserting in lieu thereof "section 477".

42 USC 289*l*.

(b) Section 471 is amended by striking out "section 407(b)(9)" and inserting in lieu thereof "section 404(a)(8)".

PART D—NATIONAL RESEARCH SERVICE AWARDS

EXTENSION OF AUTHORIZATIONS

SEC. 251. (a) Subsection (d) of section 472 is amended by striking out "and" after "1977," and by inserting before the period at the end of the first sentence the following: ", $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, and $222,500,000 for the fiscal year ending September 30, 1981". 42 USC 289*l*-1.

(b) Subsection (d) of such section is amended (1) by striking out "25 per centum" in the second sentence and inserting in lieu thereof "15 per centum", and (2) by inserting before the period "and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards".

(c) Subsection (d) of such section is amended by adding at the end thereof the following new sentence: "In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.".

APPROVAL OF AWARDS

SEC. 252. Paragraph (2) of subsection (b) of such section is amended by striking out "The award of National Research Service Awards by the Secretary under subsection (a) and the making of grants for such Awards" and inserting in lieu thereof "The making of grants under subsection (a)(1)(B) for National Research Service Awards".

PERIOD OF AWARDS

SEC. 253. Paragraph (4) of subsection (b) of such section is amended to read as follows:

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual."

ADJUSTMENTS IN ALLOWANCES

SEC. 254. The first sentence of subsection (b)(5) of such section is amended by inserting after "dependency allowances)" the following: ", adjusted periodically to reflect increases in the cost of living".

SERVICE OBLIGATION

SEC. 255. (a) Subparagraph (B) of subsection (c)(1) of such section is amended (1) by inserting "or" in clause (i) after "Corps,", (2) by striking out clause (ii), and (3) by redesignating clause (iii) as clause (ii).

(b)(1) Paragraph (2) of subsection (c) of such section is amended to read as follows:

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of three months, such individual shall—

"(A) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(B) if authorized under paragraph (1)(B) or (1)(C), for one month serve in the individual's specialty or engage in a health-related activity."

(2) Paragraph (4)(A) of such subsection is amended by striking out

$$\text{"A}=\phi\left(\frac{t-\frac{1}{2}s}{t}\right)\text{"}$$

and inserting in lieu thereof

$$\text{"A}=\phi\left(\frac{t-s}{t}\right)\text{"}.$$

(3) Paragraph (5)(B) of such subsection amended by striking out "extreme hardship" and inserting in lieu thereof "substantial hardship".

42 USC 289*l*-1 note.

(b) The amendments made by subsection (a) shall apply only with respect to National Research Service Awards made under section 472 of the Public Health Service Act after the date of the enactment of this Act.

42 USC 289*l*-1.

REPORTS ON STUDIES

42 USC 289*l*-2.

SEC. 256. Section 473(c) is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "at least once every two years".

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

42 USC 241.

SEC. 261. Effective October 1, 1978, section 301 is amended by adding after and below paragraph (h) the following: "The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate."

EXPANSION OF RESEARCH AND TESTING AUTHORITY

42 USC 241.

SEC. 262. Effective October 1, 1978, section 301 (as amended by section 261 of this title) is amended (1) by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", (2) by striking out "Collect" in paragraph (a) and inserting in lieu thereof "collect", (3) by striking out "Make" in paragraphs (b), (c), and (f) and inserting in lieu thereof "make", (4) by striking out "Secure" in paragraph (d) and inserting in lieu thereof "secure", (5) by striking out "For" in paragraph (e) and inserting in lieu thereof "for", (6) by striking out "Enter" in paragraph (g) and inserting in lieu thereof "enter", (7) by striking out "Adopt" in paragraph (h) and inserting in lieu thereof "adopt", (8) by striking out "and" at the end of paragraph (f), (9) by redesignating paragraphs (a)

through (h) as paragraphs (1) through (8), respectively, and (10) by inserting "(a)" after "301." and by adding at the end the following:

"(b)(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. Grants.

"(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts. Low-level ionizing radiation.

"(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

"(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of information respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health, Education, and Welfare and shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

"(4) The Secretary shall publish an annual report which contains— Annual report, publication.

"(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

"(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

"(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

"(D) a description of (i) each request received during the year involved—

"(I) from a Federal agency outside the Department of Health, Education, and Welfare for the Secretary, or

"(II) from an entity within the Department of Health, Education, and Welfare to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of sub-

stances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

Contract authority.

"(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or review, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

NEW ARTHRITIS CENTERS

42 USC 289c-6.

SEC. 263. Section 439(g) is amended by striking out the last sentence.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

42 USC 289*l*-4.

SEC. 264. Section 475(a) is amended (1) by inserting before ", shall by regulation" the following: "and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity)", (2) by inserting after "research" in paragraph (1) the following: "(including research under programs of such Division of Nursing)", and (3) by striking out "or the" in paragraph (2) and inserting in lieu thereof "the" and by inserting before the period in that paragraph a comma and the following: "or the Division of Nursing of the Health Resources Administration (or the successor to either such entity)".

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

Ante, p. 3432.

SEC. 265. Title IV is amended by inserting after section 478 (as added by section 241(b) of this title) the following new section:

"EXPERTS AND CONSULTANTS

42 USC 289*l*-8.

"SEC. 479. (a) The Director of the National Institutes of Health may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants who have scientific or professional qualifications, for the National Institutes of Health and for each of the research institutes (other than the National Cancer Institute and the National Heart, Lung, and Blood Institute).

Compensation. 42 USC 284, 287b.

"(b)(1) Experts and consultants whose services are obtained under subsection (a) or under section 404(b)(1) or 413(c)(1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under this subsection, unless and until the expert or consultant agrees in writing to complete the entire period of his assignment or 1 year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for these expenses is recoverable from him as a debt due the United States. The Secretary may waive in whole

or in part a right of recovery under this subsection with respect to an expert or consultant on assignment with the Secretary.".

PUBLIC HEALTH SERVICE HOSPITALS

SEC. 266. Section 321(a) is amended by striking out ", and tobacco". 42 USC 248.

EXTENSION OF DEADLINE FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

SEC. 267. Section 301(i)(1) of the Arthritis, Diabetes, and Digestive Disease Amendments of 1976 (Public Law 94-562) is amended by striking out "Within eighteen months following its initial meeting (as prescribed by subsection (d))," and inserting in lieu thereof "Not later than February 1, 1979,". 42 USC 289a note.

PROGRAMS FOR FAMILIES OF ALCOHOLICS AND ALCOHOL ABUSERS

SEC. 268. (a) Section 2(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended— 42 USC 4541.

(1) by striking out "and" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) alcohol abuse and alcoholism have a substantial impact on the families of alcohol abusers and alcoholics; and".

(b) Section 303(a)(4)(B) of such Act is amended by inserting "and for education, counseling, and treatment of the families of alcoholic abusers and alcoholics" after "under the age of eighteen". 42 USC 4573.

(c) Section 501(a) of such Act is amended— 42 USC 4585.

(1) by striking out "of" each place it appears in paragraphs (1) through (4) and inserting "of" before "alcohol abuse and alcoholism";

(2) by striking out "and" at the end of paragraph (3) and inserting "and" after the comma at the end of paragraph (4); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) the impact on families,".

(d) Section 501(b)(5) of such Act is amended by inserting "or those of their families" after "individuals suffering from alcoholism or alcohol abuse".

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 301. The Public Health Service Act is amended by adding after title XVII the following new title:

"TITLE XVIII—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

"ESTABLISHMENT OF COMMISSION

42 USC 300v.

"SEC. 1801. (a) ESTABLISHMENT.—(1) There is established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (hereinafter in this title referred to as the 'Commission') which shall be composed of eleven members appointed by the President. The members of the Commission shall be appointed as follows:

"(A) Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research.

"(B) Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care.

"(C) Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

"(3) No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

"(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) four shall be appointed for terms of three years, and

"(B) three shall be appointed for terms of two years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, from members of the Commission.

"(d) MEETINGS.—(1) Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

"(2) The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

"(e) COMPENSATION.—(1) Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. 5 USC 5332 note.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COMMISSION

"SEC. 1802. (a) STUDIES.—(1) The Commission shall undertake studies of the ethical and legal implications of— 42 USC 300v-1.

"(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

"(B) the matter of defining death, including the advisability of developing a uniform definition of death;

"(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

"(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

"(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information continued in such records, and

"(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by the Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

"(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this title on its own initiative or at the request of the head of a Federal agency.

"(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

"(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies. Report to President and Congress.

Publication in Federal Register.

"(b) RECOMMENDATIONS TO AGENCIES.—(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

"(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

Publication in Federal Register.

"(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

"(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

Report to President, Congress, and Federal agencies.

"(c) REPORT ON PROTECTION OF HUMAN SUBJECTS.—The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

Report to President, Congress, and Federal agencies.

"(d) ANNUAL REPORT.—Not later than December 15 of each year (beginning with 1979) the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations described in subsection (b)(1) made to Federal agencies by the Commission during the fiscal year and the actions taken, pursant to subsection (b)(2), by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(e) PUBLICATIONS.—The Commission may at any time publish and disseminate to the public reports respecting its activities.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The term 'Federal agency' means an authority of the government of the United States, but does not include (A) the Congress, (B) the courts of the United States, and (C) the government of the Commonwealth of Puerto Rico, the government of the District of Columbia, or the government of any territory or possession of the United States.

"(2) The term 'protection of human subjects' includes the protection of the health, safety, and privacy of individuals.

"ADMINISTRATIVE PROVISIONS

Hearings. 42 USC 300v-2.

"SEC. 1803. (a) HEARINGS.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times

and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(b) STAFF.—(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. 5 USC 5101 *et seq.*, 5331.

"(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule. 5 USC 5332 note.

"(3) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(c) CONTRACTS.—The Commission, in performing its duties and functions under this title, may enter into contracts with appropriate public or nonprofit private entities. The authority of the Commission to enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) INFORMATION.—(1) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(2) The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this title.

"(3) The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"AUTHORIZATION OF APPROPRIATIONS; TERMINATION OF COMMISSION

"SEC. 1804. (a) AUTHORIZATIONS.—To carry out this title there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982. 42 USC 300v-3.

"(b) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—The Commission shall be subject to the Federal Advisory Committee Act, except that, under section 14(a)(1)(B) of such Act, the Commission shall terminate on December 31, 1982.". 5 USC app.

MISCELLANEOUS PROVISIONS

42 USC 300v note.

SEC. 302. (a) The President shall initially appoint members to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (established under the amendment made by section 301) not later than 90 days after the date of the enactment of this title.

Repeal. 42 USC 289*l*-1 note. 42 USC 218.

(b) Effective November 1, 1978, part A of title II of the National Research Act, section 213 of such Act, and subsection (f) of section 217 of the Public Health Service Act are repealed.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1192 accompanying H.R. 12347 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-838 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 26, considered and passed Senate.
Oct. 15, considered and passed House, amended; Senate concurred in House amendments.

Public Law 95-623
95th Congress

An Act

To amend the Public Health Service Act to revise and extend the authorities under that Act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes.

Nov. 9, 1978
[S. 2466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Services Research, Health Statistics, and Health Care Technology Act of 1978.
42 USC 201 note.

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics, and Health Care Technology Act of 1978".

(b) Whenever in this Act (other than in sections 12 and 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

42 USC 201 note.

EXTENSION OF AUTHORIZATIONS

SEC. 2. (a) Section 308(i)(1) is amended— 42 USC 242m.

(1) in the first sentence (A) by striking out "and" after "1976,", and (B) by inserting before the period a comma and the following: "$35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981"; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "At least 20 per centum of the amount appropriated under the preceding sentence for any fiscal year or $6,000,000, whichever is less, shall be available only for health services research, evaluation and demonstration activities directly undertaken through the National Center for Health Services Research, and at least 5 per centum of such amount or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken through such Center.".

(b) Section 308(i)(2) is amended (1) by inserting "and epidemiological" after "statistical", (2) by striking out "and" after "1976,", and (3) by inserting before the period a comma and the following: "$50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981".

GENERAL AUTHORITY

SEC. 3. (a) Subsection (a) of section 304 is amended to read as follows: 42 USC 242b.

"(a)(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of health care technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis,

"(H) the prevention of illness, disability, and premature deaths in the United States,

"(I) health care costs, increases in such costs, and the reasons for such increases, and

"(J) the impact of the environment on individual health and on health care.

Training programs.

"(3) The Secretary shall, through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology and using National Research Service Awards and other appropriate authorities, undertake and support training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in sections 305, 306, and 309.".

42 USC 242c, 242k.

(b) Paragraph (1) of section 304(b) is amended (1) by inserting ", when appropriate," before "enter into contracts", and (2) by striking out all after "entities and individuals" the second time it appears and inserting in lieu thereof a period.

Post, p. 3447.

42 USC 242b.

(c) Subsection (c) of section 304 is amended to read as follows:

"(c)(1) The Secretary shall coordinate all health services research, evaluations, and demonstrations, all health statistical and epidemiological activities, and all research, evaluations, and demonstrations respecting the assessment of health care technology undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.

"(2) The Secretary shall coordinate the health services research, evaluations, and demonstrations, the health statistical and (where appropriate) epidemiological activities, and the research, evaluations, and demonstrations respecting the assessment of health care technology authorized by this Act through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.".

(d) Section 304(d)(3) is amended (1) by striking out "experts and", (2) by inserting "but in accordance with section 3109 of title 5,

United States Code" after "advisable", and (3) by adding at the end the following: "The Secretary may for the purpose of carrying out the functions set forth in sections 305, 306, and 309, obtain (in accordance with section 3109 of title 5 of the United States Code, but without regard to the limitation in such section on the number of days or the period of service) for each of the centers the services of not more than fifteen experts who have appropriate scientific or professional qualifications.". 42 USC 242c, 242k. *Post*, p. 3447.

(e) The heading for section 304 is amended to read as follows: 42 USC 242b.

"GENERAL AUTHORITY RESPECTING RESEARCH, EVALUATIONS, AND DEMONSTRATIONS IN HEALTH STATISTICS, HEALTH SERVICES AND HEALTH CARE TECHNOLOGY".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 4. Subsection (b) of section 305 is amended—

(1) by striking out "may undertake and support" and inserting in lieu thereof "shall undertake and support";

(2) by striking out "construction," in paragraph (3);

(3) striking "and" at the end of paragraph (2);

(4) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(5) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 5. (a) Subsection (b) of section 306 is amended (1) by striking out "may", (2) by inserting "shall" after "(1)" and after "(2)", (3) by striking out "and" at the end of paragraph (1), (4) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and (5) by adding after paragraph (2) the following:

"(3) may undertake and support (by grant or contract) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1); and

"(4) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit private entities under arrangements under which the entities will pay the cost of the service provided.

Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (4) shall be available to the Secretary for obligation until expended.".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c)(1) Subsection (e) of section 306 is amended to read as follows:

"(e) For the purpose of producing comparable and uniform health information and statistics, there is established the Cooperative Health Statistics System. The Secretary, acting through the Center, shall— Cooperative Health Statistics System, establishment.

"(1) coordinate the activities of Federal agencies involved in the design and implementation of the System;

"(2) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting the System;

"(3) make grants to and enter into contracts with State and local health agencies to assist them in meeting the costs of data collection carried out under the System; and

"(4) review the statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with the System.

States participating in the System shall designate a State agency to administer or be responsible for the administration of the statistical activities within the State under the System. The Secretary, acting through the Center, shall prescribe guidelines to assure that statistical activities within States participating in the system produce uniform and timely data and assure appropriate access to such data.".

42 USC 242k.

(2) Paragraph (4)(D) of subsection (i) of section 306 is amended by inserting before the semicolon the following: ", with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1)".

(d) The first sentence of subsection (f) of section 306 is amended by inserting ", acting through the Center," after "the Secretary".

(e)(1) Section 306(i)(1) is amended by striking out "United States".

(2) Paragraph (2)(A) of section 306(i) is amended by inserting "health planning," after "health statistics,".

(f) Section 306 is amended by redesignating subsection (i) as subsection (k) and by inserting after subsection (h) the following new subsections:

"(i) The Center may provide to public and nonprofit private entities engaged in health planning activities technical assistance in the effective use in such activities of statistics collected or compiled by the Center.

42 USC 242b.

"(j) In carrying out the requirements of section 304(c) and paragraph (1) of subsection (e) of this section, the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) establishing standardized means for the collection of health information and statistics under laws administered by the Secretary;

"(2) developing, in consultation with the National Committee on Vital and Health Statistics, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1);

"(3) after consultation with the National Committee on Vital and Health Statistics, establishing standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis;

"(4) in the case of proposed health data collections of the Department which are required to be reviewed by the Director of the Office of Management and Budget under section 3509 of title 44, United States Code, reviewing such proposed collections to determine whether they conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (2)

and (3), and if any such proposed collection is found not to be in conformance, by taking such action as may be necessary to assure that it will conform to such sets of data and standards, and

"(5) periodically reviewing ongoing health data collections of the Department, subject to review under such section 3509, to determine if the collections are being conducted in accordance with the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3) and, if any such collection is found not to be in conformance, by taking such action as may be necessary to assure that the collection will conform to such sets of data and standards not later than the ninetieth day after the date of the completion of the review of the collection.".

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

SEC. 6. (a) Section 309 is amended— 42 USC 242n.

(1) by amending the section heading to read as follows:

"HEALTH CONFERENCES AND HEALTH EDUCATION INFORMATION";

(2) by inserting "(a)" before "A conference"; and

(3) by striking out "309" and inserting in lieu thereof "310". 42 USC 242o.

(b) Section 310 (as in effect before the date of the enactment of this Act) is amended—

(1) by striking out the section heading; and

(2) by striking out "SEC. 310." and inserting in lieu thereof "(b)".

(c) Part A of title III is amended by adding after section 308 the following new section:

"NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

"SEC. 309. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Care Technology (hereinafter in this section referred to as the 'Center') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs). Establishment. 42 USC 242n.

"(b)(1) The Secretary, acting through the Center, shall undertake and support (by grant or contract) assessments of health care technology. Such assessments shall take into account the safety, effectiveness, and cost effectiveness of, and the social, ethical, and economic impact of health care technologies. Grants and contracts.

"(2) The Secretary, acting through the Center, shall encourage, undertake, and support (by grant or contract) research, demonstrations, and evaluations respecting—

"(A) the factors that affect the use of health care technologies in the United States;

"(B) methods for disseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(3) The Secretary, acting through the Center, shall encourage and support (by grant or contract) research, evaluations, and demonstrations respecting the safety and efficacy of particular health care technologies.

"(4) The Secretary, acting through the Center and in consultation with the National Council on Health Care Technology, shall establish priorities for the activities prescribed by paragraphs (1), (2), and (3). In determining if an activity respecting a particular health care technology should be given priority, emphasis shall be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the technology,

"(B) the actual or potential cost of the technology,

"(C) the actual or potential rate of its use, and

"(D) the stage of development of the technology.

"(5) The Center may make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

Grants and contracts.

"(c)(1) The Secretary, acting through the Center, shall, by grant or contract, assist public and private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for assessments, multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraphs (1) and (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

42 USC 242m.

Limitations.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Center, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

Requirements.

"(B) Each center shall meet the following requirements:

"(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in assessments, research, demonstrations, and evaluations respecting the matters referred to in paragraphs (1) and (2) of subsection (b), and there shall be such additional professional staff as may be appropriate.

"(ii) The staff of the center shall have expertise in the various disciplines needed to conduct assessments, multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraphs (1) and (2) of subsection (b).

"(iii) The center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center.

"(iv) Each center shall meet such additional requirements as the Secretary may by regulation prescribe.

Review requirements for certain grants and contracts.

"(d) Any grant or contract under subsection (b) or (c), the direct cost of which will exceed $35,000, may be made or entered into only after appropriate review for scientific merit by peer review groups composed of experts in the relevant fields and only after the National Council on Health Care Technology has had an opportunity to review

the project with respect to which the grant or contract is to be made or entered into.

"(e) To assist in carrying out this section, the Secretary, acting through the Center, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration, and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(f)(1) There is established the National Council on Health Care Technology (hereinafter in this subsection referred to as the 'Council'). The Council shall— National Council on Health Care Technology. Establishment.

"(A) advise the Secretary and the Director of the Center with respect to the performance of the functions prescribed by this section;

"(B) review applications for grants and contracts under this section in excess of $35,000 and provide the Secretary its recommendation respecting the approval of such applications;

"(C) after consultation with appropriate public and private entities, advise the Secretary respecting the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular health care technologies;

"(D) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable, exemplary standards, norms, and criteria concerning the use of particular health care technologies; and

"(E) promptly publish, disseminate, and otherwise make available, through the National Library of Medicine, standards, norms, and criteria developed under subparagraph (D).

"(2) The Council shall consist of— Membership.

"(A) the Director of the National Institutes of Health, the Chief Medical Officer of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the Chairman of the National Professional Standards Review Council, a member of the National Council on Health Planning and Development (established under section 1503), the Director of the Office of Science and Technology Policy, the head of the Food and Drug Administration (or the successor to such entity), the head of the Center for Disease Control (or the successor to such entity), and the head of the Health Care Financing Administration (or the successor to such entity) who (or their designees) shall be ex officio members, and 42 USC 300k-3.

"(B) eighteen members appointed by the Secretary.

The Secretary shall make his initial appointments to the Council within one hundred and twenty days of the date of the enactment of this section. Six of the appointed members shall be selected from individuals who are distinguished in the fields of medicine, engineering, or science (including social science). Of such six members, at least two shall be selected from individuals who are representatives of business entities engaged in the development or production of health care technology. Two of the appointed members shall be physicians, two of the appointed members shall be selected from individuals who are hospital administrators, two of the appointed members shall be selected from individuals who are distinguished in the field of economics, two of the appointed members shall be selected from individuals who are distinguished in the field of law, one of the appointed members shall be selected from individuals who are distinguished in the field of ethics,

and three of the appointed members shall be selected from members of the general public who represent the interests of consumers of health care.

Council members, terms of office.

"(3) (A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the date of the enactment of this section, four shall be appointed for a term of four years, four shall be appointed for a term of three years, four shall be appointed for a term of two years, and four shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

Compensation.

"(B) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

5 USC 5332 note.

"(4) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Director of the Center shall (1) designate a member of the staff of the Center to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(7) The Council shall be subject to the Federal Advisory Committee Act, except that the Council shall terminate September 30, 1981.

"(g) The Director of the National Institutes of Health, the head of the Food and Drug Administration (or the successor to such entity), the head of the Center for Disease Control (or the successor to such entity), the head of the Health Care Financing Administration (or the successor to such entity), and the head of any other entity of the Department of Health, Education, and Welfare designated by the Secretary shall each make available annually to the Center and the Council a listing of all health care technologies of which he is aware that are under development and appear likely to be used in the practice of medicine.

"Health care technology."

"(h) For purposes of this section, the term 'health care technology' means any discrete and identifiable regimen or modality used to diagnose and treat illness, prevent disease, maintain patient well-being, or facilitate the provision of health care services.

Appropriation authorization.

"(i) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending September 30, 1979,

$25,000,000 for the fiscal year ending September 30, 1980, and $33,000,000 for the fiscal year ending September 30, 1981. Not less than 15 per centum of the amount appropriated for the fiscal year ending September 30, 1981, shall be obligated for assessments, research, demonstrations, and evaluations directly undertaken through the Center under paragraph (1) or (2) of subsection (b).".

(d)(1) Subsection (a)(1) of section 308 is amended (A) by inserting "and section 309" after "307", and (B) by striking out "health statistics" and inserting in lieu thereof ", health statistics, and health care technology". 42 USC 242m.

(2) Subsection (b)(1) of such section is amended by striking out "or 307" and inserting in lieu thereof "307, or 309".

(3) Subsection (d) of such section is amended (A) by striking out "or 307" and inserting in lieu thereof "307, or 309", and (B) by inserting "or epidemiological" after "statistical" in clause (1).

(4) Subsection (e) of such section is amended by striking out "or 307" each place it occurs and inserting in lieu thereof "307, or 309".

(5) Subsection (f) of such section is amended by striking out "or 306" and inserting in lieu thereof "306, or 309".

(6) Subsection (g)(2) of such section is amended by striking out "and 306" and inserting in lieu thereof "306, and 309".

(7) Subsection (h)(1) of such section is amended by striking out "or 306" each place it occurs and inserting in lieu thereof "306, or 309".

(8) The heading for such section is amended by striking out "AND 307" and inserting in lieu thereof "307, AND 309".

STUDY OF COSTS OF DISEASES AND ADVERSE EFFECTS ON HUMANS WHICH ARE ENVIRONMENTALLY RELATED

SEC. 7. Section 304 (as amended by section 3(d)) is amended by adding at the end the following: 42 USC 242b.

"(e)(1) The Secretary and the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units) shall, jointly and in cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council of Economic Advisers, the Council on Wage and Price Stability, the Council on Environmental Quality, and other entities of the Federal Government which the Secretary determines have the expertise in the subject of the study prescribed by this paragraph, conduct, with funds appropriated under section 308(i)(2), an ongoing study of the present and projected future health costs of pollution and other environmental conditions resulting from human activity (including human activity in any place in the indoor or outdoor environment, including places of employment and residence). In conducting the study, the Secretary and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy') shall, to the extent feasible—

"(A) identify the pollution (and the pollutants responsible for the pollution) and other environmental conditions which are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating human diseases and adverse effects on humans;

"(B) identify each such disease and adverse effect on humans

and specifically determine whether cancer, birth defects, genetic damage, emphysema, asthma, bronchitis, and other respiratory diseases, heart disease, stroke, and mental illness and impairment are such a disease or effect;

"(C) identify (on a national, regional, or other geographical basis) the source or sources of such pollutants and conditions and estimate the portion of each pollutant and the extent of each condition which can be traced to a specific type of source;

"(D) ascertain (i) the extent to which the pollutants and conditions identified under subparagraph (A) are, or may reasonably be anticipated to be, responsible, individually or collectively, for causing, contributing to, increasing susceptibility to, or aggravating the diseases and effects identified under subparagraph (B), and (ii) the effect upon the incidence or severity of specific diseases and effects of individual or collective, as appropriate, incremental reductions in the pollutants and changes in such conditions; and

"(E) quantify (i) the present and projected future health costs of the diseases and effects identified under subparagraph (B), and (ii) the reduction in health costs which would result from each incremental reduction and change referred to in subparagraph (D)(ii).

"(2) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study prescribed by paragraph (1).

Reports to congressional committees.

"(3) The first report on the study prescribed by paragraph (1) shall be made to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives by the Secretary and the Academy not later than eighteen months after the date of the enactment of this subsection. Subsequent reports on the study shall be made by the Secretary and the Academy every two years after the date the first report is submitted. Each report shall (A) identify deficiencies and limitations in the data on the matters considered in the study and recommend actions which may be taken to eliminate such deficiencies and limitations, (B) include such recommendations for legislation as the Secretary determines appropriate, (C) include recommendations for facilitating studies of the effects of hazardous substances on humans, and (D) include a description of any administrative action proposed to be taken by the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Consumer Product Safety Commission to reduce the costs which have been quantified under paragraph (1)(E)(i). In conducting the study, the Secretary and the Academy shall seek assistance from public and private health financing entities in securing the data needed for the study.

"Health costs of pollution and other environmental conditions."

"(4) For purposes of paragraph (1), the term 'health costs of pollution and other environmental conditions' means the costs of human diseases and other adverse effects on humans which pollution and other environmental conditions are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating, including the costs of preventing such diseases and effects, the costs of the treatment, cure, convalescence, and rehabilita-

tion of persons afflicted by such diseases, costs reasonably attributable to pain and suffering from such diseases and effects, loss of income and future earnings resulting from such diseases and effects, adverse effects on productivity (and thus increases in production costs and consumer prices) resulting from such diseases and effects, loss of tax revenues resulting from such decreases in earnings and productivity, costs to the welfare and unemployment compensation systems and the programs of health benefits under titles XVIII and XIX of the Social Security Act resulting from such diseases and effects, the overall increases in costs throughout the economy resulting from such diseases and effects, and other related direct and indirect costs.". 42 USC 1395, 1396.

INFORMATION ON EFFECTS ON HEALTH OF THE ENVIRONMENT AND EMPLOYMENT CONDITIONS

SEC. 8. (a) Section 306 (as amended by section 5) is amended by inserting after subsection (k) the following new subsection: 42 USC 242k.

"(l)(1) The Secretary, acting through the Center, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The Secretary shall submit such plan to the Congress not later than January 1, 1980. Plan. Submittal to Congress.

"(2)(A) The Secretary, acting through the Center, shall establish, not later than two years after the date of the enactment of this subsection, guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health. Guidelines established under this subparagraph shall not (i) authorize or require the disclosure of any matter described in section 552(b)(6) of title 5, United States Code, and (ii) authorize or require the disclosure of any statistics or other information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section. The guidelines shall be reviewed and, if appropriate, revised at least every three years after the date they are initially established. Guidelines shall take effect on the date of the promulgation of the regulation establishing or revising the guidelines or such later date as may be specified in the guidelines. Guidelines.

"(B) The guidelines shall be designed—

"(i) to improve coordination of environmental and health studies, statistics, and information, and to prevent overlap and unnecessary duplication with respect to such studies, statistics, and information;

"(ii) to assure that such studies, statistics, and information will be available to executive departments responsible for the administration of laws relating to the protection of the public health and safety or the environment;

"(iii) to encourage the more effective use by executive departments of such studies, statistics, and information;

"(iv) to improve the statistical validity and reliability of such studies, statistics, and information; and

"(v) to assure greater responsiveness by the Department of Health, Education, and Welfare and other executive departments in meeting informational and analytical needs for determining the effects of employment and indoor and outdoor environmental conditions on public health.

"(C) In establishing and revising guidelines under subparagraph (A), the Secretary shall take into consideration the plan developed pursuant to paragraph (1).

"(D) The Center shall serve as a clearinghouse for statistics and information with respect to which guidelines have been established under subparagraph (A) and shall assist executive departments in obtaining such statistics and information for purposes of administering laws under their jurisdiction relating to environmental health protection or the safety and health of employees.

Guidelines, compliance.

"(E)(i) Each executive department shall comply with the substantive and procedural requirements of the guidelines.

"(ii) The President shall by Executive order require each executive department to comply with requests, made in accordance with the guidelines, by the Secretary, the Administrator of the Environmental Protection Agency, the Consumer Product Safety Commission, or the Secretary of Labor for statistics and information.

Exemptions.

"(iii) The President may by Executive order exempt any executive department from compliance with a requirement of the guidelines respecting specific statistics or other information if the President determines that the exemption is necessary in the interest of national security.

"(F) In carrying out his duties under this paragraph, the Secretary, acting through the Center, shall, insofar as practicable, provide for coordination of his activities with those of other Federal agencies and interagency task forces relating to the collection, analysis, publication, or distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health.

"Guidelines."

"(G) For purposes of this paragraph, the term 'guidelines' means the guidelines, either as initially established or as revised, in effect under this paragraph.

Study.

"(3) The Secretary, acting through the Center, shall conduct a study of the issues respecting, and the recommendations for, establishing a Federal system to assist, in a manner designed to avoid invasion of personal privacy, Federal, State, and other entities in locating individuals who have been or many have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care and treatment. In conducting such study, the Secretary may consult with any public and private entity which it determines has expertise on any matter to be considered in the study. Not later than one year after the date of the enactment of this subsection, the Secretary shall complete the study and report to the Congress the results of the study and any recommendations for legislation or administrative action.

Report to Congress.

"(4) In carrying out paragraphs (1), (2), and (3), the Secretary shall consult with and take into consideration any recommendations of the Task Force on Environmental Cancer and Heart and Lung

Disease, the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council on Environmental Quality, the National Committee on Vital and Health Statistics, and the National Academy of Sciences (including the Institute of Medicine and any other unit of the Academy).".

(b) The first sentence of subsection (d) of section 308 is amended by inserting after "unless authorized" the following: "by guidelines in effect under section 306(l)(2) or". 42 USC 242m. 42 USC 242k.

TASK FORCE ON ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 9. The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 402 of Public Law 95-95. 42 USC 4362a. 42 USC 4362.

MINE WORKERS STUDY

SEC. 10. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the Secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Ways and Means, the Committee on Appropriations, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation, and demonstration activities by section 308(i)(1) of the Public Health Service Act shall be made available for such study. 42 USC 242m note. Report to congressional committees.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 11. (a) Subsection (g) of section 208 is amended (1) by striking out "one hundred and fifty-five" and inserting in lieu thereof "one hundred and seventy-nine", (2) by striking out "and not less than" and inserting in lieu thereof ", not less than", and (3) by inserting after "alcoholism," the following: "not less than ten shall be for the National Center for Health Services Research, not less than twelve shall be for the National Center for Health Statistics, and not less than seven shall be for the National Center for Health Care Technology,". 42 USC 210.

(b) Part K of title III is repealed. Repeal.

(c) Section 453 is amended by adding at the end the following: "The Secretary, through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public and nonprofit private vision research facilities.". 42 USC 280c. 42 USC 289k. 42 USC 285.

(d)(1) Section 472(a)(1)(A) is amended— 42 USC 289*l*-1.

(A) by striking out "and" at the end of clause (iii),
(B) by redesignating clause (iv) as clause (vii),
(C) by inserting after clause (iii) the following:
"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology,
"(v) training at such Centers to undertake such research,
"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and", and
(D) by striking out "such research" in clause (vii) (as so redesignated) and inserting in lieu thereof "biomedical and behavioral research and the research described in clause (vi)".

42 USC 289*l*-1. (2) Section 472(a)(1)(B) is amended by striking out "such research" and inserting in lieu thereof "biomedical and behavioral research and the research described in subparagraph (A)(vi)".

42 USC 219. (e) Title V is amended by adding at the end the following:

"CONTRACT AUTHORITY

42 USC 229c. "SEC. 514. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Record maintenance. 42 USC 292e. (f)(1) The second sentence of subsection (a) of section 705 is amended to read as follows: "Such records shall include records which fully disclose (A) the amount and disposition by such entity of the funds paid to it under such grant, loan, loan guarantee, interest subsidy, or contract, (B) the total cost of the project or undertaking for which such grant, loan, loan guarantee, interest subsidy, or contract is made, (C) the amount of that portion of the cost of the project or undertaking received by or allocated to such entity from other sources, and (D) such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.".

Biennial financial audit. (2) Subsection (b) of section 705 is amended to read as follows:
"(b) Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.".

Waiver. 42 USC 295f-1. (g) Section 771(d) is amended by adding at the end the following:
"(5) The Secretary may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies

(approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.".

HEALTH PROFESSIONS REPORTS AND PROGRAMS

SEC. 12. (a) Section 708(d) of the Public Health Service Act is amended (1) by striking out "not later than September 1 of each year", and (2) by inserting at the end the following: "Such report shall be submitted biennially, and the first such report shall be due not later than October 1, 1979.". 42 USC 292h.

(b) Section 709(b) of such Act is amended by striking out "January 1, 1979" and inserting in lieu thereof "February 1, 1980". 42 USC 292i.

(c) Section 751(i) of such Act is amended by striking out "December" and inserting in lieu thereof "March". 42 USC 294t.

(d) Section 771(b)(2)(B) of such Act is amended by striking out "45 days after the date for which the determination is made" and inserting in lieu thereof "the first December 31 occurring after the date for which the determination is made". 42 USC 295f-1.

(e) Section 782(c) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "March 1, 1980". 42 USC 295g-2.

(f) Section 788(b)(6) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 1, 1979". 42 USC 295g-8.

(g) Section 793(c) of such Act is amended (1) by striking out "annually" and inserting in lieu thereof "biennially", and (2) by striking out "December 1, 1978" and inserting in lieu thereof "October 1, 1979". 42 USC 295h-2.

(h) Section 951(b) of the Nurse Training Act of 1975 is amended by striking out "Not later than February 1, 1977, and February 1 of each succeeding year" and inserting in lieu thereof "Not later than October 1, 1979, and October 1 of each odd-numbered year thereafter". 42 USC 296 note.

(i)(1) Section 702(d) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than October 1, 1979". 42 USC 295h-4 note.

(2) Section 903(a)(2) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "January 1, 1979" and inserting in lieu thereof "April 1, 1979". 42 USC 292h note.

(j) Section 772(e) of the Public Health Service Act is amended by inserting before the period a comma and the following: "except that a student who, for other than academic reasons, withdraws from a year class before the end of an academic year or does not complete an academic year shall not be considered as having been enrolled in a year class in that academic year". 42 USC 295f-2.

MISCELLANEOUS

SEC. 13. (a)(1) Section 111(h) (42 U.S.C. 7411) of the Act of July 14, 1955, as amended by Public Law 95-95, is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as a standard of performance for purposes of the provisions of this Act (other than the provisions of subsection (a) and this subsection).".

(2) Subsections (d)(1)(A) and (g)(4)(B) of such section are each amended by striking out "under subsection (b)" and inserting in lieu thereof "under this section".

(3) Subsection (j) of such section is amended by striking out "subsection (b) of" in paragraphs (1)(A) and (2)(A) thereof.

(b) Section 112(e) of such Act (42 U.S.C. 7412) is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection)."

(c) Section 117(c)(3) of such Act (42 U.S.C. 7417) is amended by striking out "(b)(1)(B)" in each place it appears.

(d) Section 317(a)(1) of such Act (42 U.S.C. 7617) is amended by striking out "(b)".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1190 accompanying H.R. 12584 (Comm. on Interstate and Foreign Commerce) and No. 95-1783 (Comm. of Conference).
SENATE REPORT No. 95-839 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 26, considered and failed of passage in Senate.
Aug. 9, considered and passed Senate.
Sept. 25, H.R. 12584 considered and passed House; passage vacated, and S. 2466, amended, passed in lieu.
Oct. 13, House agreed to conference report.
Oct. 15, Senate agreed to conference report.

Public Law 95-624
95th Congress

An Act

To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

Nov. 9, 1978
[S. 3151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

Department of Justice Appropriation Authorization Act, Fiscal Year 1979.

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, including hire of passenger motor vehicles and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration: $28,966,000.

(2) For General Legal Activities, including miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529): $95,481,000.

(3) For the Antitrust Division: $47,080,000.

(4) For United States Attorneys and Marshals, including purchase of firearms and ammunition; lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; supervision of United States prisoners in non-Federal institutions; and bringing to the United States from foreign countries persons charged with crime: $221,736,000.

(5) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys except that no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one day: $20,144,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For the Community Relations Service: $5,353,000.

(8) For the Federal Bureau of Investigation for expenses necessary for the detection and prosecution of crimes against the

United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate: $561,341,000.

(9) For the Immigration and Naturalization Service, for payment of expenses not otherwise provided for, necessary for the administration of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment of rewards; not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition and attendance at firearms matches; operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto; refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement which shall remain available until expended: $320,722,000, of which $2,052,000 shall be made available for the

investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Drug Enforcement Administration to hire and acquire law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; pay in advance for special tests and studies by contract; pay in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; pay expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; pay rewards; pay for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment; pay for necessary accommodations in the District of Columbia for conferences and training activities; acquire, lease, maintain, and operate aircraft; research related to enforcement and drug control to remain available until expended; employ aliens by contract for services abroad; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)–(11) and 22 U.S.C. 1157), under regulations prescribed by the Secretary of State, such sums as authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904 (a)), for the fiscal year ending September 30, 1979, for the activities authorized by the Comprehensive Drug Abuse Prevention and Control Act of 1970. 21 USC 873. 21 USC 801 note.

(11) For the Federal Prison System, $362,662,000, including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions; making such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for Federal Prison Industries, Incorporated; 42 USC 250a. 31 USC 849.

(B) for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which establish

a National Institute of Corrections, to remain available until expended; and

(C) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended.

Appropriated sums, unauthorized use.

SEC. 3. (a) None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of the Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(c) None of the additional sums authorized to be appropriated by this Act for criminal investigations and management direction shall be reprogramed to the Domestic Terrorism Intelligence Program.

Appropriated sums, authorized use.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated in official government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) The labor of United States prisoners may be used for work performed with sums authorized to be appropriated by section 2(11)(C).

(e) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(f) Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(g) There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 5. Section 1001(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000g) is amended by striking out the last sentence.

Evaluations.

SEC. 6. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropria-

tions authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

Notification of congressional committees.

SEC. 7. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of fifteen days prior to—

(1) reprograming of funds in excess of $150,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 8. Section 4002 of title 18, United States Code, is amended by striking out "Director of the Bureau of Prisons" and inserting "Attorney General" in lieu thereof.

18 USC 4001 note.

SEC. 9. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

18 USC 4121 note.

McNeil Island Penitentiary, closure.

SEC. 10. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries.

Employment and training for prisoners.

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 11. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 12. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

Report to Congress. 28 USC 519 note.

SEC. 13. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such

provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 14. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime reports classify arson as a Part I offense.

SEC. 15. No part of any sums authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

SEC. 16. The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States. 8 USC 1255 note.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than October 1, 1979. 28 USC 519 note.

SEC. 18. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732 (a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

18 USC 351 note.

SEC. 19. The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.

SEC. 20. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention center. Such center shall be capable of accommodating not less than five hundred Federal detainees.

(b) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition for the fiscal year ending September 30, 1979, to carry out this section.

SEC. 21. (a) The Act entitled "An Act to authorize membership on behalf of the United States in the International Criminal Police Commission, approved June 10, 1938 (52 Stat. 640; 22 U.S.C. 236a), is amended by striking out the last two sentences and inserting in lieu thereof the following: "All dues and expenses to be paid for the membership of the United States shall be paid out of sums authorized and appropriated for the Department of Justice.".

22 USC 263a.

(b) The Attorney General is authorized to pay to the International Criminal Police organization the unpaid balance of the dues for calendar years prior to 1978 and such sums as may be necessary are authorized to be appropriated to carry out the provisions of this subsection.

SEC. 22. Section 5108(c)(8) of title 5, United States Code, is amended by striking out "32" and inserting in lieu thereof "45".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1148 accompanying H.R. 12005 (Comm. on the Judiciary) and Pt. 2 (Permanent Select Comm. on Intelligence); No. 95-1777 (Comm. of Conference).

SENATE REPORT No. 95-911 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 10, considered and passed Senate.

Sept. 26, H.R. 12005 considered in House.

Sept. 28, H.R. 12005 considered and passed House; proceedings vacated and S. 3151, amended, passed in lieu.

Oct. 13, Senate agreed to conference report.

Oct. 14, House agreed to conference report.

Public Law 95-625
95th Congress

An Act

To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

Nov. 10, 1978
[S. 791]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks and Recreation Act of 1978.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978". 16 USC 1 note.

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definition.
Sec. 3. Authorization of appropriations.

TITLE I—DEVELOPMENT CEILING INCREASES

Sec. 101. Specific increases.
Agate Fossil Beds National Monument.
Andersonville National Historic Site.
Andrew Johnson National Historic Site.
Biscayne National Monument.
Capitol Reef National Park.
Carl Sandburg Home National Historic Site.
Cowpens National Battlefield Site.
De Soto National Memorial.
Fort Bowie National Historic Site.
Frederick Douglass Home, District of Columbia.
Grant Kohrs Ranch National Historic Site.
Guadalupe Mountains National Park.
Gulf Islands National Seashore.
Harper's Ferry National Historical Park.
Hubbell Trading Post National Historic Site.
Indiana Dunes National Lakeshore.
John Muir National Historic Site.
Lands in Prince Georges and Charles Counties, Maryland.
Longfellow National Historic Site.
Pecos National Monument.
Perry's Victory and International Peace Memorial.
San Juan Island National Historical Park.
Sitka National Historical Park.
Statue of Liberty National Monument.
Thaddeus Kosciuszko Home National Historic Site.
Tuskegee Institute National Historic Site.
Whiskeytown-Shasta-Trinity National Recreation Area.
William Howard Taft National Historic Site.
Wilson's Creek National Battlefield.

TITLE II—ACQUISITION CEILING INCREASES

Sec. 201. Acquisition ceilings.
Big Cypress National Preserve.
Buffalo National River.
Cumberland Island National Seashore.
Sec. 202. Sawtooth National Recreation Area.

TABLE OF CONTENTS—Continued

TITLE III—BOUNDARY CHANGES

Sec. 301. Revision of boundaries.
Bent's Old Fort National Historic Site.
Cape Cod National Seashore.
Chiricahua National Monument.
Coronado National Memorial.
Eisenhower National Historic Site.
Fort Caroline National Memorial.
George Washington Birthplace National Monument.
Great Sand Dunes National Monument.
Gulf Islands National Seashore.
Hawaii Volcanoes National Park.
John Day Fossil Beds National Monument.
Monocacy National Battlefield.
Montezuma Castle National Monument.
Oregon Caves National Monument.
Salem Maritime National Historic Site.
Theodore Roosevelt National Memorial Park.
Tumacacori National Monument.
Tuzigoot National Monument.
White Sands National Monument.
William Howard Taft National Historic Site.
Wind Cave National Park.
Sec. 302. Maps and descriptions.
Sec. 303. Acquisition and disposal of lands.
Sec. 304. Other authorities.
Sec. 305. Name change; City of Refuge National Historical Park.
Sec. 306. Black Hammock Island.
Sec. 307. Allegheny Portage Railroad National Historic Site and Johnstown Flood National Memorial.
Sec. 308. Fort Laramie National Historic Site.
Sec. 309. Fort Union Trading Post National Historic Site.
Sec. 310. Addition of Dorchester Heights to the Boston National Historical Park.
Sec. 311. Fort Clatsop National Memorial.
Sec. 312. Adams National Historic Site, Massachusetts.
Sec. 313. Addition of Eppes Manor to Petersburg National Battlefield.
Sec. 314. Addition of Mineral King Valley to Sequoia National Park.
Sec. 315. Cuyahoga Valley National Recreation Area.
Sec. 316. Delaware Water Gap National Recreation Area.
Sec. 317. Golden Gate National Recreation Area.
Sec. 318. Point Reyes National Seashore.
Sec. 319. Antietam National Battlefield.
Sec. 320. Chesapeake and Ohio Canal National Historical Park.
Sec. 321. Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument.
Sec. 322. Fire Island National Seashore.
Sec. 323. Cumberland Island National Seashore.

TITLE IV—WILDERNESS

Sec. 401. Designation of areas.
Sec. 402. Map and description.
Sec. 403. Cessation of certain uses.
Sec. 404. Administration.
Sec. 405. Savings provisions.

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

Sec. 501. Guam National Seashore.
Sec. 502. Pine Barrens Area, New Jersey.
Sec. 503. Edgar Allan Poe National Historic Site.
Sec. 504. Saint Paul's Church, Eastchester.
Sec. 505. Kaloko-Honokohau National Historical Park.
Sec. 506. Palo Alto Battlefield National Historic Site.
Sec. 507. Santa Monica Mountains National Recreation Area.
Sec. 508. Ebey's Landing National Historical Reserve.

TABLE OF CONTENTS—Continued

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM—Continued

Subtitle A—Parks, Seashores, Etc.—Continued

Sec. 509. Friendship Hill National Historic Site.
Sec. 510. Thomas Stone National Historic Site.
Sec. 511. Maggie L. Walker National Historic Site
Sec. 512. Crow Creek Village Archeological Site.

Subtitle B—Trails

Sec. 551. Amendments to National Trail Systems Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Facilities at Yellowstone National Park.
Sec. 602. Ridgelands Area study.
Sec. 603. Preservation of historical and archaeological data.
Sec. 604. New area studies, general management plans, and contracts.
Sec. 605. Oak Creek Canyon and Chiricahua National Monument studies.
Sec. 606. Land and Water Conservation Fund accomplishments reporting date.
Sec. 607. Hells Canyon National Recreation Area.
Sec. 608. Irvine Coast-Laguna, California study.
Sec. 609. Theodore Roosevelt Inaugural National Historic Site.
Sec. 610. Theodore Roosevelt National Park.
Sec. 611. Badlands National Park.
Sec. 612. Albert Einstein Memorial.
Sec. 613. Pearson-Skubitz Big Hill Lake.
Sec. 614. Advisory Council on Historic Preservation.

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS

Subtitle A—Addition of Segments

Sec. 701. Addition of Pere Marquette Segment.
Sec. 702. Addition of Rio Grande Segment.
Sec. 703. Addition of Skagit Segments.
Sec. 704. Addition of Upper Delaware Segment; special provisions.
Sec. 705. Addition of Middle Delaware Segment.
Sec. 706. Addition of the American Segment.
Sec. 707. Addition of Missouri Segment.
Sec. 708. Addition of Saint Joe Segments.

Subtitle B—Studies

Sec. 721. Designation of the Kern River (North Fork) for study.
Sec. 722. Designation of the Loxahatchee River for study.
Sec. 723. Designation of the Ogeechee River for study.
Sec. 724. Designation of certain segment of the Salt River for study.
Sec. 725. Designation of the Verde River for study.
Sec. 726. Designation of the San Francisco River for study.
Sec. 727. Designation of Fish Creek for study.
Sec. 728. Designation of Black Creek for study.
Sec. 729. Designation of Allegheny River for study.
Sec. 730. Designation of the Cacapon River for study.
Sec. 731. Designation of the Escatawpa River for study.
Sec. 732. Designation of the Myakka River for study.
Sec. 733. Designation of Soldier Creek for study.
Sec. 734. Designation of Red River for study.
Sec. 735. Authorization for study.
Sec. 736. Study period.

Subtitle C—Authorizations for Funding

Sec. 751. Eleven Point River.
Sec. 752. Rogue River.
Sec. 753. Saint Croix River.
Sec. 754. Salmon River.
Sec. 755. Chattooga River.

TABLE OF CONTENTS—Continued

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS—Continued

Subtitle D—Amendments to Public Law 90-542

Sec. 761. Technical amendments.
Sec. 762. Federal lands; cooperative agreements.
Sec. 763. Miscellaneous technical amendments.
Sec. 764. Lease of Federal lands.

TITLE VIII—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

Sec. 801. Recognition of the Honorable William M. Ketchum.

TITLE IX—JEAN LAFITTE NATIONAL HISTORICAL PARK

TITLE X—URBAN PARK AND RECREATION RECOVERY PROGRAM

TITLE XI—NEW RIVER GORGE NATIONAL RIVER

TITLE XII—FORT SCOTT NATIONAL HISTORIC SITE

TITLE XIII—REPORT AND BOUNDARY REVISION

Sec. 1301. Beaverhead or Gallatin National Forests.
Sec. 1302. Hampton National Historic Site.

DEFINITION

SEC. 2. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

Effective date.

SEC. 3. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1978. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE I—DEVELOPMENT CEILING INCREASES

SPECIFIC INCREASES

Appropriation authorizations.

SEC. 101. The limitations on funds for development within certain units of the National Park System and affiliated areas are amended as follows:

16 USC 431 note.

(1) Agate Fossil Beds National Monument, Nebraska: Section 4 of the Act of June 5, 1965 (79 Stat. 123), is amended by changing "$1,842,000" to "$2,012,000".

(2) Andersonville National Historic Site, Georgia: Section 4 of the Act of October 16, 1970 (84 Stat. 989), is amended by changing "$1,605,000" to "$2,205,000 for development.", and by deleting "(March 1969 prices), for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(3) Andrew Johnson National Historic Site, Tennessee: Section 3 of the Act of December 11, 1963 (77 Stat. 350) is amended by changing "$266,000" to "$286,000".

16 USC 450qq-4

(4) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188), is amended by changing "$2,900,000" to "$6,565,000".

(5) Capitol Reef National Park, Utah: Section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing "$1,052,700 (April 1970 prices)" to "$1,373,000 for development.", and by deleting "for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.". 16 USC 273f.

(6) Carl Sandburg Home National Historic Site, North Carolina: Section 3 of the Act of October 17, 1968 (82 Stat. 1154), is amended by changing "$952,000" to "$1,662,000".

(7) Cowpens National Battlefield Site, South Carolina: Section 402 of the Act of April 11, 1972 (86 Stat. 120), is amended by changing "$3,108,000" to "$5,108,000".

(8) De Soto National Memorial, Florida: Section 3 of the Act of March 11, 1948 (62 Stat. 78), as amended, is further amended changing "$3,108,000" to "$5,108,000". 16 USC 450dd note.

(9) Fort Bowie National Historic Site, Arizona: Section 4 of the Act of August 30, 1964 (78 Stat. 681), is amended by deleting "$550,000 to carry out the purposes of this Act.", and inserting in lieu thereof: "$85,000 for land acquisition and $1,043,000 for development".

(10) Frederick Douglass Home, District of Columbia: Section 4 of the Act of September 5, 1962 (76 Stat. 435), is amended by changing "$413,000" to "$1,350,000".

(11) Grant Kohrs Ranch National Historic Site, Montana: Section 4 of the Act of August 25, 1972 (86 Stat. 632), is amended to read as follows: "SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $752,000 for land acquisition and not to exceed $2,075,000 for development."; the additional sums herein authorized for land acquisition may be used to acquire the fee simple title to lands over which the United States has acquired easements or other less than fee interests.

(12) Guadalupe Mountains National Park, Texas: Section 6 of the Act of October 15, 1966 (80 Stat. 920), is amended by changing "$10,362,000" to "$24,715,000", and by adding the following new sentence at the end of the section: "No funds appropriated for development purposes pursuant to this Act may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.". 16 USC 283e.

(13) Gulf Islands National Seashore, Florida-Mississippi: Section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing "$17,774,000" to "$24,224,000", and by deleting the phrase "(June 1970 prices) for development, plus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved herein.", and inserting in lieu thereof "for development.". 16 USC 4592h-10.

(14) Harper's Ferry National Historical Park, Maryland-West Virginia: Section 4 of the Act of June 30, 1944 (58 Stat. 645), is amended further by changing "$8,690,000" to "$12,385,000". 16 USC 450bb note.

(15) Hubbell Trading Post National Historic Site, Arizona: Section 3 of the Act of August 28, 1965 (79 Stat. 584), is amended by changing "$952,000" to "$977,000". 16 USC 461 note.

16 USC 460u-9.

(16) Indiana Dunes National Lakeshore, Indiana: Section 10 of the Act of November 5, 1966 (80 Stat. 1312), is amended by changing "$8,500,000" to "$9,440,000".

(17) John Muir National Historic Site, California: Section 3 of the Act of August 31, 1964 (78 Stat. 753), is amended by striking out "$300,000 for land acquisition and restoration of the buildings thereon." and inserting in lieu thereof "$224,000 for land acquisition and $1,285,000 for development".

75 Stat. 782.

(18) For the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland: Section 4 of the joint resolution of October 4, 1961 (75 Stat. 783) is amended by inserting "(a)" after "SEC. 4." and by adding the following new subsection (b) at the end thereof:

"(b) In addition to such other sums as have been appropriated for such purposes, there is authorized $2,000,000 for development.".

(19) Longfellow National Historic Site, Massachusetts: Section 4 of the Act of October 9, 1972 (86 Stat. 791), is amended by changing $586,000 (May 1971 prices)" to "$682,000 for development.", and by deleting "of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(20) Pecos National Monument, New Mexico: Section 3 of the Act of June 28, 1965 (79 Stat. 195), is amended by changing "$500,000" to "$2,375,000".

16 USC 433c note.

(21) Perry's Victory and International Peace Memorial, Ohio: Section 4 of the Act of October 26, 1972 (86 Stat. 1181), is amended by changing "$5,177,000" to "$9,327,000".

16 USC 282c.

(22) San Juan Island National Historical Park, Washington: Section 4 of the Act of September 9, 1966 (80 Stat. 737), is amended by changing "$3,542,000" to "$5,575,000".

(23) Sitka National Historical Park, Alaska: Section 3 of the Act of October 18, 1972 (86 Stat. 904), is amended by changing "$691,000 (June 1971 prices)" to "$1,571,000", by changing the comma following "development" to a period, and by deleting the remainder of the sentence following said period.

(24) Statue of Liberty National Monument, New York-New Jersey: Section 1 of the joint resolution of August 17, 1965 (79 Stat. 543), is amended by changing "$6,000,000" to "$24,000,000."

(25) Thaddeus Kosciuszko Home National Historic Site, Pennsylvania: Section 3 of the Act of October 21, 1972 (86 Stat. 1046), is amended by changing "$592,000" to "$742,000".

(26) Tuskegee Institute National Historic Site, Alabama: Section 104(e) of the Act of October 26, 1974 (88 Stat. 1463), is amended by changing "$2,722,000" to "$2,862,000".

16 USC 460q-9.

(27) Whiskeytown-Shasta-Trinity National Recreation Area, California: Section 10 of the Act of November 8, 1965 (79 Stat. 1295), is amended by changing "$22,700,000" to "$24,649,000".

(28) William Howard Taft National Historic Site, Ohio: Section 3 of the Act of December 2, 1969 (83 Stat. 273), is amended by changing "$318,000" to "$1,888,000".

16 USC 430mm.

(29) Wilson's Creek National Battlefield, Missouri: Section 3 of the Act of December 16, 1970 (84 Stat. 1441), is amended by changing "$2,285,000 (March 1969 prices)," to "$5,640,000.", and deleting the remaining portion of the sentence following the period.

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

SEC. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows: Appropriation authorizations.

(1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "$116,000,000" to "$156,700,000". 16 USC 698m.

(2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "$30,071,500" to "$39,948,000". 16 USC 460m-14.

(3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "$10,500,000" to "$28,500,000". 16 USC 459i-9.

SAWTOOTH NATIONAL RECREATION AREA

SEC. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "$19,802,000" to "$47,802,000". 16 USC 460aa-12.

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions: Appropriation authorizations.

(1) Bent's Old Fort National Historic Site, Colorado: To add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417-80,007-A, and dated June 1976: $842,000.

(2) Cape Cod National Seashore, Massachusetts: To add approximately thirteen acres and to delete approximately sixteen acres as generally depicted on the map entitled "Cape Cod National Seashore Boundary Map", numbered 609-60,015 and dated February 1978.

(3) Chiricahua National Monument, Arizona: To add approximately four hundred and forty acres as generally depicted on the map entitled "Boundary Map, Chiricahua National Monument, Arizona", numbered 145-80,002, and dated August 1977: $294,000.

(4) Coronado National Memorial, Arizona: To add approximately three thousand and forty acres and delete approximately twelve hundred acres as generally depicted on the map entitled "Land Status Map 01, Coronado National Memorial, Cochise County, Arizona", numbered 8630/80,001, and dated October 1977: $1,410,000.

(5) Eisenhower National Historic Site, Pennsylvania: To add approximately one hundred ninety-five and eighty-three one-hundredths acres as generally depicted on the map entitled "Boundary Map, Eisenhower National Historic Site, Adams

County, Pennsylvania", numbered 446–40,001B, and dated April 1978: $166,000.

(6) Fort Caroline National Memorial, Florida: To add approximately ten acres as generally depicted on the map entitled "Boundary Map, Fort Caroline National Memorial, Florida", numbered 5310/80,000–A, and dated April 1978: $170,000.

(7) George Washington Birthplace National Monument, Virginia: To add approximately eighty-two and twenty-five one-hundredths acres as generally depicted on the map entitled "Boundary Map, George Washington Birthplace National Memorial, Virginia", numbered 332–30,000–B and dated September 1978: $450,000.

(8) Great Sand Dunes National Monument, Colorado: To add approximately one thousand one hundred and nine acres as generally depicted on the map entitled "Boundary Map, Great Sand Dunes National Monument, Colorado", numbered 140–80,001–A, and dated November 1974: $166,000.

(9) Gulf Islands National Seashore, Mississippi-Florida: To add approximately six hundred acres as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Mississippi-Florida", numbered 20,006, and dated April 1978: $300,000.

(10) Hawaii Volcanoes National Park, Hawaii: To add approximately two hundred sixty-nine acres as generally depicted on the map entitled "Boundary Map, Hawaii Volcanoes National Park, Hawaii", numbered 80,000, and dated August 1975: $562,000.

(11) John Day Fossil Beds National Monument, Oregon: To add approximately one thousand four hundred and eleven acres, and to delete approximately one thousand six hundred and twenty acres as generally depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument, Oregon", numbered 177–30,000–B, and dated May 1978: $3,500,000. The Act of October 26, 1974 (88 Stat. 1461), which designates the John Day Fossil Beds National Monument is amended by deleting the second proviso of section 101(a)(2). Furthermore, not withstanding any other provision of law to the contrary, the Secretary may, if he determines that to do so will not have a substantial adverse effect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately sixty acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such conveyance, the boundaries of the monument are hereby revised to exclude the lands conveyed.

Land conveyance.

(12) Monocacy National Battlefield, Maryland: To add approximately five hundred and eighty-seven acres as generally depicted on the map entitled, "Boundary Map, Monocacy National Battlefield", numbered 894–40,001, and dated May 1978: $3,500,000.

(13) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

(14) Oregon Caves National Monument, Oregon: To add approximately eight acres as generally depicted on the map entitled "Oregon Cave, Oregon", numbered 20,000, and dated April 1978: $107,000.

(15) Salem Maritime National Historic Site, Massachusetts: To add approximately fifteen one-hundredths of an acre as generally depicted on the map entitled "Salem Maritime National Historic Site Boundary Map", numbered 373–80,010, and dated February 1978: $67,500.

(16) Theodore Roosevelt National Memorial Park, North Dakota: To add approximately one hundred and forty-six acres, and delete approximately one hundred and sixty acres as generally depicted on map entitled "Boundary Map Theodore Roosevelt National Memorial Park-North Unit McKenzie County/North Dakota", numbered 387/80,020, and dated July 1977.

(17) Tumacacori National Monument, Arizona: To add approximately seven acres, and delete approximately eleven-hundredths of an acre as generally depicted on the map entitled "Boundary Map, Tumacacori National Monument, Arizona", numbered 311–80,009–A, and dated March 1978: $24,000.

(18)(A) Tuzigoot National Monument, Arizona: To add approximately seven hundred and ninety-one acres as generally depicted on the map entitled "Master Proposal, Tuzigoot National Monument", numbered 378–30,000D, and dated January 1973: $1,350,000.

Land acquisitions.

(B) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise and subject to such terms, reservations, conditions applied to the acquired lands as he may deem satisfactory, the lands and interests in lands that are included within the boundaries of the Tuzigoot National Monument as revised by this paragraph. When so acquired, they shall be administered in accordance with provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535).

Administration.

16 USC 1 *et seq.*

Property conveyance.

(C) In exercising his authority to acquire such lands and interests in lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national monument and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Arizona. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(19) White Sands National Monument, New Mexico: To add approximately three hundred and twenty acres, and delete approximately seven hundred and sixty acres as generally depicted on the map entitled "Boundary Map, White Sands, National Monument, New Mexico", numbered 142/20,010–A, and dated November 1973.

(20) William Howard Taft National Historic Site, Ohio: To add approximately three acres as generally depicted on the map entitled "Boundary Map, William Howard Taft National Historic Site, Ohio", numbered 448–40,021, and dated January 1977.

(21) Wind Cave National Park, South Dakota: To add approximately two hundred and twenty-eight acres as generally depicted on the map entitled "Boundary Map, Wind Cave National Park, South Dakota", numbered 108–80,008, and dated July 1977: $227,000.

MAPS AND DESCRIPTIONS

Publication in Federal Register.

SEC. 302. Within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from any area pursuant to section 301.

ACQUISITION AND DISPOSAL OF LANDS

SEC. 303. (a) Within the boundaries of the areas as revised in accordance with section 301, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Lands and interests therein so acquired shall become part of the area to which they are added, and shall be subjected to all laws, rules, and regulations applicable thereto. When acquiring any land pursuant to this title, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for a term not to exceed twenty-five years or for the life of the owner or owners. Lands owned by a State or political subdivision thereof may be acquired only by donation.

(b) (1) Lands and interests therein deleted from any area pursuant to section 301 may be exchanged for non-Federal lands within the revised boundaries of such area, or transferred to the jurisdiction of any other Federal agency or to a State or political subdivision thereof, without monetary consideration, or be administered as public lands by the Secretary, as the Secretary may deem appropriate.

(2) In exercising the authority contained in this section with respect to lands and interests therein deleted from any such area which were acquired from a State, the Secretary may, on behalf of the United States, transfer to such State exclusive or concurrent legislative jurisdiction over such lands, subject to such terms and conditions as he may deem appropriate, to be effective upon acceptance thereof by the State.

(c) It is the established policy of Congress that wilderness, wildlife conservation, and park and recreation values of real property owned by the United States be conserved, enhanced, and developed. It is further declared to be the policy of Congress that unutilized, underutilized, or excess Federal real property be timely studied as to suitability for wilderness, wildlife conservation, or park and recreation purposes. To implement this policy, the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget shall establish a system with appropriate procedures to permit the Secretary full and early opportunity to make such studies and propose appropriate recommendations to disposing agencies for consideration in connection with determinations of further utilization or disposal of such property under existing law. Each affected executive agency is authorized and directed to provide to the Secretary such advice and information relating to such studies as the Secretary may request.

Studies and recommendations system, establishment.

OTHER AUTHORITIES

SEC. 304. The authorities in this title are supplementary to any other authorities available to the Secretary with respect to the acquisition, development, and administration of the areas referred to in section 301.

NAME CHANGE; CITY OF REFUGE NATIONAL HISTORICAL PARK

SEC. 305. The Act of July 21, 1955 (69 Stat. 376) is hereby amended to redesignate the City of Refuge National Historical Park as the Puuhonua o Honaunau National Historical Park. 16 USC 397–397b, 397d.

BLACK HAMMOCK ISLAND

SEC. 306. The lot on Black Hammock Island, identified by warranty deed numbered 70–56,903, recorded among the land records of Duval County, Florida, on November 23, 1970, owned by the Federal Government, shall, pursuant to the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19g, 19h), be deeded to the National Park Foundation to be sold at fair market value. The proceeds of such sale shall be remitted to the National Park Service for land acquisition and development of the Fort Caroline National Memorial.

ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE AND JOHNSTOWN FLOOD NATIONAL MEMORIAL

SEC. 307. (a) The Secretary is authorized to revise the boundaries of the Allegheny Portage Railroad National Historic Site and the Johnstown Flood National Memorial in Pennsylvania to add approximately five hundred and twenty-six acres and sixty-seven acres respectively. Sections 302 and 303 of this Act shall be applicable to such boundary revision. Boundary revisions.

(b) In addition to amounts otherwise available for such purposes there are authorized to be appropriated not more than $2,743,000 for land acquisition and $4,280,000 for development to carry out the purposes of this section. Appropriation authorization.

FORT LARAMIE NATIONAL HISTORIC SITE

SEC. 308. (a) The first section of the Act entitled "An Act to revise the boundaries and change the name of the Fort Laramie National Monument, Wyoming, and for other purposes", approved April 29, 1960 (74 Stat. 83), is amended to read as follows: "That in order to preserve the sites of historic buildings and roads associated with Fort Laramie, the boundaries of the Fort Laramie National Historic Site shall hereafter comprise the area generally depicted on the map entitled 'Boundary Map, Fort Laramie National Historic Site', numbered 375–90,001, and dated September 1977. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior". 16 USC 426k.

(b) The first sentence of section 2 of such Act is amended by inserting between the words "boundary" and "described" the phrase "as depicted on the map.".

FORT UNION TRADING POST NATIONAL HISTORIC SITE

SEC. 309. (a) The first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended by deleting "located in Williams County, North Dakota, and such additional lands and interests in lands in Williams County, North Dakota, and Roosevelt County, Montana," and inserting in lieu thereof "located in the

States of North Dakota and Montana," and by deleting "400 acres" and inserting in lieu thereof "450 acres as generally depicted on the map entitled 'Fort Union Trading Post, Montana-North Dakota', numbered 436-80,025, and dated February 1977".

80 Stat. 211.

(b) Section 4 of such Act is amended by deleting "$613,000 for the acquisition of lands and interests in lands and for the development" and inserting in lieu thereof "$280,000 for the acquisition of lands and $4,416,000 for development: *Provided further*, That the Secretary is directed to study the possible reconstruction of the historic remains of Fort Union, and the Secretary is further directed to transmit to the Congress, within one year of the enactment of this Act, a recommendation on the reconstruction of the fort based on historic documentation.".

Study and recommendation to Congress.

ADDITION OF DORCHESTER HEIGHTS TO THE BOSTON NATIONAL HISTORICAL PARK

SEC. 310. (a) Section 2(a) of the Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended—

16 USC 410z.

(1) in paragraph (6) by striking out "and" at the end thereof;

(2) in paragraph (7) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(8) Dorchester Heights, Boston.".

16 USC 410z-1.

(b) Section 3(a) of such Act is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) by striking out "(4) Dorchester Heights; and"; and

(3) by striking out "(5)" and inserting in lieu thereof "(4)".

Appropriation authorization. 16 USC 410z note.

(c) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section as a component of the Boston National Historical Park, and for the development of such component.

Easements and rights-of-way grants.

(d) Section 2(d) of such Act is amended by deleting the period at the end of the last sentence and inserting: "and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this Act, easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.".

FORT CLATSOP NATIONAL MEMORIAL

Land and improvements, designation.

SEC. 311. Section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm-1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led

overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and thirty acres.".

ADAMS NATIONAL HISTORIC SITE, MASSACHUSETTS

SEC. 312. (a) In order to preserve for the benefit, education, and inspiration of present and future generations the birthplaces of John Adams and John Quincy Adams, the Secretary is authorized to accept the conveyance, without monetary consideration, of the property known as the John Adams Birthplace at 133 Franklin Street, and the property known as the John Quincy Adams Birthplace at 141 Franklin Street, in Quincy, Massachusetts, together with such adjacent real property as may be desirable, for administration as part of the Adams National Historic Site in Quincy, Massachusetts. Together with, or following such conveyance, the Secretary is authorized to accept the conveyance, without monetary consideration, of furnishings and personal property relating to such birthplaces, after consultation with appropriate officials of the city of Quincy and with the owner or owners of such furnishings and personal property.

Property conveyance.

(b) The Secretary shall administer the properties acquired pursuant to subsection (a) of this section as part of the Adams National Historic Site in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

Administration.

16 USC 1 *et seq.*
16 USC 461 note.

ADDITION OF EPPES MANOR TO PETERSBURG NATIONAL BATTLEFIELD

SEC. 313. (a) The Secretary is authorized to acquire the historic Eppes Manor, and such other lands adjacent thereto, not to exceed twenty-one acres, for addition to the Petersburg National Battlefield, as generally depicted on the map entitled "Petersburg National Battlefield, Virginia", numbered APMA 80,001, and dated May 1978.

Land acquisition.

(b) There are hereby authorized to be appropriated not to exceed $2,200,000 to carry out the purposes of this section.

Appropriation authorization.

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

SEC. 314. (a) It is the purpose of this section to—

16 USC 45f.

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge; and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

(b) (1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the "park") a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before the date of the enactment of this Act as the Sequoia National Game Refuge and as depicted on the drawing entitled "Boundary Map, Sequoia-Kings Canyon National Park", numbered 102-90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Interior and Insular Affairs of the United

Drawing copy, availability.

Boundary revisions, publication in Federal Register and advisement to congressional committees.

States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Sequoia National Game Refuge, abolition.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

Lands and interests, acquisitions.

(c) (1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

Use and occupancy rights, retention.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

Fair market value.

Termination, notification.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding the enactment of this Act, the commercial use of such property subsequent to the enactment of this Act shall be treated as incompatible with the purposes of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding the enactment of this Act, any substantial change or expansion of such commercial use subsequent to the enactment of this Act without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after the date of the enactment of this Act.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in

order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

Area acquisition.

(6) If the management plan prepared under subsection (e) provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

Report to congressional committees.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e).

Administration.

(d)(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. and following) and the Act of September 25, 1890 (26 Stat. 478; 16 U.S.C. 41 and following). Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before the enactment of this Act shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

Leases or permits, renewals or extensions, review.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were

lessees or permittees of record on the date of enactment of this Act, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(3) The Act of December 14, 1974 (88 Stat. 1660) is amended by inserting the following new section after section 4:

16 USC 45a-1 note.

"SEC. 5. Notwithstanding any other provision of law, any federally owned lands incorporated within the boundaries of Sequoia National Park subsequent to the date of enactment of this Act, which entail project works, developments, lands, or facilities which are components of Federal Power Commission Project Numbered 298, shall be subject to all provisions of this Act.".

Comprehensive management, plan, submittal to congressional committees. 16 USC 45f.

(e)(1) Within two years from the date of enactment of this Act, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

Public participation.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

Advance notice, publication in Federal Register and newspapers.

Cooperation.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

Consultation.

(f) There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section. Appropriation authorization.

(g) Effective upon the transfer referred to in subsection (b)(2), Public Law 85-648 (72 Stat. 604; 16 U.S.C. 45a-3) and section 6 of the Act of July 3, 1926 (44 Stat. 821; 16 U.S.C. 688) are hereby repealed. The repeal of such section 6 shall not be construed to prohibit or prevent the Secretary from exercising any authority applicable to the national parks respecting the protection of birds, game, or other wild animals. Repeals. 16 USC 688 note.

(h) The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values. Skiing. 16 USC 45f.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

SEC. 315. (a) Section 2(a) of the Act of December 27, 1974, entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area" (88 Stat. 1784) is amended by striking out "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,000-A, and dated September 1976," and inserting in lieu thereof "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,001-A, and dated May 1978,". 16 USC 460ff-1.

(b) Section 6(a) of such Act is amended by striking out "$41,100,000" and inserting in lieu thereof "$70,100,000". 16 USC 460ff-5.

(c) The first sentence of section 6(b) of such Act is amended to read as follows: "For the development of the recreation area, including improvements of properties acquired for purposes of this Act, there is authorized to be appropriated not more than $13,000,000". Appropriation authorization.

(d) Section 2(e) of such Act is amended by adding the following at the end thereof: "In applying this subsection with respect to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress, the date 'January 1, 1978,' shall be substituted for the date 'January 1, 1975,' in each place it appears.".

(e) Section 4(f) of such Act is amended by inserting "(or intergovernmental organization)" after "local government" in each place it appears and by adding the following new sentence at the end thereof: "Assistance under this subsection may include payments for technical aid.". 16 USC 460ff-3.

(f) Section 2(a) is further amended by striking the period at the end thereof and adding the following, ": *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the recreation area, subject to the laws and regulations applicable thereto.". Land acquisition.

DELAWARE WATER GAP NATIONAL RECREATION AREA

SEC. 316. Section 2(a) of the Act entitled "An Act to authorize establishment of the Delaware Water Gap National Recreation Area, and for other purposes", approved September 1, 1965 (79 Stat. 612) is amended by adding the following at the end thereof: "Beginning on the date of the enactment of the National Parks and Recreation Act Lands, acquisition. 16 USC 460o-1.

of 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this Act all lands and interests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupancy in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d). On the date of enactment of the National Parks and Recreation Act of 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this Act, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On the date of enactment of the National Parks and Recreation Act of 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

Use and occupancy rights, retention.

Authority, termination and transfer.

Funds, transfer.

Acquisition priorities.

"(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

"(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

"(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

"(4) acquisition of lands of beneficial owners, not being a corportion, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

"(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

"(6) acquisition of lands necessary to preserve the integrity of the recreation area.".

GOLDEN GATE NATIONAL RECREATION AREA

Composition and boundaries. 16 USC 460bb-1.

SEC. 317. (a) Subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended to read as follows: "(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled: 'Revised Boundary Map, Golden Gate National Recreation Area', numbered NRA-GG-80,003-K and dated October 1978. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more

than one and nine-tenths acres. Notwithstanding any other provision of this Act, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199-181-01, 199-181-06, 199-181-08, 199-181-13, and 199-181-14, located in the Muir Beach portion of the recreation area.".

(b) Section 3(i) of such Act is amended to read as follows:

New construction, limitation. 16 USC 460bb-2. *Ante*, p. 3484.

"(i) New construction and development within the boundaries described in section 2(a) on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.".

Notice and public hearing.

Exception.

(c) Subsection 3(j) of such Act is amended to read as follows:

Use and occupancy right, retention.

"(j) The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned land, lease.

(d) In subsection 3(k) of such Act, following "June 1, 1971." insert "or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978."; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date."

"Agricultural property."

(e) Section 3 of such Act is amended by adding the following at the end thereof:

Management.

"(n) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

Payment deferral, scheduling, and interest rate.

"(o) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

16 USC 460bb-3. Fees or admission charges.

(f) Section 4 of such Act is amended by adding the following at the end thereof:

"(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

Certain rental proceeds, crediting.

"(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.".

Management contract.

16 USC 460bb-4.

(g) Section 5(b) of such Act is amended by changing the word "fifteen" to "seventeen".

POINT REYES NATIONAL SEASHORE

Area description. 16 USC 459c-1.

SEC. 318. (a) Section 2(a) of the Act of September 13, 1962 (76 Stat. 538) as amended (16 U.S.C. 459) is further amended as follows:

"SEC. 2. (a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore', numbered 612-80,008-E and dated May 1978.

Map, availability.

"The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and

Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.".

(b) Section 5(a) of such Act is amended to read as follows:

Use and occupancy rights, retention. 16 USC 459c-5.

"SEC. 5. (a) The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned lands, lease.

(c) In subsection 5(b) of such Act, following "September 1, 1959," insert "or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.".

"Agricultural property."

(d) Section 5 of such Act is amended by adding the following new subsection (c) to read as follows:

Payment deferral, scheduling, and interest rate.

"(c) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

(e) Section 8 of such Act is renumbered section 9 and the following new section is inserted after section 7:

16 USC 459c-7.

Cooperation. 16 USC 459c-6b.

Land use and occupancy, terms and conditions.

"SEC. 8. The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of this Act.".

ANTIETAM NATIONAL BATTLEFIELD

Scenic easements, acquisition.
16 USC 430oo note.

SEC. 319. (a) In furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (74 Stat. 79), and other Acts relative thereto, the Secretary is hereby authorized to acquire only scenic easements over the additional lands generally depicted on the map entitled "Boundary Map, Antietam National Battlefield, Washington County, Maryland," numbered 302-80,005-A and dated June 1977.

Site, redesignation.
16 USC 430nn note.
Boundary revision.

(b) The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960, including only scenic easements acquired pursuant to subsection (a) of this section, is hereby redesignated the "Antietam National Battlefield". The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

16 USC 410y-6.
Boundary revision.
16 USC 410y-1a.

SEC. 320. Section 8(b) of the Act of January 8, 1971 (84 Stat. 1978) is amended by changing "$20,400,000" to "$28,400,000". The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however*, That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

Description.

SEC. 321. (a) The first section of the Act of August 31, 1965 (79 Stat. 587) is amended by adding at the end thereof the following: "The national monument shall comprise the area generally depicted on the map entitled 'Boundary Map Alibates Flint Quarries', numbered 432-80,021, and dated November 1976. Minor boundary adjustments may be made from time to time by the Secretary.".

(b) Section 3 of such Act is amended by deleting "$260,000" and inserting "$4,291,000" in lieu thereof.

Redesignation.
16 USC 431 note.

(c) The Act of August 31, 1965 (79 Stat. 587) is hereby amended to redesignate the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument as the Alibates Flint Quarries National Monument.

FIRE ISLAND NATIONAL SEASHORE

Boundaries.
16 USC 459e.

SEC. 322. (a) Subsection 1(b) of the Act of September 11, 1964 (78 Stat. 928), as amended, is further amended to read as follows:

"(b) The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national sea-

shore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as 'Fire Island National Seashore', numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.". Map, publication in Federal Register.

(b) Section 2 of such Act is amended by adding the following new subsection at the end thereof: Undeveloped tracts and property. 16 USC 459e-1.

"(g) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.".

(c) Section 7(b) of such Act is amended by striking the phrase "Brookhaven town park at", and inserting in lieu thereof: "Ocean Ridge portion of". 16 USC 459e-6.

(d) Section 10 of such Act is amended by striking "$18,000,000". and inserting in lieu thereof "$23,000,000". 16 USC 459e-9.

CUMBERLAND ISLAND NATIONAL SEASHORE

SEC. 323. Section 1 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing the phrase "numbered CUIS-40,000B, and dated June 1971,", to read "numbered CUIS 40,000D, and dated January 1978,". 16 USC 459i.

TITLE IV—WILDERNESS

DESIGNATION OF AREAS

SEC. 401. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), and shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Administration. 16 USC 1132 note. 16 USC 1131 note.

(1) Buffalo National River, Arkansas, wilderness comprising approximately ten thousand five hundred and twenty-nine acres and potential wilderness additions comprising approximately twenty-five thousand four hundred and seventy-one acres depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas", numbered 173-20,036-B and dated March 1975, to be known as the Buffalo National River Wilderness.

(2) Carlsbad Caverns National Park, New Mexico, wilderness comprising approximately thirty-three thousand one hundred and twenty-five acres and potential wilderness additions comprising approximately three hundred and twenty acres, depicted on a map entitled "Wilderness Plan, Carlsbad Caverns National Park, New Mexico," numbered 130-20,003-B and dated January 1978, to be known as the Carlsbad Caverns Wilderness. By January 1, 1980, the Secretary shall review the remainder of the park and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any additional areas within the park for preservation as wilder- Report to President.

ness, and any designation of such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 1131 note.

(3) Everglades National Park, Florida, wilderness comprising approximately one million two hundred and ninety-six thousand five hundred acres and potential wilderness additions comprising approximately eighty-one thousand nine hundred acres, depicted on a map entitled "Wilderness Plan, Everglades National Park, Florida", numbered 160-20,011 and dated June 1974, to be known as the Everglades Wilderness.

(4) Guadalupe Mountains National Park, Texas, wilderness comprising approximately forty-six thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Guadalupe Mountains National Park, Texas", numbered 166-20,006-B and dated July 1972, to be known as the Guadalupe Mountains Wilderness.

(5) Gulf Islands National Seashore, Florida, and Mississippi, wilderness comprising approximately one thousand eight hundred acres and potential wilderness additions comprising approximately two thousand eight hundred acres, depicted on a map entitled "Wilderness Plan, Gulf Islands National Seashore, Mississippi, Florida", numbered 635-20,018-A and dated March 1977, to be known as the Gulf Islands Wilderness.

(6) Hawaii Volcanoes National Park, Hawaii, wilderness comprising approximately one hundred and twenty-three thousand one hundred acres and potential wilderness additions comprising approximately seven thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Hawaii Volcanoes National Park, Hawaii", numbered 124-20,020 and dated April 1974, to be known as the Hawaii Volcanoes Wilderness.

(7) Organ Pipe Cactus National Monument, Arizona, wilderness comprising approximately three hundred and twelve thousand six hundred acres and potential wilderness additions comprising approximately one thousand two hundred and forty acres, depicted on a map entitled "Wilderness Plan, Organ Pipe Cactus National Monument, Arizona", numbered 157-20,001-B and dated October 1978, to be known as the Organ Pipe Cactus Wilderness.

(8) Theodore Roosevelt National Memorial Park, North Dakota, wilderness comprising approximately twenty-nine thousand nine hundred and twenty acres, depicted on maps entitled "Theodore Roosevelt National Memorial Park, North Dakota" (North Unit and South Unit) numbered 387-20,007-E and dated January 1978, to be known as the Theodore Roosevelt Wilderness.

MAP AND DESCRIPTION

Public availability.

SEC. 402. A map and description of the boundaries of the areas designated in this title shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in this title. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

Filing with congressional committees.

CESSATION OF CERTAIN USES

SEC. 403. Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

Designation notice, publication in Federal Register.
16 USC 1131 note.
Management.

ADMINISTRATION

SEC. 404. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SAVINGS PROVISIONS

SEC. 405. Nothing in this title shall be construed to diminish the authority of the Coast Guard, pursuant to sections 2 and 81 of title 14, United States Code, and title 1 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221), or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida; and the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

GUAM NATIONAL SEASHORE

SEC. 501. (a) The Secretary through the Director of the National Park Service, shall revise and update the National Park Service study of the Guam National Seashore and, after consultation with the Secretary of the Department of Defense and the Governor of Guam, shall transmit the revised study within two years to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives including his recommendations and a series of options for congressional consideration each of which—

Study revision, transmittal to congressional committees.

(1) will encompass the area from Ajayan Bay to Nimitz Beach including Cocos and Anac Islands and extending inland as far as the Fena Valley Reservoir and Mount Sasalaguan, and

(2) if implemented, will afford protection to the natural and historic resources of the area as well as providing visitor access and interpretive services.

(b) The Secretary, and the Secretary of the Department of Defense, shall take such actions as they may deem appropriate within their existing authorities to protect the resource values of the submerged lands within the area of the study referred to in subsection (a) of this section.

Submerged lands resource values, protection.

PINE BARRENS AREA, NEW JERSEY

16 USC 471i.

SEC. 502. (a) The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

Pinelands National Reserve. Establishment.

(c) There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary

Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d), and in locations throughout the Pinelands National Reserve as determined by the planning entity.

Federal Project Review Area. Establishment.

Map, availability.

(d) Within thirty days after the date of enactment of this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

Comprehensive management plan.

Planning entity, membership.

Assistance and grants to States.

(e) During the development of the management plan, the planning entity shall:

Consultations.

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B);

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

Public hearings.

(f) The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

Resource assessment.

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to

the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

Boundary map, delineations.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

Land use map and policy statement.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

Coordination.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

Financial component.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve. Programs.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act and the Safe Drinking Water Act which pertain to the surface and ground waters of the Pinelands National Reserve. Implementation plan. 33 USC 1251 note.

(g) (1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d). In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation. 42 USC 201 note. Comprehensive management plan approval and submittal to Congress.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether: Approval considerations.

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

Plan disapproval and revision recommendations, notification. Plan resubmittal and consideration.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

Federal assistance, termination and reimbursement.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

Plan modifications and revisions.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

Grants.

(h) (1) (A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h) (1) (A) together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

16 USC 460*l*–4 note.

Lands, waters, and interests, acquisition.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h) (1), the Secretary, during the development of the management plan, is authorized to acquire such lands, waters

or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h) (2) to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1), which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, That the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

Property conveyance, terms and conditions.

State reimbursement.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

Grants.

(i) During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A-95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k).

Applications, review.

Notifications.

(j) Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the main-

tenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

Appropriation authorization.

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts.

43 USC 331 note.

EDGAR ALLAN POE NATIONAL HISTORIC SITE

Establishment.
16 USC 461 note.

SEC. 503. (a) In recognition of the literary importance attained by Edgar Allan Poe, there is hereby authorized to be established the Edgar Allan Poe National Historic Site.

Lands and buildings, acquisition.

(b) The Secretary is authorized to acquire by donation, purchase or exchange the lands and buildings within the area described in subsection (c). The lands and buildings acquired by the Secretary under this section shall comprise the Edgar Allan Poe National Historic Site and shall be administered by the Secretary through the National Park Service. The Secretary shall administer, maintain, protect, and develop the site subject to the provisions of law generally applicable to national historic sites.

Description.

(c) The lands and buildings specified in subsection (b) comprise that area of Philadelphia, Pennsylvania, known as the Poe House complex and includes the house at the rear of 530 North Seventh Street, the adjoining three-story brick residence on the front of the land backing up to and including the building at 532 North Seventh Street, and the North Garden of approximately seven thousand and eighty square feet and the South Garden of approximately nine thousand three hundred and fifty square feet.

Notice, publication in Federal Register.

(d) As soon as the Secretary finds that a substantial portion of the acquisition authorized under subsection (b) has been completed, he shall establish the Edgar Allan Poe National Historic Site by publication of notice thereof in the Federal Register.

Appropriation authorization.

(e) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

SAINT PAUL'S CHURCH, EASTCHESTER

Property acquisition.
16 USC 461 note.

SEC. 504. (a) In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

Administration.

(b) Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) and the Act approved

August 21, 1935. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired. 16 USC 461 note.

KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK

SEC. 505. (a) In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokohau National Historical Park (hereinafter in this section referred to as the "park") in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled "Kaloko-Honokohau National Historical Park," numbered KHN–80,000, and dated May 1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. Establishment and description. 16 USC 396d.

(b) Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law. Land acquisition.

(c) The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including the Acts approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461–467), and August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and generally in accordance with the guidelines provided in the study report entitled "Kaloko-Honokohau" prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690–514. Administration.

(d)(1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park boundary, following the marine management policies of the State of Hawaii. Cooperative management agreement.

(3) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua's concept of land and water management. Agreements, consultation.

(e) In carrying out the purposes of this section the Secretary is authorized and directed as appropriate to employ native Hawaiians.

Native Hawaiians.

For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778.

Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau. Establishment. Membership.

(f) (1) There is hereby established the Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau (The Friends of Kaloko-Honokohau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

Chairman.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacancy in the Commission shall be filled by appointment for the remainder of the term.

Compensation and expenses.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as ex officio nonvoting members of the Commission.

Duties.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

Meetings.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

Termination.

(7) The Advisory Commission shall terminate ten years after the date of enactment of this Act.

Appropriation authorization.

(g) There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 506. (a) In order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance as one of only two important battles of the Mexican War fought on American soil, the Secretary is authorized to establish the Palo Alto Battlefield National Historic Site in the State of Texas.

Lands and interests, acquisition.

(b) For the purposes of this section, the Secretary is authorized to acquire by donation, purchase, or exchange, not to exceed fifty acres of lands and interests therein, comprising the initial unit, in the vicinity of the site of the battle of Palo Alto, at the junction of Farm Roads 1847 and 511, 6.3 miles north of Brownsville, Texas. The Secretary shall complete a study and recommend to the Congress such additions as are required to fully protect the historic integrity of the battlefield by June 30, 1979. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal

Study and recommendations to Congress.

Publication in Federal Register.

Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. Pending such establishment and thereafter, the Secretary shall administer the property acquired pursuant to this section in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666). Administration. 16 USC 1 *et seq.* 16 USC 461 note.

(c) There are authorized to be appropriated such sums as may be necessary for lands and interests in lands and $200,000 for development to carry out the provisions of this section. Appropriation authorizations.

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

SEC. 507. (a) The Congress finds that— 16 USC 460kk.

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

(b) There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the "recreation area"). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public. Establishment. Management.

(c)(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled "Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone", numbered SMM-NRA 80,000, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register. Description. Boundary revisions, notice to congressional committees and publication in Federal Register.

(2) Not later than ninety days after the date of enactment of this Act, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commence acquisition of lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by Lands, waters, and interests, acquisition and consultation.

donation, except that such lands acquired after the date of enactment of this section by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest: *Provided, however*, That the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of moneys available for grants to the State under subsection (n) of this section. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

Federal property, transferral.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided*, That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to the enactment of this Act. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

Site transferral.

(d) (1) Within six months after the date of enactment of this Act, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

Lands, waters, and interests, identification.

Revisions.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

Plan, submittal to congressional committees.

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests as, in his judgment are necessary for the purposes of the recreation area. Improved properties, acquisition. Scenic easements.

(f) For the purposes of this section, the term "improved property" means— Definition.

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1976 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as "improved property" for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date. Designation.

(g) The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired. Use and occupancy rights, retention. Payment. Termination, notification.

(h) In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). In the administration of the recreation area, the Secretary may utilize such statutory authority Administration.

available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

Cooperative agreements.

(j) The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

Donations.

(k) Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

Report.

(l) By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

Report to congressional committees.

(m) The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the Committees referred to in subsection (c) which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendations. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section.

Comprehensive plan.

(n)(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition

of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Consultation with EPA.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

Grants.

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

Funds.

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission.

Assurance requirements.

No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

Grant requirements.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of this section, or adopts or acquiesces in changes to laws regulations or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

Plan changes.

Comments.

(o) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c), and the head of any Federal agency having authority to license or permit any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the "findings" and purposes of this section.

(p) The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

Santa Monica Mountains National Recreation Area Advisory Commission. Establishment.

(q)(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

Membership.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) five members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

Meetings. Notice, publication in newspapers.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson. Compensation and expenses.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section. Consultation.

(r) There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years. Appropriation authorization.

(s) For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t), any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate— Management plan, transmittal to Congress.

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

SEC. 508. (a) There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate— Establishment. 16 USC 461 note.

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

(3) early active settlement during the years of the Donation Land Law (1850–1855) and thereafter; and

9 Stat. 496; 10 Stat. 158, 305.

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

Comprehensive plan.

(b)(1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

Transmittal to President of the Senate and Speaker of the House.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

Management and administration.

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

Assistance.

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

Grants.

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

Lands and interests, acquisition.

(d) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Administration.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of

the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this section. 16 USC 1 *et seq.*

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section. Determination and notification. Withdrawal.

(f) There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section. Appropriation authorization.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

SEC. 509. (a) The Secretary is authorized to establish the Friendship Hill National Historic Site in the State of Pennsylvania, including the former home of Albert Gallatin, as depicted on the map entitled "FRHI–80000" dated February 1978. Said map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, District of Columbia. The Secretary is authorized to acquire such land, improvements, and any personal property of cultural and historical value thereon by donation, purchase with donated or appropriated funds, or exchange. Establishment. 16 USC 461 note. Acquisitions.

(b) Pending establishment of the site and thereafter the Secretary shall administer property acquired pursuant to this section in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended. Administration.

(c)(1) There are hereby authorized to be appropriated from the Land and Water Conservation Fund, such sums as may be necessary to carry out the purposes of this section. Appropriation authorization.

(2) For the development of essential facilities there are authorized to be appropriated for the fiscal year ending September 30, 1980, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this section, but not to exceed $100,000. Within three years from the effective date of this section, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a general management plan for the use and development of the site consistent with the purposes of this section, indicating— General management plan, transmittal to congressional committees.

(A) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(B) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(C) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

THOMAS STONE NATIONAL HISTORIC SITE

Home and grounds, acquisition.

SEC. 510. (a) The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the Thomas Stone home and grounds, known as Habre-de-Venture, located on Rose Hill Road near La Plata in Charles County, Maryland, for establishment as the Thomas Stone National Historic Site.

Notice, publication in Federal Register.

(b) The national historic site shall be established by the Secretary by the publication of notice to that effect in the Federal Register at such time that he determines he has sufficient ownership to constitute an administrable unit. After such publication, the site shall be administered by the Secretary pursuant to the provisions of this section and the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

Administration.

Appropriation authorization.

(c) To carry out the purposes of this section, there is hereby authorized to be appropriated not to exceed $600,000 for the acquisition of lands and interests therein and not to exceed $400,000 for development.

MAGGIE L. WALKER NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 511. (a) The Secretary is authorized to establish the Maggie L. Walker National Historic Site (hereinafter in this section referred to as the "historic site") in the city of Richmond, Virginia.

Description.

(b) The historic site shall comprise the area extending east from the western boundary of the Maggie L. Walker House at 113 East Leigh Street in Richmond, Virginia, to Third Street and extending north from an east-west line which coincides with the front property line of such house to an east-west line which coincides with the north side of the alleyway immediately at the rear of such house. Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor revisions in the boundaries of the historic site by publication of a map or other revised boundary description in the Federal Register.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(c) Within the boundaries of the historic site, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Any property within such boundaries owned by the State of Virginia or any political subdivision thereof may be acquired only by donation.

Notice, publication in Federal Register.

(d) When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the historic site by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the historic site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461 et seq.). Funds available for the historic site shall be available for restoration and rehabilitation of properties therein in accordance with cooperative agreements entered into pursuant to section 2(e) of the Act of August 21, 1935, supra.

Administration.

Appropriation authorization.

(e)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $795,000 for acquisition of lands and interests in land and not more than $500,000 for the development of essential facilities.

(2) Within three complete fiscal years from the date of enactment of this section, the Secretary shall develop and transmit to the Committees referred to in subsection (b) a general management plan for the historic site consistent with the purposes of this section. Such plan shall indicate— Plan, transmittal to congressional committees.

(i) facilities needed to accommodate the health, safety, and educational needs of the public;

(ii) the location and estimated cost of all facilities; and

(iii) the projected need for any additional facilities.

CROW CREEK VILLAGE ARCHEOLOGICAL SITE

SEC. 512. (a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment, a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasibile alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo County or other suitable entity. Feasibility/suitability study, transmittal to congressional committees. 16 USC 1a-5 note. Cost estimates.

(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary. Site preservation.

Subtitle B—Trails

SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources". 16 USC 1241.

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert ", scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows: National historic trails. 16 USC 1242. 16 USC 1244.

"(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved Protected segments, certification.

if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.".

Ante, p. 3511.
16 USC 1242.

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

Establishments.
16 USC 1244.

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby established the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Appalachian", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

Oregon National Historic Trail.

"(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841–1848', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The trail shall be administered by the Secretary of the Interior.

Mormon Pioneer National Historic Trail.

"(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, 'Mormon Trail Vicinity Map, figure 2' in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

Continental Divide National Scenic Trail.

"(5) The Continential Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as 'Proposed Continental Divide National Scenic Trail' in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

16 USC 1246.

Lewis and Clark National Historic Trail.

"(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as, 'Vicinity Map, Lewis and Clark Trail' study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

"(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as 'Seward-Nome Trail', in the Department of the Interior's study report entitled 'The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails' dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.". Iditarod National Historic Trail.

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior," insert "through the agency most likely to administer such trail,"; delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:". 16 USC 1244. Studies, submittal to Congress.

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);". Recommendations, inclusion.

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs: Additional trails proposals and report, provisions.

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as

Nationally significant, qualifications.

trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

16 USC 1244.

(13) In section 5(c), add the following at the end thereof:

"(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.".

Trail advisory councils, establishments.

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section.

Term and compensation.

Membership.

Members of each council shall be appointed by the appropriate Secretary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

Chairman.

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(15) In section 5 add two new subsections (e) and (f) as follows: 16 USC 1244.

"(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: Comprehensive plan, consultation and submittal to congressional committees.

Ante, p. 3514.

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans including anticipated costs.

"(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items: Comprehensive plan, consultation and submittal to congressional committees.

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

"(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act.". 16 USC 1246.

(16) In section 6 in the first sentence delete "or national scenic," and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic". 16 USC 1245.

(17) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection

(c), after "scenic", insert "or national historic"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national historic"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

Trail markers.
16 USC 1246.

(18) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

16 USC 1246 note.

Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail.

(19) In section 7(e), in the first proviso, delete "within two years".

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

16 USC 1246 note.

No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

16 USC 1247.

(22) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

16 USC 470 note.

(23) In section 10, strike "(a) (1)" and insert in lieu thereof "(a)"; strike "the subsequent fiscal year" and insert in lieu thereof "subsequent fiscal years"; strike the paragraph numbered "(2)" in its entirety; and add a new "subsection (c)" as follows: 16 USC 1249.

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), and (7): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.". Appropriation authorization.

TITLE VI—MISCELLANEOUS PROVISIONS

FACILITIES AT YELLOWSTONE NATIONAL PARK

SEC. 601. (a) The Secretary is hereby authorized to acquire and upgrade the concession facilities owned by the Yellowstone Park Company at Yellowstone National Park in the State of Wyoming.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Appropriation authorization.

RIDGELANDS AREA STUDY

SEC. 602. (a) In order to consider preserving in their natural condition appropriate segments of the Ridgelands east of San Francisco Bay for protection of the area's unique ecology and topography and for public outdoor recreation, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System. The Secretary shall consult with the Secretary of Agriculture, the Chief of Engineers, Department of the Army, and any other appropriate Federal agencies, as well as with the East Bay Regional Park District, the Association of Bay Area Governments, and other State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the Ridgelands. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study. 16 USC 1a-5 note. Consultation and coordination.

(b) The Secretary shall submit to the President and the Congress of the United States, within one year after the date of enactment of Report to President and Congress.

this Act, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, historic, natural, and outdoor recreation values of the Ridgelands, including their use for walking, hiking, horseback riding, bicycling, swimming, picnicking, camping, forest management, fish and wildlife management, educational exhibiting, and scenic and historic site preservation;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

(3) the relationship of any recommended national park, recreation area, or wilderness area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire San Francisco Bay area;

(4) alternative means of restoring and preserving the values inherent in the area under present ownership patterns; and

(5) the development of public land policies consistent with the protection of private open space land.

Appropriation authorization.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

PRESERVATION OF HISTORICAL AND ARCHAEOLOGICAL DATA

SEC. 603. (a) The Act of June 27, 1960 (74 Stat. 220) as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) is amended as follows:

16 USC 469c.

(b) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: "$500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(c) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(d) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended.".

NEW AREA STUDIES, GENERAL MANAGEMENT PLANS, AND CONTRACTS

SEC. 604. The Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the System, and for other purposes" (84 Stat. 825) is amended as follows:

Appropriation authorization.
16 USC 1a-5.

(1) At the end of section 8 add the following: "For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.".

16 USC 463.
16 USC 1a-7.

(2) In section 9, change "eleven" to "twelve".

(3) Delete section 12(b) and insert in lieu the following:

General management plans.
List, submittal to Congress.

"(b) General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the

current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

"(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

"(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.".

(4) In section 12(c) delete "or exceeding five years" and insert "or of five years or more". 16 USC 1a-7.

OAK CREEK CANYON AND CHIRICAHUA NATIONAL MONUMENT STUDIES

SEC. 605. (a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the National Park System, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy. Boundary determinations. 16 USC 1a-5 note. Consultation.

(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate. Report to congressional committees. Legislative recommendations.

LAND AND WATER CONSERVATION FUND ACCOMPLISHMENTS REPORTING DATE

SEC. 606. (a) The first sentence of section 6(f)(7) of the Land and Water Conservation Fund Act (78 Stat. 897) is amended by inserting ", so as to be received by the Secretary no later than December 31," after the word "transmit". 16 USC 460*l*-8.

16 USC 460*l*-8.

(b) The third sentence of such section 6(f)(7) of such Act is amended by striking out the period and inserting in lieu thereof "by no later than March 1 of each year.".

HELLS CANYON NATIONAL RECREATION AREA

16 USC 460gg.

SEC. 607. The words "September 1975" in section 1(b) of the Act of December 31, 1975 (Public Law 94-199), are deleted and replaced with the words "May 1978," to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

16 USC 1a-5 note.

SEC. 608. (a) In order to consider preserving in its natural condition, the Irvine Coast-Laguna area, California from Newport Beach to Laguna Beach as generally depicted on the map entitled "Irvine Coast-Laguna Study Area", numbered IRV-90,000, and dated June 1978, and in order to consider protection of the area's unique ecology and topography, its watershed and marine environment, and public outdoor recreation opportunities, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System, such as a park, recreation area, or seashore. The Secretary shall consult with other appropriate Federal agencies, as well as with the appropriate State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the area. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

Consultation and coordination.

Report to President and Congress.

(b) The Secretary shall submit to the President and the Congress of the United States, within six months after the date of enactment of this section, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, natural, and outdoor recreation values of the Irvine Coast-Laguna area;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

(3) the relationship of any recommended national park, recreation area, or seashore area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Irvine Coast-Laguna area.

Appropriation authorization.

(c) There is hereby authorized to be appropriated $50,000 to carry out the provisions of this section.

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

80 Stat. 1101.

SEC. 609. The first section of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89-708), is amended by striking out "at no expense to the United States" and inserting in lieu thereof "at no direct operating expense to the Department of the Interior,".

THEODORE ROOSEVELT NATIONAL PARK

SEC. 610. The area formerly known as the "Theodore Roosevelt National Memorial Park", established by the Act of April 25, 1947 (61 Stat. 52), shall henceforth be known as the "Theodore Roosevelt National Park". 16 USC 241g. 16 USC 241 *et seq.*

BADLANDS NATIONAL PARK

SEC. 611. The area formerly known as the "Badlands National Monument", established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the "Badlands National Park". 16 USC 441e-1.

ALBERT EINSTEIN MEMORIAL

SEC. 612. The Secretary of the Interior is authorized to convey for nominal consideration to the National Academy of Sciences, United States Reservation 332A, located on the south side of Square Numbered 88 between 21st Street, 22d Street and Constitution Avenue in the District of Columbia to erect and maintain a Memorial to Albert Einstein. The title to said property shall remain with the National Academy of Sciences so long as the property is used for access. At such time as the property is no longer used for memorial purposes or public access is restricted, title to said property shall revert to the United States. Property, conveyance and title. 16 USC 431 note.

PEARSON-SKUBITZ BIG HILL LAKE

SEC. 613. The project for flood protection on Big Hill Creek, Kansas, authorized by the Flood Control Act of 1962, Public Law 87-874, shall hereafter be known and designated as the "Pearson-Skubitz Big Hill Lake". Any reference in a law, map, regulation, document, or record, or other paper of the United States to such project shall be held to be a reference to the "Pearson-Skubitz Big Hill Lake". Designation. 76 Stat. 1180.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SEC. 614. Section 212(a) of the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is further amended by adding the following at the end thereof:

"There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980.". Appropriation authorization. 16 USC 470t.

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS

Subtitle A—Addition of Segments

ADDITION OF PERE MARQUETTE SEGMENT

SEC. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: Boundaries, description. 16 USC 1274.

"(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment Consultation.

Plan, provisions and regulations.

referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development.".

Appropriation authorization.

ADDITION OF RIO GRANDE SEGMENT

Description. 16 USC 1274.

SEC. 702. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(17) RIO GRANDE, TEXAS.—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with—

Consultation.

Plan and provisions.

"(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

"(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

23 UST 371.

Appropriation authorization.

For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.".

ADDITION OF SKAGIT SEGMENTS

Boundaries.

SEC. 703. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(18) SKAGIT, WASHINGTON.—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon

Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled 'Skagit River—River Area Boundary'; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.".

Consultation.

Investigation and publication in Federal Register.

Appropriation authorization.

ADDITION OF UPPER DELAWARE SEGMENT; SPECIAL PROVISIONS

SEC. 704. (a) Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries. 16 USC 1274.

"(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled 'The Upper Delaware Scenic and Recreational River', dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.".

Publication in Federal Register.

Appropriation authorization.

(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act, within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register general guidelines for land and

Guidelines, publication in Federal Register. 16 USC 1274 note. 16 USC 1277.

water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the "directly affected States"), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the "Commission"). The Secretary shall provide for participation in the development of the said general guidelines by all levels of State, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the "Advisory Council"). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) (hereinafter in this section referred to as the "Upper Delaware River").

Participation.

Public hearings.

(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

(c)(1) Within three years from the date of the enactment of this Act, the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the "management plan" or "the plan") for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act, and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

Management plan, submittal to State Governors. 16 USC 1274 note.

16 USC 1271 note.

(2) The plan shall apply to the Upper Delaware River and shall set forth—

Map.

(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

(B) a program for management of existing and future land and water use, including the application of available management techniques;

Analysis.

(C) an analysis of the economic and environmental costs and benefits of implementing the management plan including any impact of the plan upon revenues and costs of local government;

(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

Interim programs.

(3) Immediately following enactment of this Act, the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate. Technical assistance.

(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State. Public hearings.

(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act. The Secretary is hereby granted such authority as may be required to implement and administer said plan. Publication in Federal Register. Administration.

(d) Notwithstanding any provision of the Wild and Scenic Rivers Act, the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, development sites, the preservation of scenic qualities, or for any other purposes: *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act, the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section. Land and interests, acquisition. 16 USC 1274 note.

(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. Local plans, laws, and ordinances, conformity, review. Determination.

(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may exercise the authority available to him under the provisions of paragraph (4) hereof.

Professional services, contracts.

(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies.

Notification.

The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

Lands and interests, acquisition.

(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act. This subsection shall apply notwithstanding the first sentence of section 6(c) of the Wild and Scenic Rivers Act. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

16 USC 1277.

Post, p. 3528.

Upper Delaware Citizens Advisory Council. Establishment. 16 USC 1274 note.

(f)(1) At the earliest practicable date following enactment of this Act, but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act, or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region.

Reports.

Membership.

(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be—

(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at lease one appointee from each county shall be a permanent resident of a municipality abutting the Upper Delaware River);

(B) two members appointed at large by each Governor of a directly affected State; and

(C) one member appointed by the Secretary.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairman. Chairperson. Compensation.

(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a), the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of— Contracts. 16 USC 1274 note.

(1) enforcing State and local laws in such areas, and

(2) removing solid waste from such areas and disposing of such waste.

(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act. 16 USC 1274 note. 16 USC 1284.

(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary. Appropriation authorization.

(j) Where any provision of the Wild and Scenic Rivers Act is inconsistent with any provisions of this section, the provision of this section shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act, with regard to "improved property", the date specified therein, shall, for purposes of the river designated in this Act, be the date of enactment of this Act (rather than January 1, 1967). 16 USC 1274 note. 16 USC 1274 note. 16 USC 1277.

ADDITION OF MIDDLE DELAWARE SEGMENT

SEC. 705. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: Boundaries. 16 USC 1274.

"(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY.—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.". Appropriation authorization.

ADDITION OF THE AMERICAN SEGMENT

Boundaries.
16 USC 1274.

SEC. 706. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(21) AMERICAN, CALIFORNIA.—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled 'Proposed Boundary Maps' contained in Appendix I of the document dated January 1978 and entitled 'A Proposal: North Fork American Wild and Scenic River' published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.".

Administration.

12 USC 1277.

Appropriation authorization.

ADDITION OF MISSOURI SEGMENT

Boundaries.

SEC. 707. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA.—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled 'Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana', prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the 'August 1977 Report'). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

Cooperative agreement.

Notice and consultation.

Administration.

"(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including

Recreation river features and streambank stabilization structures, construction.

both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

"(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph. Access.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A) (i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.". Recreational River Advisory Group. Lands and interests, acquisition. 16 USC 1277. Appropriation authorization.

SEC. 708. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: Boundaries. 16 USC 1274.

"(23) SAINT JOE, IDAHO.—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled 'Saint Joe River Corridor Map' on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a 'recreational river' under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Administration. Roads and bridges, access.

Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.".

Sand and gravel, removal.

Appropriation authorization.

Subtitle B—Studies

DESIGNATION OF THE KERN RIVER (NORTH FORK) FOR STUDY

16 USC 1276.

SEC. 721. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.".

DESIGNATION OF THE LOXAHATCHEE RIVER FOR STUDY

SEC. 722. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.".

DESIGNATION OF THE OGEECHEE RIVER FOR STUDY

SEC. 723. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(61) OGEECHEE, GEORGIA.—The entire river.".

DESIGNATION OF CERTAIN SEGMENT OF THE SALT RIVER FOR STUDY

SEC. 724. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(62) SALT, ARIZONA.—The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.".

DESIGNATION OF THE VERDE RIVER FOR STUDY

SEC. 725. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.".

DESIGNATION OF THE SAN FRANCISCO RIVER FOR STUDY

SEC. 726. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.".

DESIGNATION OF FISH CREEK FOR STUDY

SEC. 727. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: 16 USC 1276.
"(65) FISH CREEK, NEW YORK.—The entire East Branch.".

DESIGNATION OF BLACK CREEK FOR STUDY

SEC. 728. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.".

DESIGNATION OF ALLEGHENY RIVER FOR STUDY

SEC. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(67) ALLEGHENY, PENNSYLVANIA.—The main stem from Kinzua Dam downstream to East Brady.".

DESIGNATION OF THE CACAPON RIVER FOR STUDY

SEC. 730. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(68) CACAPON, WEST VIRGINIA.—The entire river.".

DESIGNATION OF THE ESCATAWPA RIVER FOR STUDY

SEC. 731. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.".

DESIGNATION OF THE MYAKKA RIVER FOR STUDY

SEC. 732. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(70) MYAKKA, FLORIDA.—The segment south of the southern boundary of the Myakka River State Park.".

DESIGNATION OF SOLDIER CREEK FOR STUDY

SEC. 733. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.".

DESIGNATION OF RED RIVER FOR STUDY

16 USC 1276.

SEC. 734. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraph at the end thereof:

"(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.".

AUTHORIZATION FOR STUDIES

SEC. 735. Paragraph (3) of section 5(b) of the Wild and Scenic Rivers Act is redesignated as paragraph (4) and is amended by striking out "$2,175,000" and substituting "$4,060,000". Such paragraph is further amended by adding the following at the end thereof: "There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (74) such sums as may be necessary.".

Appropriation authorization.

STUDY PERIOD

SEC. 736. Section 5(b) of the Wild and Scenic Rivers Act is amended by inserting the following new paragraph after paragraph (2):

"(3) The studies of the rivers named in paragraphs (59) through (72) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981.".

Subtitle C—Authorizations for Funding

ELEVEN POINT RIVER

16 USC 1287.

SEC. 751. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Eleven Point, Missouri, $4,906,500" and substituting "Eleven Point, Missouri, $10,407,000".

ROGUE RIVER

SEC. 752. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Rogue, Oregon, $12,447,200" and substituting "Rogue, Oregon, $15,147,000".

SAINT CROIX RIVER

SEC. 753. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Saint Croix, Minnesota and Wisconsin, $11,768,550" and substituting "Saint Croix, Minnesota and Wisconsin, $21,769,000".

SALMON RIVER

SEC. 754. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Salmon, Middle Fork, Idaho, $1,237,100" and substituting "Salmon, Middle Fork, Idaho, $1,837,000".

CHATTOOGA RIVER

SEC. 755. Section 3(a)(10) of the Wild and Scenic Rivers Act (relating to the Chattooga River in North Carolina, South Carolina, and Georgia) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,200,000". 16 USC 1274.

Subtitle D—Amendments to Public Law 90-542

TECHNICAL AMENDMENTS

SEC. 761. Section 2(a) of the Wild and Scenic Rivers Act is amended by striking out "without expense to the United States" and by adding the following at the end thereof: "Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).". Notification to FERC and publication in Federal Register. 16 USC 1273. 16 USC 460*l*-4 note.

FEDERAL LANDS; COOPERATIVE AGREEMENTS

SEC. 762. Section 12(a) of the Wild and Scenic Rivers Act is amended by striking out the first sentence thereof and substituting: "The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following the date of enactment of this sentence, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii).". 16 USC 1283. 16 USC 1273, 1274, 1276.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 763. (a) Section 3(b) of the Wild and Scenic Rivers Act is amended by inserting after "one year from the date of this Act" the following: "(except where a different date is provided in subsection (a))". 16 USC 1274.

(b) Section 6(g)(3) of such Act is amended by inserting after "January 1, 1967," the following "(except where a different date is specifically provided by law with respect to any particular river)". 16 USC 1277.

(c) Section 16(b) of such Act is deleted in its entirety, and section 16(a) is renumbered as section 16. 16 USC 1287.

LEASE OF FEDERAL LANDS

SEC. 764. The Wild and Scenic Rivers Act is amended by adding the following new section after section 14:

16 USC 1285a. "SEC. 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

"(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.".

TITLE VIII—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

SEC. 801. Within the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, the Secretary, acting through the Director of the National Park Service, and in consultation with the Governor of each area, is authorized to provide in each of these parks some form of appropriate recognition of the outstanding contributions and untiring commitments of the late Congressman William M. Ketchum of California toward the needs of the people of the insular areas. Fully cognizant of sacrifices that sometimes must be made in order to preserve the basic principles of democracy, Congressman Ketchum personally experienced the devastations of war, as he served with distinction in the United States military during the Second World War in the Pacific Theater and during the Korean Conflict. Congressman Ketchum, an individual of strong principle and commitment, through his leadership and active participation in the United States Congress, made substantial and invaluable contributions to the political and economic growth, development, and well-being of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In particular, he will be remembered for the key role he played in the passage of the historic Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States.

TITLE IX—JEAN LAFITTE NATIONAL HISTORICAL PARK

Establishment. 16 USC 230.

SEC. 901. In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park").

Description. The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak

Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this title.

Lands, waters and interests, acquisition. 16 USC 230a.

SEC. 902. (a) Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in the first section of this title, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this title, the Secretary may not acquire rights to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this title.

Guidelines or criteria, consultation.

(b) With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in the first section of this title, the Secretary shall, no later than six months from the date of enactment of this Act, in consultation with the affected State and local units of government, develop a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

Values, preservation and protection.

(c) The purpose of any guideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biological systems; and

(4) water and air quality.

Authority, ceding.

(d) Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

Acquisitions.

(e) The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

Boundaries, revision.

(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

Use and occupancy right, retention. 16 USC 230b.

SEC. 903. Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

"Improved property."

Cooperative agreements. 16 USC 230c.

SEC. 904. In furtherance of the purposes of this title, and after consultation with the Commission created by section 7 of this title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of the first section of this title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 906 of this title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

Hunting, fishing, and trapping. 16 USC 230d.

SEC. 905. Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

Consultation.

SEC. 906. The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 908, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to secton 904. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this title, the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

Notice, publication in Federal Register. 16 USC 230e.

Administration.

16 USC 1 *et seq.* 16 USC 461 note.

SEC. 907. (a) There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

Delta Region Preservation Commission, establishment and membership. 16 USC 230f.

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

(b) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

Compensation and expenses.

(c) The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

Functions.

(d) The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 908. (a) There is authorized to be appropriated, to carry out the provisions of this title, not to exceed $50,000,000 from the Land and

Appropriation authorization. 16 USC 230g.

Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

General management plan, submittal to congressional committees.

(b) Within three years from the date of enactment of this title, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

Chalmette Unit, redesignation. 16 USC 230h.

SEC. 909. The area described in the Act of October 9, 1962 (76 Stat. 755), as the "Chalmette National Historical Park" is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

Report to congressional committees. 16 USC 230i.

SEC. 910. By no later than the end of the first full fiscal year following the date of enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

Urban Park and Recreation Recovery Act of 1978.

TITLE X—URBAN PARK AND RECREATION RECOVERY PROGRAM

SHORT TITLE

16 USC 2501 note.

SEC. 1001. This title may be cited as the "Urban Park and Recreation Recovery Act of 1978".

FINDINGS

16 USC 2501.

SEC. 1002. The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilites, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

Program authorization. 16 USC 2502.

SEC. 1003. The purpose of this title is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this title.

Terms and conditions.

DEFINITIONS

16 USC 2503.

SEC. 1004. When used in this title the term—

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this title. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, nonprofit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants;

(i) "State" means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(j) "insular areas" means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Assistance, eligibility. 16 USC 2504.

SEC. 1005. (a) Eligibility of general purpose local governments for assistance under this title shall be based upon need as determined by the Secretary. Within one hundred and twenty days after the effective date of this title, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. "Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress."

Publication in Federal Register.

(b) Notwithstanding the list of eligible local governments established in accordance with subsection (a), the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this title, to other general purpose local governments in standard metropolitan statistical areas as defined by the census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this title for rehabilitation, innovation, and recovery action program grants.

Priority criteria for project selection and approval.

(c) The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

GRANTS TO IMPLEMENT PROGRAM

SEC. 1006. (a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments. Grants. 16 USC 2505.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant. Transference of grants.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost. Payments.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 1007(b)(2). Innovation grants.

LOCAL COMMITMENTS TO SYSTEM RECOVERY AND MAINTENANCE

SEC. 1007. (a) As a requirement for project approval, local governments applying for assistance under this title shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this title, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate: 16 USC 2506. Recovery action programs. Five-year action programs for park and recreation recovery.

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this title shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

Action programs.

(b) Action programs shall address, but are not limited to the following considerations:

(1) Rehabilitation of existing recreational sites and facilities, including general systemwide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

Publication in Federal Register.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) RECOVERY ACTION PROGRAM GRANTS.—The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this title.

STATE ACTION INCENTIVE

Federal implementation grants, increase. 16 USC 2507.

SEC. 1008. The Secretary is authorized to increase Federal implementation grants authorized in section 1006 by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall

further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

MATCHING REQUIREMENTS

SEC. 1009. The non-Federal share of project costs assisted under this Title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No moneys from the Land and Water Conservation Fund (77 Stat. 49), as amended, or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 1007(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

Non-Federal share of project costs.
16 USC 2508.

CONVERSION OF RECREATION PROPERTY

SEC. 1010. No property improved or developed with assistance under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

16 USC 2509.

COORDINATION OF PROGRAM

SEC. 1011. The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

16 USC 2510.

AUDIT REQUIREMENTS

SEC. 1012. Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this title is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will

Recordkeeping.
16 USC 2511.

facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

AUTHORIZATION OF APPROPRIATIONS

16 USC 2512.

SEC. 1013. There are hereby authorized to be appropriated for the purposes of this title, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c), and not more than 10 per centum may be used for innovation grants pursuant to section 6 of this title. Grants made under this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

LIMITATION OF USE OF FUNDS

16 USC 2513.

SEC. 1014. No funds available under this title shall be used for the acquisition of land or interests in land.

SUNSET AND REPORTING PROVISIONS

Reports to Congress.
16 USC 2514.

SEC. 1015. (a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

TITLE XI—NEW RIVER GORGE NATIONAL RIVER

Establishment and administration.
16 USC 460m-15.

SEC. 1101. For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16

U.S.C. 1 et seq.), as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this title. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI-20,002, dated July 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Boundary description, availability for public inspection.

SEC. 1102. (a) Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this title. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

Acquisition of lands, waters, or interests. 16 USC 460m-16.

(b) On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

Non-federally owned lands.

(c) For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

"Improved property."

(d) The owner of an improved property, as defined in this title, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect

Right of use and occupancy, term.

Fair market value.

Termination, notification.

the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this title, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Plan, submittal to congressional committees. 16 USC 460m-17.

SEC. 1103. (a) Within two years from the date of enactment of this title, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

Zoning laws and ordinances, establishment assistance. 16 USC 460m-18.

SEC. 1104. The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this title. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

Mining, prohibition and limitation. 16 USC 460m-19.

SEC. 1105. (a) Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

Timber harvesting.

(b) The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

Recovery.

(c) The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

Hunting and fishing zones, designation. 16 USC 460m–20.

SEC. 1106. The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

Rules and regulations, consultation.

New River Gorge National River, project work prohibition. 16 USC 460m–21.

SEC. 1107. The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on the date of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect the national river and the values to be protected by it under this section.

Advisement to Secretary and report to Congress.

New River, W. Va., tributaries study. 16 USC 1276.

SEC. 1108. Section 5(a) of the Act of October 2, 1968 (82 Stat. 910) is hereby amended to provide for study of three principal tributaries of the New River in West Virginia, by adding the following new paragraphs:

"(73) BLUESTONE, WEST VIRGINIA.—From its headwaters to its confluence with the New.

"(74) GAULEY, WEST VIRGINIA.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

"(75) GREENBRIER, WEST VIRGINIA.—From its headwaters to its confluence with the New.".

General management plan, submittal to congressional committees. 16 USC 460m-22.

SEC. 1109. Within three years from the date of enactment of this title, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this title, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

Cooperation. 16 USC 460m-23.

SEC. 1110. The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

16 USC 460m-24. 42 USC 7470 *et seq.*

SEC. 1111. For the purposes of part C of the Clean Air Act, the State may redesignate the national river only as class I or class II.

Appropriation authorization. 16 USC 460m-25.

SEC. 1112. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this title, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development.

TITLE XII—FORT SCOTT NATIONAL HISTORIC SITE

Land and interests, acquisition. 16 USC 461 note.

SEC. 1201. In order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided*, That the buildings so acquired shall not include the structure known as "Lunette Blair".

Establishment, publication in Federal Register.

SEC. 1202. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

Administration. 16 USC 1 *et seq.* 16 USC 461 note.

SEC. 1203. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

Repeals.

SEC. 1204. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided*, That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further*, That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

Appropriation authorization.

SEC. 1205. In addition to such sums as might be made available to the historic site by the preceding section, effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

TITLE XIII—REPORT AND BOUNDARY REVISION

BEAVERHEAD OR GALLATIN NATIONAL FORESTS

Report to congressional committees.

SEC. 1301. Within ninety days from enactment of this Act, the Secretary of Agriculture shall report to the Committee on Interior and Insular Affairs in the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, the nature and extent of the progress of any proposal to exchange lands owned by the Burlington Northern Railroad on either the Beaverhead or Gallatin National Forests in the State of Montana for lands owned by the United States elsewhere in the State of Montana. Such report shall also discuss any study or appraisal work done by any agency of the Federal Government concerning the feasibility, impact, or cost of any such an exchange between the Burlington Northern Railroad and the Federal Government, including the sharing of cost of such study. The Department of Agriculture shall not proceed with the processing of any exchange of more than 6,400 acres until and unless authorized to do so by a concurrent resolution of the Congress.

Congressional authorization requirement.

HAMPTON NATIONAL HISTORIC SITE

Boundary revisions, description.

SEC. 1302. (a) In order to preserve, as part of the Hampton National Historic Site, lands and buildings historically associated with Hampton Mansion, the exterior boundaries of such historic site are hereby revised to include the following described lands:

All that certain tract or parcel of land lying and being situated in Baltimore County, Maryland, and being more particularly described as follows:

Beginning at a point on the northwest side of Hampton Lane (50 feet wide), said corner being common to the lands now or formerly of Hampton Village, Incorporated and the lands of Gertrude C. Ridgely, et al; thence, with the northern right-of-way line of said Hampton Lane, the two following courses and distances:

north 69 degrees 19 minutes 40 seconds east, 188.75 feet; and

easterly by a line curving toward the right having a radius of 408.59 feet for a distance of 196 feet (the chord bearing of north 83 degrees 04 minutes 12 seconds east, 194.12 feet); thence, leaving said Hampton Road, north 14 degrees 20 minutes 20 seconds

east, 1,095.18 feet to the westernmost corner of Lot numbered 1 as shown on Plat "D" of Hampton and filed for record in Plat Book G.L.B. numbered 20, folio 32; thence, running along the southerly line of the lots fronting on Saint Francis Road (as shown on said plat) on a line parallel to and 200 feet from said street, south 68 degrees 25 minutes 30 seconds west, 777.75 feet to a point on the easterly side of a 40 feet wide road; thence, with said road, north 21 degrees 34 minutes 30 seconds west, 200.00 feet to a point on the southerly right-of-way line of Saint Francis Road; thence, leaving said 40 feet wide road and with said Saint Francis Road, south 68 degrees 25 minutes 30 seconds west, 40.00 feet to a point on the westerly side of said 40 feet wide road; thence, leaving said Saint Francis Road and with said 40 feet wide road, south 21 degrees 34 minutes 30 seconds east, 200.00 feet to a pipe; thence, leaving said 40 foot wide road, south 68 degrees 25 minutes 30 seconds west, 200.00 feet to a corner common to said Hampton Village, Incorporated and the lands of subject owner; thence, with said Hampton Village, Incorporated, south 21 degrees 29 minutes 33 seconds east, 835.03 feet to the point of beginning.

Containing 14.02 acres, more or less.

Lands and interests, acquisition.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") in furtherance of the purposes of this section, is authorized to acquire by donation, purchase, or exchange lands and interests in lands described in subsection (a) of this section.

Administration.

(c) The Secretary shall administer lands acquired under the authority of this section as part of the Hampton National Historic Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the Act of August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*
16 USC 461 note.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1165 accompanying H.R. 12536 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-514 (Comm. on Energy and National Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 27, considered and passed Senate.
Vol. 124 (1978): June 26, July 11, 12, H.R. 12536 considered and passed House.
Oct. 4, considered and passed House, amended.
Oct. 12, Senate concurred in House amendment with amendments.
Oct. 13, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 45 (1978): Nov. 10, Presidential statement.

Public Law 95-626
95th Congress

An Act

To amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes.

Nov. 10, 1978
[S. 2474]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

Health Services and Centers Amendments of 1978.

SECTION 1. (a) This Act may be cited as the "Health Services and Centers Amendments of 1978". 42 USC 201 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act. 42 USC 201 note.

TITLE I—HEALTH CENTERS AND PRIMARY HEALTH CARE

PART A—MIGRANT HEALTH CENTERS AND COMMUNITY HEALTH CENTERS

Migrant and Community Health Centers Amendments of 1978.

SHORT TITLE

SEC. 101. This part may be cited as the "Migrant and Community Health Centers Amendments of 1978". 42 USC 201 note.

REDESIGNATION OF MIGRANT HEALTH CENTERS PROVISION

SEC. 102. (a) Section 319 is redesignated as section 329 and is transferred and inserted before section 330. 42 USC 247d. 42 USC 254b.

(b)(1) Section 217(g) is amended by striking out "319" and inserting in lieu thereof "329" each place it appears. 42 USC 218.

(2) Section 6(b) of the Health Maintenance Organization Act of 1973 (Public Law 93-222) is amended by striking out "310" and inserting in lieu thereof "329". 42 USC 300e-14a.

(3) Section 1903(m)(2)(B)(i) of the Social Security Act is amended by striking out "section 319(d)(1)(A)" and inserting in lieu thereof "section 329(d)(1)(A)". 42 USC 1396b.

AMENDMENTS TO MIGRANT HEALTH CENTERS PROGRAM

SEC. 103. (a)(1)(A) Paragraph (1) of subsection (a) of section 329 (as redesignated by section 102(a) of this part) is amended by inserting "(as determined by the centers)" after "as may be appropriate for particular centers" in subparagraphs (D) and (E). *Supra.*

(B) Subparagraph (G) of such paragraph is amended to read as follows:

"(G) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals,".

(C) Such paragraph is further amended by inserting the following before the period at the end thereof: "and individuals who have previously been migratory agricultural workers but can no longer meet the requirements of paragraph (2) of this subsection because of age or disability and members of their families within the area it serves".

(2) Paragraph (6) of such subsection is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(3) Paragraph (7) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services"; and

(C) by striking out subparagraphs (I) and (N), by inserting "and" at the end of subparagraph (L), and by redesignating subparagraphs (J), (K), (L), and (M), as subparagraphs (I), (J), (K), and (L), respectively.

(b) The second sentence of subsection (b)(1) of such section is amended to read as follows: "The highest priorities for such assistance shall be assigned to areas where the Secretary determines the greatest need exists.".

(c) Subsections (a)(5), (c)(1)(B), and (d)(1)(C) of such section are each amended by striking out "six thousand" and inserting in lieu thereof "four thousand".

(d)(1) Subparagraph (B) of subsection (d)(1) of such section is repealed and subparagraph (C) of such subsection is redesignated as subparagraph (B).

(2)(A) Paragraph (2) of subsection (d) of such section is amended by striking out "or (1)(B)".

(B) Paragraphs (1) and (3) of subsection (f) of such section are each amended by striking out "(d)(1)(C)" and inserting in lieu thereof "(d)(1)(B)".

(C) Subsection (h)(2) of such section is amended by striking out "(d)(1)(C)" each place it appears and inserting in lieu thereof "(d)(1)(B)".

(3)(A) Subsection (d)(1) of such section is amended by inserting after subparagraph (B), as so redesignated, the following new subparagraph:

Grants.

"(C) The Secretary may make grants to migrant health centers to enable the centers to plan and develop the provision of health services

on a prepaid basis to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (f)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to the management of the provision of health services on a prepaid basis.".

(B) The fourth sentence of subsection (h)(2) of such section is amended by inserting before the period the following: ", and not more than 5 per centum of such funds may be made available for grants under subsection (d)(1)(C)".

(e) Subsection (d) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Not more than two grants may be made under paragraph (1)(C) for the same entity.

"(4)(A) The amount of any grant made in any fiscal year under subparagraph (A) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements,

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subparagraph (D) or (E) of subsection (a)(1) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (J), or (L) of subsection (a)(7), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) of this paragraph received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an

amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible under subsection (a) to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(f) Subsection (f) of such section is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (6), respectively;

Grant applications.

(2) by inserting after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) of subsection (d)(1) for a migrant health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subparagraphs (D) and (E) of subsection (a)(1) and in subparagraphs (B), (F), (J), and (L) of subsection (a)(7),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant."; and

Improvements of private property.

(3) by inserting after paragraph (4), as so redesignated, the following new paragraph:

"(5) The Secretary, in making a grant under this section to a migrant health center for the provision of environmental health services described in subsection (a)(1)(D), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.".

Notification of congressional committees.

(g)(1)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of subsection (f) of such section is amended to read as follows: "(ii) selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a public center (as

defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body of the center has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

"Public center."

(B) Such paragraph is amended by adding at the end after and below subparagraph (J) the following sentence: "For purposes of subparagraph (G) and subsection (h)(4), the term 'public center' means a migrant health center funded (or to be funded) through a grant under this section to a public agency.".

42 USC 254b note.

(C) The change in the governing board requirements for migrant health centers made by the amendment by subparagraph (A) to section 329(f)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public migrant health center which met the governing board requirements in effect under section 319(f)(2)(G)(ii) of such Act before October 1, 1978.

(2) Subparagraph (H) of subsection (f)(3) of such section is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(h) Subsection (g) of such section is amended—

(1) by inserting "(1)" after "(g)", and

(2) by adding at the end the following new paragraph:

List of resources.

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(i)(1)(A) The first sentence of subsection (h)(1) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$2,200,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $2,900,000 for the fiscal year ending September 30, 1981".

(B) The second sentence of such subsection is amended by striking out "two fiscal years" and inserting in lieu thereof "five fiscal years".

(2)(A) The first sentence of subsection (h)(2) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$40,800,000 for the fiscal year ending September 30, 1979, $46,000,000 for the fiscal year ending September 30, 1980, and $52,100,000 for the fiscal year ending September 30, 1981".

(B) The third sentence of such subsection is amended by striking out "fiscal years ending September 30, 1977, and September 30, 1978" and inserting in lieu thereof "any fiscal year".

(3) Subsection (h)(3) of such section is amended to read as follows:

"(3) In any fiscal year, the Secretary shall obligate for payments under grants and contracts in such fiscal year under subsection (d)(1) for the provision of inpatient and outpatient hospital services not less than 10 per centum of the amount appropriated in such fiscal year under paragraph (2).".

(4) Subsection (h) of such section is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (f)(3)) the governing boards of which (as described in

subsection (f)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

42 USC 254b note.

(j) The amendments made by this section shall apply with respect to grants and contracts made under section 329 of the Public Health Service Act from appropriations for the fiscal years ending after September 30, 1978.

COMMUNITY HEALTH CENTERS

42 USC 254c.

SEC. 104. (a) Paragraph (4) of subsection (a) of section 330 is amended to read as follows:

"(4) environmental health services, including, as may be appropriate for particular centers (as determined by the centers), the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health, and".

(b)(1) Paragraph (1) of subsection (b) of such section is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(2) Paragraph (2) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services";

(C) by striking out "outreach workers" in subparagraph (N) and inserting in lieu thereof "appropriate personnel"; and

(D) by striking out subparagraph (I) and by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively.

(c)(1)(A) Paragraph (1) of subsection (d) of such section is amended by adding at the end the following new subparagraph:

Grants.

"(C) The Secretary may make grants to community health centers to enable the centers to plan and develop the provision of health services on a prepaid basis to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (e)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to management of the provision of health services on a prepaid basis.".

(B) Paragraph (2) of such subsection is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A) or (1)(B)".

(C) Paragraph (3) of such subsection is amended by inserting "or (1)(C)" after "(1)(B)".

(2) Paragraph (4) of such subsection is amended to read as follows:

"(4)(A) The amount of any grant made in any fiscal year under paragraph (1) (other than subparagraph (C)) to a community health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements,

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subsection (a)(4) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (L), or (M) of subsection (b)(2), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(d)(1) Paragraph (2) of subsection (e) of such section is amended—

(A) by striking out "and" at the end of subparagraph (I),

(B) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new subparagraph:

"(K) the center, in accordance with regulations prescribed by the Secretary, has developed an on-going referral relationship with one or more hospitals.".

Grant applications.

(2) Such subsection is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) or (B) of subsection (d)(1) for a community health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (F), (L), and (M) of subsection (b)(2),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) or (B) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health services described in subsection (a) or (b) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(3)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of such subsection is amended to read as follows: "(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

"Public center."

(B) Such paragraph is amended by adding at the end after and below subparagraph (K) the following sentence: "For purposes of subparagraph (G) and subsection (g)(4), the term 'public center' means a community health center funded (or to be funded) through a grant under this section to a public agency.".

42 USC 254c note.

42USC 254c.

(C) The change in the governing board requirements for public community health centers made by the amendment by subparagraph (A) to section 330(e)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public community health center which met the governing board requirements in effect under section 330(e)(2)(G)(ii) of such Act before October 1, 1978.

(4) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(5)(A) Paragraph (2) of subsection (e) of such section is amended by inserting "paragraph (1)(A) or (1)(B) of" before "subsection (d) unless".

(B) Such subsection is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve applications for grants under paragraph (1)(A) or (1)(B) of subsection (d) for community health centers which—

"(A) have not received a previous grant under such paragraph, or

"(B) have applied for such a grant to expand their services,

in such a manner that the ratio of the medical underserved populations in rural areas which may be expected to use the services provided by such centers to the medical underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(5) The Secretary, in making a grant under this section to a community health center for the provision of environmental health services described in subsection (a)(4), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.". Improvements of private property. Notification of congressional committees.

(e) Subsection (f) of such section is amended—

(1) by inserting "(1)" after "(f)", and

(2) by adding at the end the following new paragraph: List of resources.

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(f)(1) Paragraph (1) of subsection (g) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$6,300,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

(2) Paragraph (2) of such subsection is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$341,700,000 for the fiscal year ending September 30, 1979, $397,500,000 for the fiscal year ending September 30, 1980, and $463,000,000 for the fiscal year ending September 30, 1981".

(3) Such paragraph is amended by adding at the end thereof the following sentence: "The Secretary may not expend for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of the funds appropriated under this subsection for that fiscal year.". Limitations.

(4) Such subsection is amended by adding at the end thereof the following new paragraph: Limitations.

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (e)(3)) the governing boards of which (as described in subsection (e)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

(g) The amendments made by this section shall apply with respect to grants made under section 330 of the Public Health Service Act from appropriations for fiscal years ending after September 30, 1978. 42 USC 254c note. 42 USC 254c.

REDESIGNATION OF OTHER PROVISION

42 USC 255.

SEC. 105. (a) Section 339 is amended—

(1) by amending its heading to read as follows: "RECEIPT, APPREHENSION, DETENTION, TREATMENT, AND RELEASE OF LEPERS";

(2) by inserting "(a)" after "SEC. 339.";

Regulations.

(3) by inserting at the end thereof the following new subsection: "(b) The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy."; and

42 USC 247e.

(4) by redesignating such section as section 320 and inserting it in subpart I of part C of title III immediately before section 321.

Repeals. 42 USC 256, prec. 255.

(b) Section 340 and the heading to part D of title III are repealed.

TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

SEC. 106. (a) Part C of title III is amended by adding after section 338 the following new section:

"TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

42 USC 256a.

"SEC. 340A. (a)(1) The Secretary may make grants to, and enter into contracts with, public and private entities to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or in any combination of such activities) of migrant health centers under section 329, community health centers under section 330, or any other centers for the delivery of primary health care. The technical assistance with respect to which a grant may be made under this paragraph includes—

Ante, p. 3551. 42 USC 254c.

"(A) assistance in the selection of sites for such centers,

"(B) assistance in the selection of governing boards for such centers,

"(C) assistance in the management of the service programs of such centers,

"(D) assistance in the recruitment, selection, and retention of personnel (including members of the National Health Service Corps) for such centers,

"(E) assistance in financial management of such centers, and

"(F) assistance in the procurement of facilities, equipment, and supplies for such centers.

"(2) In making grants and contracts under paragraph (1), the Secretary shall make such grants to, and enter into such contracts with—

"(A) entities which will provide technical assistance on a statewide basis for the planning, development, and operation of centers to provide primary health care in urban and rural areas,

"(B) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in large, densely populated areas,

"(C) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in rural areas,

"(D) entities which will provide technical assistance for the planning, development, and operation of centers to provide primary health care on a regional basis in large States, and

"(E) entities which will provide technical assistance within several contiguous States for the planning, development, and operation of centers to provide primary health care.

Grants and contracts under paragraph (1) (other than those described in subparagraph (E) of this paragraph) to private entities may only be made to such entities to provide technical assistance in the States in which they are primarily engaged in business.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require by regulation.

"(2) The amount of any grant or contract under subsection (a) shall be determined by the Secretary, except that no grant or contract to any entity in any fiscal year may exceed $500,000. Limitations.

"(c) The Secretary shall establish a Primary Health Care Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to make recommendations respecting— Primary Health Care Advisory Committee. Establishment.

"(1) the capabilities of applicants for grants and contracts under subsection (a) to effectively carry out the projects for which the grants and contracts would be made;

"(2) the renewal of grants and contracts under such subsection; and

"(3) the evaluation to be made under section 106(b) of the Migrant and Community Health Centers Amendments of 1978. *Ante*, p. 3560.

The Committee shall consist of five members appointed by the Secretary, in accordance with section 222, from individuals who are not officers or employees of the Federal Government and who because of their expertise in providing technical assistance to primary health care centers are particularly qualified to serve on the Committee. 42 USC 217a.

"(d)(1) For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization.

"(2) The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(b) Not later than March 1, 1981, the Secretary of Health, Education, and Welfare shall submit a report to Congress— Report to Congress. 42 USC 256a note.

(1) on the effectiveness of the entities assisted under section 340A of the Public Health Service Act— *Ante*, p. 3560.

(A) in establishing centers which meet the requirements of section 329 or 330 of the Public Health Service Act or other centers for the provision of primary health care, *Ante*, p. 3551, 42 USC 254c.

(B) in improving the acceptability, in the communities served, of migrant health centers, community health centers, and other centers engaged in the delivery of primary health care,

(C) in improving the ability of such centers to attract and retain health professions personnel, and

(D) in assisting such centers in reducing their dependence on public funding;

(2) on the extent to which the effectiveness of entities assisted under grants and contracts under such section 340A depends on (A) the type of area to be served by the centers for which planning, development, and operation assistance was provided by such entities, and (B) the organizational structure of such entities;

39-191 O—80—pt 3——59 QL3

(3) comparing the effectiveness of entities assisted under such section 340A with the effectiveness of other entities assisted under other provisions of title III of the Public Health Service Act in providing technical assistance described in paragraph (1); and

(4) recommending the most effective methods for providing technical assistance described in paragraph (1).

(c) The Secretary of Health, Education, and Welfare shall conduct an assessment of the various types of continuing education programs available for health professions personnel serving medical underserved populations and the effect such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care to such populations. The Secretary shall report the results of such assessment to Congress not later than January 1, 1980.

Ante, p. 3560.
42 USC 241.
Report to Congress.

MISCELLANEOUS

SEC. 107. The first sentence of section 1313 is amended by inserting "(except as provided in sections 329, 330, and 340)" after "Act".

42 USC 300e-12.

PART B—PRIMARY HEALTH CARE

Primary Health Care Act of 1978.

SHORT TITLE

SEC. 111. (a) This part may be cited as the "Primary Health Care Act of 1978".

42 USC 201 note.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 112. (a) Congress finds that—

(1) although the achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government, there remains a wide disparity throughout the Nation regarding the cost, quality, and availability of primary health services;

(2) despite Federal financing programs designed to eliminate barriers to primary health services for the poor and the elderly, there remains a shortage of health resources to provide such services, especially in medically underserved urban and rural areas; and

(3) residents of urban and rural medically underserved areas lack the availability of basic and appropriate services for health promotion, disease prevention, and primary care.

(b) It is the purpose of this part—

(1) to alleviate the shortage of health resources for the provision of primary health services to urban and rural medical underserved populations in the United States; and

(2) to provide authorities for research and demonstration projects which develop innovative approaches for the organization and delivery of primary health services.

42 USC 254a-1 note.

DESIGNATION OF PRIMARY HEALTH CARE PART IN TITLE III OF PUBLIC HEALTH SERVICE ACT

SEC. 113. (a) Title III is amended—

(1) by striking out the heading to subpart I of part C;

(2) by redesignating section 328 as section 327A; and

(3) by inserting before section 329 (as redesignated by section 102(a) of this Act) the following heading:

42 USC prec. 248.
42 USC 254a.
Ante, p. 3551.

"PART D—PRIMARY HEALTH CARE

"Subpart I—Primary Health Centers".

(b) Sections 751(f) and 752(d) are each amended by striking out "subpart II of part C" each place it appears and inserting in lieu thereof "subpart II of part D". 42 USC 294t, 294u.

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

SEC. 114. Subpart I of part D of title III (as provided for under section 113(a) of this Act) is amended by inserting before section 329 the following new section: 42 USC 241. *Ante*, p. 3551.

"HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

"SEC. 328. (a) For purposes of this section: Definitions. 42 USC 254a-1.

"(1) The term 'community hospital' means a—

"(A) public general hospital owned and operated by a State, county, or local unit of government or by a public benefit corporation, or

"(B) private nonprofit hospital,

which primarily serves a medical underserved population (as defined in section 330(b)(3)). 42 USC 254c.

"(2) The terms 'hospital-affiliated primary care center' and 'primary care center' mean a distinct administrative unit of a community hospital which is located in or adjacent to the hospital and which—

"(A) provides primary health services (except that emergency medical services shall be provided to the extent practicable through referral to the emergency room of the community hospital) to a catchment area which is determined by the hospital and approved by the Secretary;

"(B) provides, as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services;

"(C) provides referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services;

"(D) provides for, when the center is closed, at least referral to emergency medical services and authorized access to patient medical records on a twenty-four-hours-a-day, seven-days-a-week basis; and

"(E) provides information on the availability and proper use of health services provided by the community hospital and the center.

"(3) The term 'primary care group practice' means, with respect to a primary care center affiliated with a community hospital, any combination of physicians and other health care providers that includes at least three primary care physicians (as defined in section 771(b)(2)(F)(ii))— 42 USC 295f-1.

"(i) which combination is organized to provide primary health services in a manner which is consistent with the needs of the population to be served by the center, and which uses, where practicable in the provision of such services, nonphysician providers (particularly physician assistants and nurse practitioners) in concert with the physicians of the group practice;

"(ii) which combination is located in or adjacent to the community hospital;

"(iii) the physicians of which have admitting privileges to the community hospital;

"(iv) (I) the primary care physicians of which are salaried and full time in the hospital and a majority of whom practice full time in the primary care center, or (II) which combination is organized into a partnership, corporation, or professional association which has an agreement with the hospital to fulfill the obligations described in subparagraphs (A) and (C) of subsection (b) (3); and

"(v) the primary care physicians of which are not all personnel serving with the National Health Service Corps;

except that in the case of such a combination serving a health manpower shortage area (designated under section 332), in lieu of one of the primary care physicians required in such a combination there may be a nurse practitioner or physician assistant.

42 USC 254e.

"Primary care resident."

"(4) The term 'primary care resident' means a graduate physician in a training program which (A) is in primary care (as defined in section 772(b)(2)(F)(ii)), (B) is approved by an appropriate certifying body, and (C) requires that at least one-third of the time in the last two years of residency training (or in the case of the osteopathic general practice resident, the last year of residency training) be spent in an ambulatory care setting.

42 USC 295f-2.

"(5) The terms 'primary health services' and 'supplemental health services' have the meanings given such terms in paragraphs (1) and (2) of section 330(b), respectively.

42 USC 254c.

"(b)(1) The Secretary may make grants to community hospitals to support demonstration projects in the planning, development, and operation of hospital-affiliated primary care centers. To the extent feasible, the Secretary shall not make a grant for such a center to serve a population whose need for primary health services is being met by a community health center, migrant health center, or other health care provider.

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable distribution of primary care centers among urban and rural areas.

"(3) The Secretary may not approve an application for a grant under paragraph (1) with respect to a primary care center affiliated with a community hospital unless the Secretary has made the following determinations:

"(A) The primary health services of the center will be provided through a primary care group practice, and may be provided by a primary care resident if (i) such services are provided under the direction of a member of the practice who is a primary care physician, and (ii) provision of such services by the resident are credited toward the resident's fulfilling the requirement of the residency training program described in subsection (a)(4)(C).

"(B) Except under unusual circumstances (as established by the Secretary by regulation), primary health services provided by the community hospital will be provided only through the center, and qualified personnel trained in triage will be placed in the

hospital's emergency room, outpatient department, and in the primary care center to screen and direct patients to the appropriate location for care.

"(C) Each patient of the center will have an identified primary care physician who is a member of the primary care group practice and who is responsible for continuous management of the patient, including the referral of the patient for inpatient, outpatient, or emergency services.

"(D) To the extent practicable, existing facilities and equipment which are in or owned by the community hospital, which are not required for the delivery of inpatient or emergency services, and which are needed in the primary care center will be converted for the use of the primary care center.

"(E) The hospital and primary care center will avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for the provision of routine primary health services.

"(F) The primary care center will be maintained as a separate and distinct cost and revenue center for accounting purposes. Any costs which are not directly associated with the operation of the center (including inpatient-related costs) will not be assigned to the center. Costs associated with the education and training of residents and medical and other health science students will not be calculated into the costs of operating the primary care center, except that the salaries and other costs associated with the provision of services by residents may be calculated into the costs of operating the center as long as such costs are proportional to the actual percentage of time spent by the resident in the provision of services in the primary care center.

"(G) The primary care center will be operated in accordance with all the requirements of section 330(e)(3) (other than subparagraph (G) thereof) applicable to community health centers. 42 USC 254c.

"(H) Unless the community hospital has a governing board described in subparagraph (G) of section 330(e)(3) for the primary care center, the application for the grant has been reviewed and approved by an advisory board which is established by the community hospital and which—

"(i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center,

"(ii) participates in the development of the application for the grant under this section and in the development of any application for the renewal of such a grant, and

"(iii) once the primary care center becomes operational, meets at least six times each year to review the operations of the center and to develop recommendations to the hospital's governing board concerning the types of services to be provided by, and the operations of, the center.

"(I) The primary care center will provide for an information program for its patients under which patients are fully informed of the covered professional services and referral services offered by the center and of the methods by which patient grievances respecting billing for such services, or the quality of such services, may be resolved.

"(J) The operating hours of the primary care center will include those periods when the community hospital's emergency room and outpatient department are most utilized.

Application priorities.

"(4) In reviewing and approving applications for grants under this section, the Secretary shall give priority to the application of any community hospital—

"(A) which (i) is located in a State whose laws do not prohibit the hospital from establishing a governing board for its affiliated primary care center which board meets the requirements of subparagraph (G) of section 330(e)(3) for the governing board of a private community health center, and (ii) has established such a governing board, or

Ante, p. 3558.

"(B) which is located in a State whose laws prohibit the hospital from establishing such a board.

"(5) Grants under this subsection may be used for covering the costs of planning, developing, and operating hospital-affiliated primary care centers, including the costs of acquiring and modernizing existing buildings or space located in or adjacent to the community hospital (including the costs of amortizing the principal of, and paying interest on, loans).

"(c) The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Report to Congress.

"(d) Not later than March 1, 1981, the Comptroller General shall submit a report to Congress evaluating the operation of hospital-affiliated primary care centers, including, with their voluntary participation, those centers not assisted under this section. With respect to such centers the Comptroller General shall—

"(1) assess the costs of such centers and their methods of allocating costs between the centers and their affiliated hospitals;

"(2) assess the methods of reimbursement used (particularly under titles XVIII and XIX of the Social Security Act) for services provided by such centers;

42 USC 1395, 1396.

"(3) compare the cost and effectiveness of providing primary health services through such centers with the cost and effectiveness of providing such services through community health centers and other entities providing similar services, and

"(4) assess the degree to which the hospitals provided assistance under this section are complying with the requirements specified under subsection (b)(3).

Appropriation authorization.

"(e) There are authorized to be appropriated for the purpose of making payments for grants under subsection (a) and for the provision of assistance under subsection (c)—

"(1) for the planning and development of primary care centers, $5,000,000 for the fiscal year ending September 30, 1979, and

"(2) for the planning, development, and operation of primary care centers, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981.

Limitation.

Not more than $150,000 may be used for the planning and development of any single primary care center.".

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

SEC. 115. Part D of title III is further amended— 42 USC 241.

(1) by adding after section 338 the following subpart heading: 42 USC 254k.

"Subpart IV—Research and Demonstration Projects in Primary Care";

and

(2) by adding after such subpart heading the following new section: Grants and contracts.

"PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 340. (a) The Secretary may make grants to, and enter into contracts with, public and private entities which provide health services— 42 USC 256.

"(1) to demonstrate new and innovative methods for the provision of primary health services and dental health services, or

"(2) to conduct research on such methods or on existing methods for the provision of primary health services and dental health services,

to medical underserved populations or to such other populations as the Secretary determines are necessary to demonstrate or conduct research on particular methods.

"(b) Grants and contracts may be made under subsection (a) to demonstrate and conduct research on—

"(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners, and other health professionals, both individually and as teams, to train and practice among medical underserved populations;

"(2) differing types of organizational models and relationships, including federations of health service centers, designed to meet unique primary health and dental health service needs;

"(3) management and technological improvements (including new or improved methods for biomedical communication and medical and financial recordkeeping and billing systems) to increase the productivity, effectiveness, efficiency, and financial stability of primary health and dental health service providers;

"(4) methods of providing health promotion, disease prevention, and health education programs, including school health programs;

"(5) methods of identifying, coordinating, and integrating existing primary health and dental health service programs with mental health and social service programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system;

"(6) specific services or mixtures of services appropriate for a given area, including ambulatory care, home health care, environmental health services (described in section 330(a)(4)), community outreach activities, transportation services, and other supplemental health services (as defined in section 330(b)(2));

"(7) the effect of availability of primary health and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long-term care facilities;

"(8) the use of mobile health screening clinics to provide preventive health care services to meet the needs of medical underserved populations; and

"(9) such other projects as the Secretary determines to be necessary to further the purposes of this section.

"(c)(1) The Secretary may not make a grant or enter into a contract under this section for a project if the project can be carried out under the authority of any other provision (other than section 301) of this Act.

42 USC 241.

"(2) The Secretary shall, to the extent feasible, coordinate demonstration and research projects carried out under this section with any demonstration and research projects carried out under the Social Security Act for the reimbursement of services which are the subject of projects under this section.

42 USC 1305.

"(d)(1) No grant may be made under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

Report to Congress.

"(e) The Secretary shall submit an annual report to Congress not later than March 1 of each year (beginning with 1979) describing—

"(1) the projects conducted under this section during the fiscal year ending in the previous year and why they could not be assisted under the authority of other provisions of this Act;

"(2) the amount of funds expended in such fiscal year for each project area set forth in subsection (b) and, if more than 20 per centum of the amount appropriated for this section was expended on any single such project area, the reasons for such concentration of expenditures; and

"(3) any recommendations resulting from the conduct of such projects.

In the first such report, the Secretary shall include the number of demonstration projects which were funded under section 1110 of the Social Security Act during the fiscal year ending September 30, 1978, which were related to health services in rural medical underserved areas, and which could have been assisted under this section during the fiscal year ending September 30, 1979, but for subsection (c)(1) of this section.

42 USC 1310.

"Medical underserved population." 42 USC 254c.

"(f) As used in this section, the term 'medical underserved population' has the meaning given such term in section 330(b)(3).

Appropriation authorization.

"(g)(1) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in areas that are not urbanized areas (as defined by the Census Bureau) $18,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $22,000,000 for the fiscal year ending September 30, 1981.

"(2) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in urbanized areas (as defined by the Census Bureau) $4,000,000 for the fiscal year ending September 30, 1979, $4,500,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

"(3) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(4) The Secretary may continue to support, out of funds appropriated under this section, those demonstration projects which were

funded under section 1110 of the Social Security Act during fiscal year ending September 30, 1978, and which are related to health services in rural medical underserved areas, but only if such projects can not be carried out under the authority of any other provision (other than section 301) of this Act.". 42 USC 1310. 42 USC 241.

SPECIAL REPORTS ON PRIMARY HEALTH CARE NEEDS OF IMMIGRANTS, NATIVE INDIANS, AND ALASKAN ESKIMOS AND ON THE FUTURE OF THE NATIONAL HEALTH SERVICE CORPS

SEC. 116. (a) Not later than June 30, 1979, the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall submit to Congress a special report on the primary health care needs of immigrants. The report shall be developed through consultation with the Commissioner of the Immigration and Naturalization Service, with leaders in the health care area, and with representatives of immigrants. The report shall contain (1) an assessment of the access of (and barriers to) immigrants in receiving health care services, (2) an assessment of the health needs of such immigrants, and (3) specific recommendations for the development of a national strategy to address these needs, taking into account the fact that significant numbers of immigrants reside in a select number of specific States. Reports to Congress. 42 USC 256 note. Consultation.

(b)(1) Not later than June 30, 1979, the Secretary shall submit to Congress a special report on the primary health care needs of each of the specific tribes of American Indians and Alaskan Natives. Such report shall be developed with the consultation of the Director of the Indian Health Service, with leaders in the field of health care, and with representatives of tribes of American Indians and of Alaskan Natives and of national Indian organizations. Such report shall contain (1) an assessment of the access of (and barriers to) American Indians and Alaskan Natives in receiving health care services, (2) an examination of the types of alternative health delivery systems (such as mobile health care services) existing or needing to be developed to provide appropriate access of American Indians and Alaskan Natives who are medical underserved populations (as defined in section 330(b)(3) of the Public Health Service Act) to health services, (3) an examination of the types of alternatives to institutionalization existing or needing to be developed for such populations, and (4) specific recommendations on each such issue. 42 USC 254c.

(c) Not later than February 1, 1979, the Secretary shall submit to Congress a special report on the present and future direction of the National Health Service Corps, particularly (1) its role as a health manpower program and as a health services delivery program, (2) the use and placement of members of the Corps in different types of health manpower shortage areas (described in section 332(a)(1) of the Public Health Service Act) in meeting urban and rural health needs, (3) the different types of health professionals which are needed to meet urban and rural health needs and which should be encouraged to participate in the Corps, and (4) the projected size, composition, and use of the manpower of the Corps through 1985. Such report shall be developed through consultation with the National Advisory Council on the National Health Service Corps (established under section 337 of the Public Health Service Act) and with the National Advisory Council on Health Professions Education (established under section 702 of the Public Health Service Act). 42 USC 254d note. 42 USC 254e. Consultation. 42 USC 254j. 42 USC 292b.

PART C—MISCELLANEOUS PROVISIONS

SPECIAL PROJECTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Grants.
42 USC 295h-1.

SEC. 121. Section 792(b) is amended to read as follows:

"(b) The Secretary may make grants to assist educational institutions in meeting the costs of special projects in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning, or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.".

INCREASE IN AUTHORIZATION FOR NATIONAL HEALTH SERVICE CORPS

42 USC 254k.

SEC. 122. Section 338(a) is amended by striking out "$57,000,000" and inserting in lieu thereof "$64,000,000".

Health Services Extension Act of 1978.

TITLE II—HEALTH SERVICES EXTENSION

SHORT TITLE

42 USC 201 note.

SEC. 200. This title may be cited as the "Health Services Extension Act of 1978".

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

42 USC 246.

SEC. 201. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,000,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $20,000,000 for the fiscal year ending September 30, 1979".

42 USC 246 note.

(b)(1) The Congress finds and declares that—

(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.

42 USC 246.

(2) Effective October 1, 1979, section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d) (1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services. Grants.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that— Application.

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c); 42 USC 300m-3.

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditures in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greatest need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

"Applicable grant computation percentage."

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

Annual review.

"(3)(A) The Secretary shall review annually the activities undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) an amount determined by the Secretary which may not be less than the product of $1.00 and the population of the State served by such authority or more than the product of $1.50 and such population, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent

of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

In determining the amount of a grant to a State health authority under subclause (I), the Secretary shall take into account the financial need of such State and the level of State and local expenditures for comprehensive public health services (as defined in subparagraph (C)). In determining the financial need of a State, the Secretary shall consider, as major factors, the proportion of the State's population whose income level is below the poverty income level established by the Secretary and the proportion of its population which is living in medical underserved areas.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants received by such authority under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority.

Notwithstanding clauses (i) and (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clauses to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with the applicable clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clauses in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes expenditures by such authorities—

"State and local expenditures for comprehensive public health services."

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

Appropriation authorization.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1980, and $170,000,000 for the fiscal year ending September 30, 1981.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

Regulations. Consultation.

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

42 USC 247b.

SEC. 202. Effective October 1, 1979, section 317 is amended to read as follows:

"PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

"SEC. 317. (a) The Secretary may make grants—

"(1) to State health authorities to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, hypertension; and

"(2) to States and, in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs (other than programs described in paragraph (1)).

Application.

"(b) No grant may be made under section (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program for which the applicant is seeking a grant under subsection (a);

"(2) with respect to each such program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program, (B) a description of the services provided by the applicant in such program in such period, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such

proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

"(3) assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such program will be provided, where appropriate, in a manner consistent with any plans in effect under an application approved under section 315; 42 USC 300m-3.

Post, p. 3578.

"(4) assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines—

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant. Annual project reviews.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

Recordkeeping. "(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit, authority. "(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(h) The Secretary shall include, as part of the report required 42 USC 300u-4. by section 1705, a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(i) The Secretary may provide technical assistance to States, State health authorities, and other public entities in connection with the operation of their preventive health service programs.

Appropriation authorization. "(j)(1)(A) Subject to subparagraph (B), for purposes of grants under subsection (a) for preventive health service programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps) and for purposes of grants under such subsection for the fiscal year ending September 30, 1979, for preventative health service programs to immunize individuals against influenza, there are authorized to be appropriated $51,000,000 for the fiscal year ending September 30, 1979,

$39,500,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981.

"(B) No funds appropriated under subparagraph (A) may be obligated for grants for preventive health service programs to immunize individuals against influenza until the Secretary submits to the Committees on Human Resources and Appropriations of the Senate and the Committees on Interstate and Foreign Commerce and Appropriations of the House of Representatives the following: Reports to congressional committees.

"(i) Not later than June 30, 1979, a complete report on the results of the influenza immunization activities in 1978 and 1979 under funds appropriated under Public Law 95-355, which report shall include information with respect to adverse effects associated with influenza immunization, any known liability arising out of such immunization, any report received by the Secretary on the safety and effectiveness of the vaccine used to provide such immunization, the number of persons immunized, and other experiences with such activities. *Ante*, p. 523.

"(ii) A report on the current status of the immunization program conducted under the amendment made to this Act by the National Swine Flu Immunization Program of 1976 (Public Law 94-380), including the status of any claims still pending under the program and the Secretary's plans for dealing with such claims. 42 USC 201 note.

"(iii) As they become available, all reports and information from studies conducted by or under contract with the Secretary with respect to liability arising out of personal injuries or deaths in connection with immunization programs, protection against such liability, and methods of compensation for such injuries and any other reports and information respecting such matters which are available to the Secretary.

"(iv) Specific interim recommendations of the Secretary with respect to the matters referred to in clause (iii).

"(v) A copy of the information which will be distributed to individuals before they receive any influenza immunization under a preventive health service program for which a grant is made under subsection (a).

"(2) For the purpose of grants under subsection (a) for preventive health service programs for the control of rodents there are authorized to be appropriated $14,500,000 for the fiscal year ending September 30, 1979, $15,500,000 for the fiscal year ending September 30, 1980, and $17,000,000 for the fiscal year ending September 30, 1981. Funds appropriated under this paragraph may be used to make grants to nonprofit private entities for any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975. A grant to such an entity shall be made in the same manner as a grant under subsection (a). Appropriation authorizations. 42 USC 246.

"(3) For the purpose of grants under subsection (a) for programs for hypertension there are authorized to be appropriated $24,500,000 for the fiscal year ending September 30, 1980, $29,000,000 for the fiscal year ending September 30, 1981.

"(4) For the purpose of grants under subsection (a) for preventive health service programs for which appropriations are not authorized by paragraph (1), (2), or (3) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000

89-194 O—80—pt 3——60 QL3

for the fiscal year ending September 30, 1981. No funds appropriated under this paragraph may be used for grants for immunization against influenza.".

FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

SEC. 203. Title III of the Public Health Service Act is amended by adding after section 314 the following new section:

"FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

42 USC 247. "SEC. 315. (a) The Secretary shall make grants to States to assist them in planning for and developing, and in providing (directly and through grants or contracts, or both, the public health authorities of political subdivisions of the States, other public entities, and private entities) preventive health service programs—

"(1) which shall be designed to reduce, through primary or secondary prevention of risk factors and causative conditions, the mortality rate for one or more of the five leading causes of death in a State, and

"(2) which the State receiving a grant under this subsection may design to also reduce, through primary or secondary prevention of risk factors and causative conditions, the burden of illness associated with one or more of the five leading causes of morbidity in the State.

Grant applications. "(b) No grant may be made under subsection (a) for a preventive health service program unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning and developing grant)—

"(1) a detailed plan of the program for which the applicant is seeking a grant under subsection (a), which plan—

"(A) shall require the use, to the extent practicable, of all relevant professional disciplines;

"(B) may, at the option of the State, describe a program or programs that are targeted toward a particular age group;

"(C) shall set forth quantitatively the current relevant rates of mortality or of morbidity, as the case may be, in the State measured and reported in accordance with regulations of the Secretary;

"(D) shall set forth the quantitative goals for reduction in the relevant rates of mortality and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of death in the State;

"(E) shall, if the applicant's program also concerns morbidity, set forth the quantitative goals for reduction in the relevant rates of morbidity and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of morbidity in the State;

"(F) shall require a separate health communications component in the program or programs which shall include a description of how the communications media, including the electronic media, will be used to effectuate the purposes of the programs;

"(G) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and through other means the requirements of subparagraph (F); and

"(H) shall contain such other information as the Secretary may by regulation prescribe;

"(2) with respect to each of the major causes of mortality and morbidity included in the program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period with respect to such cause, (B) a description of the services provided by the applicant in such program in such period with respect to such cause, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

"(3) for assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c); 42 USC 300m-3.

"(4) for assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines— Application approval.

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant. Annual review.

"(3) Whenever the Secretary finds with respect to funds paid to it under a grant under subsection (a) for a program, that the program

is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

Grant funding requirements.

"(d)(1) The total amount of grants made under subsection (a) in the fiscal year ending September 30, 1980, to any State under subsection (a) to assist it in planning and developing a program described in such subsection shall be determined by the Secretary, except that it may not be less than the product of $0.10 and population of the State. Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for the fiscal year ending September 30, 1980, under subsection (1) is less than the amount needed to make grants for that fiscal year in accordance with such sentences to all States with approved applications, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with the preceding sentence as the amount appropriated under subsection (1) bears to the amount needed to make grants in accordance with such sentence for such fiscal year to all States with approved applications.

"(2) The total amount of grants made to any State under subsection (a) for any fiscal year to assist it in providing a program described in such subsection shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $0.50 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1982, 5 per centum of the amount of State and local expenditures for preventive health services within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(ii) may not be less than the product of $0.25 and the population of the State, except as provided in subsection (c)(3).

Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for that fiscal year under subsection (1) is less than the amount needed to make grants for that fiscal year in accordance with such sentence to all States with approved application the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with such sentence as the amount appropriated under subsection (1) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States with approved application.

"(e) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or over-

payments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(f) The Secretary, at the request of a State which is a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which a grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

"(g)(1) Each State which is a recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit. Recordkeeping.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each State which is a recipient of a grant under subsection (a) that are pertinent to such grant. Audit, authority.

"(h)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this subsection shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(i) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the causes of mortality and morbidity referred to in subsection (a); on the amount of funds obligated under grants under such subsection in the preceding fiscal year to assist the States in operating programs described in such subsection; and on the effectiveness of the programs assisted under grants under such subsection. 42 USC 300u–4.

"(j)(1) For purposes of subsection (a), the term 'primary prevention of causative conditions' means the prevention of the development of causative conditions in healthy individuals. Definitions.

"(2) For purposes of subsection (a), the term 'secondary prevention of causative conditions' means the early detection, referral for diag-

nosis and treatment, or follow-up for compliance with treatment of causative conditions in asymptomatic individuals.

"(3) For purposes of subsection (d)(2), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health authorities for preventive health services but excludes expenditures by such authorities—

"(A) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(B) for operating inpatient care facilities or construction.

"(4) For purposes of subsection (d), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

Appropriation authorization.

"(k)(1) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of planning and developing programs described in such subsection, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980.

"(2) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of providing the programs described in such subsection, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

"(3) Not less than 20 per centum of the total amount of grants received by a State under subsection (a) for providing a program described in such subsection shall be obligated by the State for operating the health communications component of such program. No funds appropriated under this paragraph shall be used (A) to assist States in meeting the costs of traditional law enforcement activities (including the prevention of homicide) as defined in regulations of the Secretary, or (B) for construction.".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

42 USC 247c note.

SEC. 204. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease persists in epidemic proportions in the United States;

(2) the number of persons affected by venereal disease and reported to public health authorities is only a fraction of those actually affected;

(3) the incidence of venereal disease continues to be particularly high among American youth, ages fifteen to twenty-nine, and among populations in metropolitan areas;

(4) venereal disease accounts for severe permanent disabilities and sometimes death in newborns and causes reproductive dysfunction in women of childbearing age;

(5) it is conservatively estimated that the public cost of health care for persons suffering from complications of venereal disease exceeds one-half billion dollars annually;

(6) the number of trained Federal venereal disease prevention and control personnel has fallen to a dangerously inadequate level;

(7) no vaccine for syphilis, gonorrhea, or any other venereal disease has yet been developed, nor does a blood test for the detection of asymptomatic gonorrhea in women exist, nor are safe and effective therapeutic agents available for some other venereal diseases;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup have all been found to be effective venereal disease prevention and control methodologies;

(9) skilled and knowledgeable health care providers, informed and concerned individuals and active, well-coordinated voluntary groups are fundamental to venereal disease prevention and control;

(10) biomedical research toward improved diagnostic and therapeutic tools is of singular importance to the elimination of venereal disease; and

(11) an increasing number of sexually transmissible diseases besides syphilis and gonorrhea have become a public health hazard.

(b)(1) Subsection (f) of section 318 is repealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively. Repeal. 42 USC 247c.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds". 42 USC 247b.

(c)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $51,500,000 for the fiscal year ending September 30, 1980, and $59,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence." Appropriation authorization.

(2) Subsection (b) of such section is amended (A) by striking out "(1)" and paragraph (2), (B) by inserting "and public information and" after "demonstration," and (C) by striking out "and training". 42 USC 247c.

(d)(1) Section 318(c) is amended—

(A) by inserting "also" after "The Secretary is" in paragraph (1),

(B) by striking out "and public" in clause (D) of paragraph (1) and inserting in lieu thereof "(including appropriate allied health personnel)", and

(C) by inserting ", training and clinical skills improvement" before "activities" in clause (D) of paragraph (1).

(2) Section 318(c) is further amended (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), (4), and (5), respectively.

GENETIC DISEASES

SEC. 205. (a) Section 402 of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act is amended by striking out all following "diseases," and substituting "and genetic conditions, such as Sickle Cell anemia, Cooley's Anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or genetically caused mental disorders.". 42 USC 300b note.

(b) Section 1101(a) is amended by inserting "plan," after "projects to" in paragraph (1). 42 USC 300b.

42 USC 300b-3.

(c)(1) Section 1104(a) is amended by inserting the following before the period at the end of the first sentence: ", including assurances for an evaluation whether performed by the applicant or by the Secretary. Such grant or contract may be made available on less than a statewide or regional basis".

(2) Section 1104 is amended by adding at the end thereof the following new subsection:

42 USC 300b.

"(d) In making any grant or entering into any contract under section 1101 the Secretary shall have developed a procedure under which persons from among members of the general public and from among leading medical or scientific authorities (acting as an advisory group, task force, or other entities appointed by the Secretary) knowledgeable about genetic diseases or conditions will have the opportunity on a regular basis to make recommendations to the Secretary.".

(d)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

42 USC 300b-6.

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

Grants or contracts.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(e)(1) Section 1101(b) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$17,500,000 for the fiscal year ending September 30, 1979, $21,500,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

HEMOPHILIA

42 USC 300c-21.

SEC. 206. (a) Section 1131(f) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "$4,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981".

42 USC 300c-22.

(b) Section 1132(e) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the

following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 207. (a) Part D of title III (as amended by section 113(a) of this Act) is amended by inserting after subpart II the following: Grants. *Ante*, p. 3562.

"Subpart III—Home Health Services

"HOME HEALTH SERVICES

"SEC. 339. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies. Demonstration projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation. 42 USC 255. 42 USC 1395x.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe. Applications.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981. Appropriation authorization.

"(b)(1) The Secretary may make grants to and enter into contracts with public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act). Grants and contracts.

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe. Applications.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments,

and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Appropriation authorization.

"(4) There are authorized to be appropriated for grants under this subsection $1,500,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,500,000 for the fiscal year ending September 30, 1981.".

Repeal. 42 USC 1395x note.

(b) Effective October 1, 1978, section 602 of Public Law 94-63 is repealed.

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

SEC. 208. (a) Part A of title III is amended by adding after section 315 (added by section 203 of this Act) the following new section:

Ante, p. 3578.

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

Grants. 42 USC 247a.

"SEC. 316. (a)(1)(A) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs. The Secretary may also make such grants to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

"(B) Each program for which a grant is made under this subsection shall afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

Definitions.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalence of lead-based paint poisoning among children;

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental lead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdivisions of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, the territories and possessions of the United States. "Units of general local government."

Followup programs described in subparagraph (A) (iii) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide— Grant applications.

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c); 42 USC 300m-3.

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

No grant may be made under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit. Recordkeeping.

Audit, authority.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

Report to Congress.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

Appropriation authorization.

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981.".

Repeals. 42 USC 4801, 4811, 4844, 4845. 42 USC 4846.

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

Study. 42 USC 247a note. Report to Congress.

SEC. 209. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

42 USC 300d-2.

SEC. 210. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

42 USC 300d-3.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

42 USC 300d-5.

(c) Subparagraph (B) of section 1206(b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

42 USC 300d-1, 300d-4. 42 USC 300d-6.

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

Establishment. 42 USC 289d note.

SEC. 211. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scien-

tific, behavioral, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of children and expectant mothers in the United States;

(B) develop a comprehensive national plan for achieving these goals and otherwise promoting the health of children in the United States; and

(C) transmit to the Secretary, to the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the Committee on Human Resources of the Senate, not later than eighteen months after the date of the enactment of this Act, a report detailing the comprehensive national plan it has developed and recommendations for such adminsitrative, legislative, and other actions as it deems appropriate to implement this plan and to otherwise promote the health of children in the United States.

Report to Secretary and congressional committees.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

National plan.

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies, the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

(c)(1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, dental, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

Membership.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

Term of office.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

Compensation.

5 USC 5332 note.

(4) Each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e)(1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees as it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b)(1)(C).

Appropriation authorization.

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

TITLE III—REVIEW

REVIEW

42 USC 300a–29. 42 USC 300*l*–2, 300m–3.

SEC. 301. A grant or contract made under this Act shall be considered, for purposes of sections 1513(e) and 1524(c)(6) of the Public Health Service Act, to be a grant or contract made under that Act.

TITLE IV—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

42 USC 247b–1.

SEC. 401. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs in both rural and urban areas for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981, and on January 1 of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program. Report to congressional committees.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982. Appropriation authorization.

SEC. 402. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking and the use of alcoholic beverages among children and adolescents. Such a program shall include— Smoking and alcoholic beverages program. 42 USC 247b–2.

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking and the use of alcoholic beverages among children and adolescents, with special emphasis on children aged twelve or below; and

(2) grants to States or political subdivisions of States to assist them in meeting the costs of demonstrations and evaluations of community or school-based programs designed to deter smoking and the use of alcoholic beverages among children and adolescents.

(b) With respect to grants under paragraph (a)(2) the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317. *Ante*, p. 3574.

(c)(1) For the purpose of making payments for the undertaking or support of research under paragraph (a)(1), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization.

(2) For the purpose of making payments under paragraph (a)(2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981.

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide; and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes. Study. 42 USC 287b note.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action. Report to Congress.

SEC. 404. (a) The Secretary, acting through the National Center for Health Statistics, shall submit to Congress on December 1, 1980, and on December 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the National disease prevention data profile, submittal to Congress. 42 USC 242p.

prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

42 USC 244–k, 242m.

TITLE V—OFFICE OF PHYSICAL FITNESS AND SPORTS MEDICINE

ESTABLISHMENT OF OFFICE

SEC. 501. Section 1706 of the Public Health Service Act (42 U.S.C. 3000–3005) is amended to read as follows:

"OFFICE OF HEALTH INFORMATION, HEALTH PROMOTION AND PHYSICAL FITNESS AND SPORTS MEDICINE

42 USC 300u–5.

"SEC. 1706. (a) The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information, Health Promotion and Physical Fitness and Sports Medicine which shall—

"(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) coordinate its activities with similar activities of organizations in the private sector;

"(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

"(4) support projects, conduct research, and disseminate information in the areas of physical fitness and sports medicine.

"(b) The Office shall also—

"(1) assist, and foster research, investigations, and model projects on the nature of physical fitness, the development of physical fitness, and the relation of physical fitness to health;

"(2) assist, and foster research and investigations into the utilization of sports medicine, the development of sports medicine

techniques, and the application of sports medicine throughout organized systems of athletic competition and in personal physical fitness development activities at every age and competition level;

"(3) foster and assist research into the proper role of nutrition in physical fitness programs;

"(4) promote the coordination of research and model programs conducted by the Office with similar programs conducted by other agencies of the Federal Government and other public and private organizations;

"(5) communicate the results of the studies in the widest possible manner to the American people and to special groups with particular interests and special needs in the development of physical fitness, such as young children, the handicapped, senior citizens, and workers in occupations which present special risks of physical disability; and

"(6) have a Director appointed by the Secretary.

"(c) The President's Council on Physical Fitness shall serve as the Advisory Body of the Office on all matters related to physical fitness. The activities of the Office and guidelines for the physical fitness programs supported by the Office shall be in conformance to guidelines developed by the President's Council on Physical Fitness.

SEC. 502. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"PROJECT GRANTS TO STATE COUNCILS ON PHYSICAL FITNESS FOR PHYSICAL FITNESS IMPROVEMENT

"SEC. 1707. (a) The Office may make grants to each State for the establishment by the Governor of a State Council on Physical Fitness or appropriate similar administrative unit. 42 USC 300u-6.

"(b) The State Council shall consist of at least fifteen members, chosen by the Governor to serve terms of four years, and appointed from among persons who have distinguished records in the areas of physical fitness, sports medicine, public health, athletic competition, education, labor, business management, and nutrition.

"(c) It shall be the duty of the State Council on Physical Fitness to—

"(1) promote the development of physical fitness with the assistance of local health and educational agencies, business, labor unions, health action and advocacy groups, religious, fraternal and social organizations, community based multiservice recreational agencies, and health maintenance organizations;

"(2) assess the physical fitness and nutrition status of residents of the State;

"(3) plan and administer a program of grants-in-aid to support physical fitness projects, research projects, and public information efforts to promote the development of physical fitness for the residents of the State;

"(4) evaluate and improve the availability and quality of sports medicine and athletic trainer programs in the State.

"(d) Each State shall be eligible for a grant under this section in an amount which is equal to not less than 1 per centum of the funds appropriated for the purposes of this section. The first $75,000 of grant funds to each State under this section shall not be made until an amount equal to the amount of the grant is made available to the State for the purposes of this section from non-Federal sources.

"(e) Funds made available for the purposes of this section shall not be used to supplant non-Federal funds.

"(f) Fifty per centum of the funds appropriated under section 503(d) of this Act shall be allocated for the purposes of this section.

42 USC 221.

"(g) In submitting an annual application for funds under this section the applicant must provide a description of all projects intended to be funded under subsection (c)(3).

"PROJECT GRANTS FOR PHYSICAL FITNESS IMPROVEMENT AND RESEARCH PROJECTS

42 USC 300u-7.

"SEC. 1708. (a) The Director of the Office may make grants or enter into contracts with public or private entities to conduct research and establish model projects with regard to improvement of physical fitness.

"(b) Projects encompassed under this section may encompass—

"(1) entire small communities, both urban and rural,

"(2) educational settings for a variety of age groups,

"(3) occupational settings,

"(4) groups of handicapped individuals, and

"(5) groups of senior citizens.

Appropriation authorization.

"(d) There are authorized to be appropriated for the purposes of section 1707, section 1706, and this section $6,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981.

"NATIONAL PROGRAM ON SPORTS MEDICINE RESEARCH

42 USC 300u-8.

"SEC. 1709. (a) The Office shall establish a program of project grants to conduct research into the problem of athletic injuries with specific concentration on frequency of injuries, seriousness of injuries, the development of training and conditioning techniques and the development of athletic protective equipment to enable participants to avoid injuries to the maximum extent feasible, recovery rates, and problems associated with full recovery from athletic injuries.

Clearinghouse.

"(b) The Office shall, in cooperation with the President's Council on Physical Fitness, establish a Clearinghouse on Sports Medicine Research to disseminate the results of that research to practitioners in relevant fields of health care and physical fitness.

Appropriation authorization.

"(c) There are authorized to be appropriated to carry out the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, and $1,500,000 for the fiscal year ending September 30, 1981.

"CONFERENCE ON EDUCATION IN LIFETIME SPORTS

42 USC 300u-9.

"SEC. 1710. (a) The Office and the Office of Education of the Department of Health, Education, and Welfare shall conduct a joint conference during 1979 on the teaching and support of educational programs in lifetime sports by secondary and postsecondary educational institutions.

"(b) The purpose of the Conference shall be to explore current programs on lifetime sports within these institutions and to support the expansion of such educational programs in other institutions of secondary and postsecondary education.".

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

Adolescent pregnancies. 42 USC 300a-21.

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low-birth-weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing schooling; a greater likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefor should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

(b) Therefore, the purposes of this Act are—

(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

(2) to expand the availability of such services that are essential to that objective; and

(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services.

DEFINITIONS

42 USC 300a-22.

SEC. 602. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(2) "eligible person" means—

(A) with regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of the services described in paragraphs (4)(A), (4)(B), and (4)(G) and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) "eligible grant recipient" means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network through which all core services would be provided;

(4) "core services" means those services which shall be provided by all grantees which are—

(A) pregnancy testing, maternity counseling, and referral services;

(B) family planning services, except that such services for nonpregnant adolescents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

(C) primary and preventive health services including pre- and post-natal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services in sexuality and family life (including sex education), and including family planning information;

(H) referral to appropriate educational and vocational services;

(I) adoption counseling and referral services; and

(J) referral to other appropriate health services.

(5) "supplemental services" means those services which may be provided and are—

(A) child care sufficient to enable the adolescent parent to continue her education or to enter into employment;

(B) consumer education and homemaking;

(C) counseling for extended family members of the eligible person;

(D) transportation; and

(E) such other services consistent with the purposes of this Act as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(6) "adolescent parent" means a parent under the age of 21.

AUTHORITY TO MAKE GRANTS

42 USC 300a–23.

SEC. 603. The Secretary may make grants to further the purposes of this Act to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 606 for projects which the Secretary determines will help communities provide core and supplemental services in easily accessible

42 USC 291f.

locations, assure a continuity of services and appropriate assistance, and coordinate, integrate, and establish linkages among such services. Projects shall, as appropriate, provide, supplement, or improve the quality of such services, and in providing services, give primary emphasis to adolescents who are 17 years of age or under and are pregnant or who are parents.

USES OF GRANTS

SEC. 604. (a) Funds provided under this Act may be used by grantees only to— 42 USC 300a-24.

(1) provide core services to eligible persons;

(2) coordinate, integrate, and provide linkages among providers of core, supplemental, and other services for eligible persons in furtherance of the purposes of this Act;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention and pregnancy-related services for adolescents (including family life and sex education), which will further the objectives of this Act; and

(5) fulfill assurances required for grant approval by section 606.

(b) Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 606, which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services. 42 USC 291f.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 605. (a) In approving applications for grants under this Act, the Secretary shall give priority to applicants who— 42 USC 300a-25.

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;

(3) show evidence of having the ability to bring together a wide range of needed care and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;

(4) will utilize to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and

(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the project.

(b)(1) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services.

Limitation.

(c)(1) A grantee may not receive funds under this Act for a period in excess of 5 years.

(2) Subject to paragraph (3), a grant made under this Act may not exceed 70 percent of the costs of a project assisted under this Act for the first and second years of the project. In each year succeeding the second year of the project the amount of the Federal grant under this Act shall decrease by no less than 10 percent of the amount of the Federal grant under this Act in the preceding year.

Waiver.

(3) The Secretary may waive the limitation specified in paragraph (2) in any year in accordance with criteria established by regulation.

REQUIREMENTS FOR GRANT APPROVAL

42 USC 300a-26.

SEC. 606. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention and pregnancy-related services (including family life and sex education), and including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of how all of the core services will be provided in the project using funds under this Act or otherwise provided by the grantee, to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how

access and appropriate referral to those services (such as medicaid; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided including a description of the plan to coordinate such services with activities funded under this Act;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived, together with assurances that the applicant will make every reasonable effort to collect reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program;

(8) a description of the grantee's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(9) a description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, of the proposed use of the funds provided under a grant provided under this Act and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) assurances that the applicant will have an ongoing quality assurance program;

(12) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(13) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(14) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement; 42 USC 1396.

(15) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program; 42 USC 701.

(16) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under title XX of the Social Security Act; 42 USC 1397.

(17) assurances that the applicant (A) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (B) has made and will continue to make every reasonable effort (i) to secure from patients payment for services in accordance with such schedules, and (ii) to collect reimbursement for health or other services on the basis of the full amount of fees and payments for such services without application of any discount, and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

(18) assurances that the applicant will make maximum use of funds available under title X of the Public Health Service Act; 42 USC 300.

(19) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(20) assurances that fees collected by the applicant for services rendered in accordance with this Act shall be used by the applicant to further the purposes of this Act;

(21) assurances that unemancipated minors requesting services from the applicant will be encouraged, whenever feasible, to consult with their parents with respect to such services;

(22) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options, regarding her pregnancy;

(23) assurances that primary emphasis for services paid for with funds under this Act shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means; and

(24) assurances that funds received under this Act shall not supplant funds received from any other Federal, State, or local program or any private sources of funds.

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

(c) The Secretary shall provide the Governor of each State copies of applications received for grants under this Act from applicants within such State. The Governor shall have a period of 60 days from receipt of such copies to review and submit comments to the Secretary.

(d) No application submitted for a grant under this Act may be approved unless the Secretary is satisfied that core services shall be available through the grantee within a reasonable time after such grant is received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980 and $75,000,000 for the fiscal year ending September 30, 1981. 42 USC 300a-27.

FUND RESTRICTION

SEC. 608. No funds for grants made under the provisions of this Act may be used for payment for the performance of an abortion. 42 USC 300a-28.

TITLE VII—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 701. (a) The Secretary shall coordinate, consistent with provisions of other Federal law respecting coordination of such policies and programs, Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall— 42 USC 300a-41.

(1) require that grantees under title VI report periodically on Federal, State, and local programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents; 42 USC 291.

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the State and local level will be facilitated;

(3) recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing Federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related services.

(b) A State using funds provided under title VI to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title VI.

(c) The Secretary shall set aside, in each fiscal year, not less than 1 per centum nor more than 3 per centum of the funds appropriated under this Act for evaluation of activities under titles VI and VII and shall designate a program unit to carry out such evaluations, which shall be a program unit other than the unit having primary administrative responsibility for carrying out the grant program authorized by this Act. The Secretary shall submit to the appropriate committees of the Congress, not later than February 1, 1981, and periodically thereafter copies of summaries of all such evaluations. 42 USC 292.

(d) The program unit responsible for carrying out the activities under titles VI and VII shall report directly to the Assistant Secretary for Health in consultation and in coordination with the Deputy Assistant Secretary for Population Affairs.

TITLE VIII—STUDY OF ADOLESCENT PREGNANCY

Contract authority.
42 USC 300a-21 note.

SEC. 801. (a) The Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies. The study shall evaluate the effectiveness of existing programs relating to health, education, and public welfare, as they relate to this problem, and shall include suggestions as to the most effective means for reducing or eliminating unwanted adolescent pregnancies. The Secretary shall report the results of such study to the Congress not later than one year after the date of the enactment of this Act.

Report to Congress.

Appropriation authorization.

(b) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1191 accompanying H.R. 12370 (Comm. on Interstate and Foreign Commerce) and No. 95-1799 (Comm. of Conference).
SENATE REPORT No. 95-860 (*Comm. on Human Resources*).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 25, H.R. 12370 considered and failed of passage in House.
Sept. 29, considered and passed Senate.
Oct. 11, 13, H.R. 12370 considered and passed House; passage vacated, and S. 2474, amended, passed in lieu.
Oct. 15, Senate and House agreed to conference report.

Public Law 95-627
95th Congress

An Act

To extend and amend the special supplemental food program and the child care food program, and for other purposes.

Nov. 10, 1978
[S. 3085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Amendments of 1978".

Child Nutrition Amendments of 1978.
42 USC 1771 note.

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

42 USC 1766.

"Institution."

Guidelines.

Eligibility.

"(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

42 USC 1397.

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of an effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

42 USC 1771 note.

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

42 USC 1779.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

42 USC 1758.

"(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

42 USC 1773.

"(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act, and the national average payment rate for free lunches under section 11 of this Act; and

42 USC 1759a.

"(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

National average payment rate.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act

42 USC 1754.

and the national average payment rate for reduced-price lunches under section 11 of this Act; and 42 USC 1759a.

"(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers. National average payment rate.

"(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f) (3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying— 42 USC 1758.

"(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966; 42 USC 1773.

"(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the national average payment rate for lunches under section 4 of this Act; and

"(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers. National average payment rate.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f) (3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii) (I) the number of lunches and suppers served by

42 USC 1754.

(II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and

"(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection;

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

42 USC 1758.

"(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

42 USC 1773.

"(ii) (I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act;

42 USC 1759a.

"(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

"(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i) (I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii) (I) the number of lunches and suppers served to such children by (II) the national average payment rate for lunches under section 4 of this Act; and

"(iii) (I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

"(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection (f) (4) of this section.

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or

26 USC 1 *et seq.*

is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Notification.

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section. Hearing.

"(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect. Notification.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c) (1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing such meals. Maximum per meal reimbursement rates.

"(3) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on (A) the national average payment rates for lunches under section 4 of this Act; (B) the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; (C) the national average payment rates for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and (D) the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978. 42 USC 1758. 42 USC 1773.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost

Administrative expenses, reimbursement.

of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

Advance payments.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

Agricultural commodities.

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child

care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting: 42 USC 1759a.

"(1) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

"(3) the action program, the State proposes to undertake to use the Federal funds provided under this section, including the State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family or group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measure progress in achieving program goals.

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

"(k) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party. Regulations.

"(l) (1) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels of administrative payments that reflect the costs of institutions participating in the program. Studies.

"(2) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

"(3) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"(4) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (1), (2), and (3) of this subsection. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

Report and recommendations to Congress.

"(m) In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

Equipment assistance.

"(n)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

Allocation.

"(2) If any State cannot use all of the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

Criteria.

"(3) Each State shall establish criteria for determining institutions that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within thirty days of notification by the Secretary to the State of the amount of funds available under this subsection, the State shall

notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this subsection. Standards.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all the requirements for participation under this section, except for the licensing requirements, and (B) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this section. Regulations.

"(o) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection. 42 USC 1397.

"(p) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(q) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary. Recordkeeping. Inspection and audit.

"(r) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.". Appropriation authorization.

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program 42 USC 1786.

authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

Definitions.

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to six months after termination of pregnancy.

"(11) 'Pregnant women' means women determined to have one or more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"(c)(1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

"(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

Regulations.

7 USC 612c note, 1307 note.

"(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

Program participation.

Income eligibility.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school meals under section 9 of the National School Lunch Act.

42 USC 1758.

Certification.

"(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

Nutrition education.

"(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

Training.

Evaluation.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

State operation and administration plan, submittal to Secretary of Agriculture.

"(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such

agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section.

The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977. 7 USC 612c note.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan. Hearings.

"(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction. Eligible migrants.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary. Recordkeeping.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application. Notification. Notification.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the pro- Notification.

gram within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas.

Hearing.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

Standards.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

Regulation.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

"(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

Appropriation authorization.

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the

fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies. Administrative funds, allocation.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section. Guidelines.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive

of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

Report.

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

National Advisory Council on Maternal, Infant, and Fetal Nutrition, establishment, membership.
7 USC 612c note, 1307 note.

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the 'Council') composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

Terms.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

Study.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

Report to the President and Congress.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions. Assistance.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings. Travel and subsistence expenses, reimbursement.

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.". 7 USC 1431. 7 USC 612c.

REDUCED-PRICE REIMBURSEMENTS

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater". 42 USC 1759a.

USING COMMODITY PRICES FOR COMMODITY INDEXES

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1966 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk" and by amending the fifth sentence thereof to read as follows: "Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request.". 42 USC 1772.

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.". 42 USC 1755.

42 USC 1759a. (c) Section 11(a) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

42 USC 1761. (d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

42 USC 1760. SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end thereof a new subsection (h) as follows:

42 USC 1771 note. "(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.".

Equipment Assistance

42 USC 1774. (b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out "$40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) to read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in lieu thereof "that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program";

(5) striking out "without the facilities to prepare and cook hot meals or receive hot meals" all other times that phrase appears in subsection (e) and inserting in lieu thereof "moving toward the initiation of the service of breakfasts"; and

(6) striking out "33⅓" in subsection (e) and inserting in lieu thereof "40".

Especially Needy

42 USC 1773. (c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and

those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

ALTERNATE FOODS

(d) The Secretary shall not limit or prohibit, during the school year 1978–79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978–79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification.

42 USC 1773 note.

Notification.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

42 USC 1776.

42 USC 1754, 1759a, 1766. 42 USC 1772–1774.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

42 USC 1751 note. 42 USC 1761, 1766. *Ante*, p. 3611.

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon

funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

42 USC 1751 note.
Ante, p. 3611.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

42 USC 1761.

"(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

42 USC 1761.

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.".

INCOME POVERTY GUIDELINES

42 USC 1758.

SEC. 8. Section 9(b)(1) of the National School Lunch Act is amended by—

(1) amending the second sentence to read as follows: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977

Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY OF MENU CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"STUDY OF MENU CHOICE

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.". 42 USC 1769c.

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows: 42 USC 1760.

"(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States. 42 USC 1754, 1759a. 42 USC 1773.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.". Penalty. 42 USC 1771 note.

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"School year." "(7) 'School year' means the annual period from July 1 through June 30.".

42 USC 1784. (c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

42 USC 1757. (d)(1) Section 8 of the National School Lunch Act is amended by inserting after the second sentence the following new sentence: "The terms 'child' and 'children' as used in this Act shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.".

Ante, p. 3611.

42 USC 1761. (2) Section 13(a)(1)(D)(ii) of the National School Lunch Act is amended by inserting "or nonprofit private" after "public".

"Child" or "children." 42 USC 1784. *Ante*, p. 3611. (3) Section 15 of the Child Nutrition Act of 1966 is amended by adding at the end thereof a new subsection as follows:

"(f) Except as used in section 17 of this Act, the terms 'child' and 'children' as used in this Act, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped.".

SCHOOL LUNCH PROGRAM PILOT PROJECTS

42 USC 1769. SEC. 11. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in not more than fourteen school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

Reimbursement. "(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

42 USC 1758.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection not later than six months after the conclusion of such projects. Report to congressional committees.

"(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.". Appropriation authorization. 42 USC 1754, 1759a.

PURCHASES OF SEAFOOD PRODUCTS FOR SCHOOL LUNCHES

SEC. 12. (a) Section 6(e) of the National School Lunch Act is amended by inserting in the second sentence "(which may include domestic seafood commodities and their products)" after "alternatives". 42 USC 1755.

(b) Section 14(a)(1) of the National School Lunch Act is amended by inserting "(which may include domestic seafood commodities and their products)" after "such section". 42 USC 1762a.

IMPLEMENTATION

SEC. 13. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within one hundred and twenty days of the date of enactment of this Act. Regulations. 42 USC 1786 note.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act. *Ante*, pp. 3603, 3611.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective Janary 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979, except that the 42 USC 1755 note.

39-194 O—80—pt. 3——63 : QL3

Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 1979.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1153 accompanying H.R. 12511, Pt. I (Comm. on Education and Labor) and Pt. II (Comm. on Appropriations).

SENATE REPORTS: No. 95-884 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1020 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 21, considered and passed Senate.

Oct. 10, H.R. 12511 considered in House.

Oct. 15, considered and passed House, amended.

Oct. 15, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 10, Presidential statement.

Public Law 95-628
95th Congress

An Act

To revise miscellaneous timing requirements of the revenue laws, and for other purposes.

Nov. 10, 1978
[H.R. 7320]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et. seq.*

SEC. 2. PERIOD FOR PAYMENT TO QUALIFY FOR DEDUCTIBILITY OF CERTAIN EXPENSES PAID TO RELATED TAXPAYERS.

(a) AMENDMENT OF SECTION 267.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

26 USC 267.

"(e) RULE WHERE LAST DAY OF 2½ MONTH PERIOD FALLS ON SUNDAY, ETC.—For purposes of subsection (a) (2)—

"(1) where the last day of the 2½ month period falls on Saturday, Sunday, or a legal holiday, such last day shall be treated as falling on the next succeeding day which is not a Saturday, Sunday, or a legal holiday, and

"(2) the determination of what constitutes a legal holiday shall be made under section 7503 with respect to the payor's return of tax under this chapter for the preceding taxable year."

26 USC 7503.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to payments made after the date of the enactment of this Act.

26 USC 267 note.

SEC. 3. INCREASE IN BASIS FOR AMOUNT OF GAIN RECOGNIZED TO THE DISTRIBUTING CORPORATION.

(a) AMOUNT DISTRIBUTED.—Clause (ii) of section 301(b)(1)(B) (relating to amount distributed in the case of corporate distributees) is amended to read as follows:

26 USC 301.

"(ii) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain recognized to the distributing corporation on the distribution."

(b) BASIS.—Subparagraph (B) of section 301(d)(2) (relating to basis in case of corporate distributees) is amended to read as follows:

"(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain recognized to the distributing corporation on the distribution."

(c) EFFECT ON EARNINGS AND PROFITS.—Paragraph (3) of section 312(c) (relating to adjustments for liabilities, etc.) is amended to read as follows:

26 USC 312.

"(3) any gain recognized to the corporation on the distribution."

26 USC 301 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act.

SEC. 4. 60-DAY EXTENSION OF 12-MONTH PERIOD UNDER SECTION 337 WHERE THERE IS INVOLUNTARY CONVERSION.

26 USC 337. (a) AMENDMENT OF SECTION 337.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR INVOLUNTARY CONVERSIONS.—If—

"(1) there is an involuntary conversion (within the meaning 26 USC 1033. of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (a),

"(2) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the first day of the 12-month period, and

"(3) such corporation elects the application of this subsection at such time and in such manner as the Secretary may by regulations prescribe,

then for purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

26 USC 337 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to dispositions of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act in taxable years ending after such date.

SEC. 5. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

26 USC 1372. (a) AMENDMENT OF SECTION 1372(c).—Subsection (c) of section 1372 (relating to where and how subchapter S election may be made) is amended to read as follows:

"(c) WHEN AND HOW MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) TREATMENT OF CERTAIN LATE ELECTIONS.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as having been made for the following taxable year.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 1372(e)(1)(A) (relating to termination in the case of new shareholders) is amended to read as follows:

"(A) an election under subsection (a) made by a small business corporation shall terminate if any person who is not a shareholder in such corporation on the day on which the election was made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary

may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquired the stock.".

(2) The last sentence of section 1372(a) (relating to eligibility for election by a small business corporation) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.". 26 USC 1372.

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would have taken effect)" after "in the corporation".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to elections made more than 60 days after the date of the enactment of this Act for taxable years beginning more than 60 days after such date of enactment. 26 USC 1372 note.

(d) RETROACTIVE APPLICATION OF "PRECEDING TAXABLE YEAR" AMENDMENT.— 26 USC 1372 note.

(1) IN GENERAL.—If—

(A) a small business corporation has treated itself in its return as an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1954 for any taxable year beginning before the date 60 days after the date of the enactment of this Act (hereinafter in this subsection referred to as the "election year"),

(B) such treatment was pursuant to an election which such corporation made during the taxable year immediately preceding the election year and which, but for this subsection, would not be effective, and

(C) at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe by regulations—

(i) such corporation makes an election under this paragraph, and

(ii) all persons (or their personal representatives) who were shareholders of such corporation at any time beginning with the first day of the election year and ending on the date of the making of such election consent to such election, consent to the application of the amendment made by subsection (a), and consent to the application of paragraph (3) of this subsection,

then paragraph (1) of the first sentence of section 1372(c) of such Code (as amended by subsection (a)) shall apply with respect to the taxable years referred to in paragraph (2) of this subsection.

(2) YEARS TO WHICH AMENDMENT APPLIES.—In the case of an election under paragraph (1) by any corporation, the taxable years referred to in this paragraph are—

(A) the election year,

(B) all subsequent taxable years of such corporation, and

(C) in the case of each person who was a shareholder of such corporation at any time during any taxable year described in subparagraph (A) or (B)—

(i) the first taxable year of such person ending with or within a taxable year described in subparagraph (A) or (B), and

(ii) all subsequent taxable years of such person.

(3) STATUTE OF LIMITATIONS FOR ASSESSMENT OF DEFICIENCY.—If the assessment of any deficiency in income tax resulting from

the filing of an election under paragraph (1) for a taxable year ending before the date of such filing would be prevented, but for the application of this paragraph, before the expiration of one year after the date of such filing by any law or rule of law, then such deficiency (to the extent attributable to such election) may be assessed at any time before the expiration of such one-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

SEC. 6. TIME FOR FILING INCOME TAX RETURNS IN THE CASE OF ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).

26 USC 6072.

(a) AMENDMENT OF SECTION 6072.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end thereof the following new subsection:

"(e) ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).—In the case of an income tax return of an organization exempt from taxation under section 501(a) (other than an employees' trust described in section 401(a)), a return shall be filed on or before the 15th day of the 5th month following the close of the taxable year."

26 USC 501.

26 USC 401.

26 USC 6072 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 7. PERIOD FOR DETERMINING WHETHER A TAXPAYER IS A FARMER OR FISHERMAN FOR PURPOSES OF THE ESTIMATED TAX.

26 USC 6073.

(a) AMENDMENT OF SECTION 6073(b).—Subsection (b) of section 6073 (relating to time for filing declaration of estimated tax in case of farmers and fishermen) is amended to read as follows:

"(b) FARMERS OR FISHERMEN.—Declarations of estimated tax required by section 6015 from any individual—

26 USC 6015.

"(1) whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, or

"(2) whose gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least two-thirds of the total gross income from all sources shown on such return,

may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the taxable year succeeding the taxable year."

26 USC 6073 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to declarations of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 8. PERIOD OF LIMITATIONS FOR CREDIT OR REFUND WITH RESPECT TO CERTAIN CARRYBACKS.

(a) NET OPERATING LOSS OR CAPITAL LOSS CARRYBACKS.—Subparagraph (A) of section 6511(d)(2) (relating to special period of limitation with respect to net operating loss or capital loss carrybacks) is amended by striking out "with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of" and inserting in lieu thereof "3 years after the time prescribed by law for filing the return (including extensions thereof) for".

26 USC 6511.

(b) INVESTMENT CREDIT AND OTHER CREDIT CARRYBACKS.—

(1) Paragraph (4) of section 6511(d) (relating to special period of limitation with respect to investment credit carrybacks) is amended to read as follows:

"(4) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO CERTAIN CREDIT CARRYBACKS.—

"(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding. 26 USC 7122.

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any investment credit carryback, work incentive program credit carryback, and new employee credit carryback."

(2) Subsection (d) of section 6511 is amended— 26 USC 6511.

(A) by striking out paragraphs (7) and (9), and

(B) by redesignating paragraph (8) as paragraph (7).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 6501.— 26 USC 6501.

(A) Subsection (j) of section 6501 (relating to investment credit carrybacks) is amended to read as follows:

"(j) CERTAIN CREDIT CARRYBACKS.— 26 USC 6501.

"(1) IN GENERAL.—In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for 26 USC 6213.

the taxable year of the unused credit which results in such carryback may be assessed, or with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

"(2) CREDIT CARRYBACK DEFINED.—For purposes of this subsection, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

26 USC 6511.

(B) Subsection (m) of section 6501 (relating to tentative carryback adjustment assessment period) is amended by striking out "subsection (h), (j), (o), or (p)" each place it appears and inserting in lieu thereof "subsection (h) or (j)".

26 USC 6501.

(C) Section 6501 is amended by striking out subsections (o) and (p).

26 USC 6601.

(2) AMENDMENTS OF SECTION 6601.—

(A) Paragraph (2) of section 6601(d) (relating to investment credit carryback) is amended to read as follows:

"(2) CERTAIN CREDIT CARRYBACKS.—

"(A) IN GENERAL.—If any credit allowed for any taxable year is increased by reason of a credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

"(B) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (d) of section 6601 is amended by striking out paragraphs (4) and (5).

26 USC 6611.

(3) AMENDMENTS OF SECTION 6611.—

(A) Paragraph (3) of section 6611(f) (relating to investment credit carryback) is amended to read as follows:

"(2) CERTAIN CREDIT CARRYBACKS.—

"(A) IN GENERAL.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the close of the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the close of such subsequent taxable year.

"(B) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (f) of section 6611 is amended by striking out paragraphs (4) and (5).

26 USC 6511 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 9. STAY OF COLLECTION OF PENALTY UNDER SECTION 6672 WHERE BOND IS FILED.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by striking out "Any person" and inserting in lieu thereof "(a) GENERAL RULE.—Any person" and by adding at the end thereof the following new subsection: 26 USC 6672.

"(b) EXTENSION OF PERIOD OF COLLECTION WHERE BOND IS FILED.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

"(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

"(B) files a claim for refund of the amount so paid, and

"(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. 26 USC 7421.

"(2) SUIT MUST BE BROUGHT TO DETERMINE LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims) for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

"(3) BOND.—The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

"(4) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court. 26 USC 6502.

"(5) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 7421 is amended by inserting "6672(b), 6694(c)," after "6213(a),". 26 USC 7421.

(2) Subsection (a) of section 7103 is amended by inserting after paragraph (3) the following new paragraph: 26 USC 7103.

"(4) For a bond to stay collection of a penalty assessed under section 6672, see section 6672(b)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to penalties assessed more than 60 days after the date of the enactment of this Act. 26 USC 6672 note.

SEC. 10. TEMPORARY SUSPENSION OF DUTY ON IMPORTS OF INSULATION.

19 USC 1202 app.

(a) IN GENERAL.—Subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 907.20 the following new item:

"	907.40	Boric acid (provided for in item 416.10, part 2B, schedule 4).....	Free	No change	On or before 6/30/79 "

(b) Such subpart B is amended by inserting before item 911.00 the following new items:

"	909.10	Mineral wool, in bulk, or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paperboard, or similar materials (provided for in item 522.81, part 1J schedule 5).....	Free	No change	On or before 6/30/79
	909.30	Glass fibers in bulk; glass fibers in the form of mats, batts, blankets, felts, pads, casings, and boards, all the foregoing, of a density not over 4 pounds per cubic foot, whether or not coated, impregnated, or bonded with glue, plastics, or other substances, or lined, backed, or supported with paper, paperboard, fabrics or similar materials, or with metal mesh or foil (provided for in item 540.71, part 3A, of schedule 5).....	Free	No change	On or before 6/30/79 "

19 USC 1202 app. note.

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 11. FONDATION JOSÉE ET RENÉ DE CHAMBRUN.

For the purpose of determining the liability for tax of Josée or René Chambrun, citizens of France, under chapter 12 of the Internal Revenue Code of 1954, and for the purpose of determining the liability for tax of the estate of the said Josée or René de Chambrun under chapter 11 of such Code, the Fondation Josée et René de Chambrun, Paris, France, shall be treated as if it were an organization described in sections 2522(b)(2) and 2106(a)(2)(A)(ii) of such Code, respectively.

26 USC 2501 *et seq.*
26 USC 2001 *et seq.*
26 USC 2522, 2106.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-645 (Comm. on Ways and Means).
SENATE REPORT No. 95-797 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 1, considered and passed House.
Vol. 124 (1978): Aug. 23, considered and passed Senate, amended.
Oct. 10, House concurred in certain Senate amendments, in others with amendments, and disagreed to Senate amendment No. 7.
Oct. 14, Senate concurred in House amendments.

Public Law 95-629
95th Congress

An Act

To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes.

Nov. 10, 1978
[S. 1829]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pennsylvania Avenue Development Corporation Act of 1972, amendment.
40 USC 871 note.

TITLE I

SEC. 101. The Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia;"; and by inserting "The Mayor" in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act; Board of Directors. 40 USC 872.

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of Chapter 53"; 40 USC 873.

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government."; 40 USC 874.

(f) in paragraph (b) of section 8: "Redevelopment Land Agency" wherever it occurs and by inserting in lieu thereof "government." 40 USC 877.

(2) by striking in paragraph (10) of section 6 of the figure "$50,000,000" and inserting in lieu thereof "$100,000,000" and by striking in that paragraph the following sentence: "The authority of the Corporation to issue obligations hereunder shall expire June 3, 1980, except that obligations may be issued at any time after the expiration of said period to provide funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period." and inserting in lieu thereof "The authority of the Corporation to issue obligations hereunder shall remain available without fiscal year limitation.". Powers of Corporation. 40 USC 875.

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereon in the development area. If the title to the street, road, highway, or

alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative expenses of the action. If the title to the street, road, highway, or alley so closed is not in the United States, the Mayor shall convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided*, That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

Real property, title transfers.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer agreement. The Director of the National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan.".

Appropriation authorization. 40 USC 885.

(4) By striking in subsection 17(a) all after the word "Corporation" and inserting in lieu thereof "$3,000,000 for the fiscal year ending September 30, 1979; $3,200,000 for the fiscal years ending September 30, 1980, and September 30, 1981; and $3,500,000 for the fiscal years ending September 30, 1982, and September 30, 1983."; and, by adding to subsection 17(b) after the amount "$38,800,000," the following: "for fiscal year 1979, $15,000,000, for fiscal year 1980, $35,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $30,000,000, and, for fiscal 1983, $35,000,000."; and by striking the following, "to remain available without fiscal year limitation through September 30, 1990:" and, by inserting in lieu thereof: "For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding years. Any amounts appropriated under this subsection shall remain available without fiscal year limitation.".

TITLE II

San Antonio Missions National Historical Park. Establishment. 16 USC 410ee.

SEC. 201. (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930-80,022-C and dated May 1978, which shall be on file

and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(b) For the purposes of this section, the Secretary is authorized—

Lands, acquisitions.

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Cooperative agreements.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided*, That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the constitutional provisions regarding the separation of church and state.

Submittal to Justice Department.

(c)(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition

Use and occupancy right, retention.

by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

"Improved property."

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

Administration.

San Antonio Missions Advisory Commission. Establishment. Membership.

(e)(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b)(2);

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public.

Chairman.

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

Compensation and expenses.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses

incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission in matters relating to the park and with respect to carrying out the provisions of this section. Consultation.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee. Termination.

(f) (1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands. Appropriation authorization.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park. Master plan, transmittal to congressional committees.

TITLE III

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section: 90 Stat. 1211.

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended. Appropriations, availability. 90 Stat. 1214.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of— "Excess funds." 90 Stat. 889. 90 Stat. 1415.

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later),

but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

Definition.

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled 'Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures', May, 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

Funds distribution, consultation.

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

TITLE IV

Study, transmittal to President and congressional committees. 16 USC 1a-5 note.

SEC. 401. The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately ninety acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1544 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-743 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Apr. 24, considered and passed Senate.
Oct. 14, considered and passed House, amended.
Oct. 15, Senate concurred in House amendments with amendments; House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 10, Presidential statement.

Public Law 95-630
95th Congress

An Act

To extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

Nov. 10, 1978
[H.R. 14279]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Institutions Regulatory and Interest Rate Control Act of 1978".

Financial Institutions Regulatory and Interest Rate Control Act of 1978.
12 USC 226 note.

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows: 12 USC 226 note.

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Civil penalty.
12 USC 504.
12 USC 375, 375a, 375b, 376, 503.
12 USC 371c.
Notice.
"Violates."

"(b) In determining the amount of the penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file

Review.

Certification.

in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations. "(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

12 USC 505. SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

Civil penalty. "(j)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity. "(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review. "(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Certification.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection. Regulations.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting "(a)" immediately after "SEC. 5239." and by inserting at the end thereof the following new subsection:

"(b)(1) Any national banking association which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such association who violates any of the provisions of this chapter, or any regulation issued pursuant thereto, shall forfeit and pay a civil money penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(2) In determining the amount of the penalty the Comptroller shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The association or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The agency determination shall be made by final order which may be reviewed only as provided in subsection (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order. Hearing opportunity.

"(4) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller. The Comptroller shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Comptroller shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(e) of title 5. Review. Certification.

"(5) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Comptroller may, in his discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under this section.

Regulations. "(7) The Comptroller shall promulgate regulations establishing procedures necessary to implement this subsection.

"(8) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

12 USC 375b. SEC. 104. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

Loan or extension of credit to executive officers, prohibitions. "(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its executve officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to any company controlled by such an executive officer or person, or to any political or campaign committee the funds or services of which will benefit such an executive officer or person or which is controlled by such an executive officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer or person and to all companies controlled by such executive officer or person and to all political or campaign committees the funds or services of which will benefit such executive officer or person or which are controlled by such executive officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended. For purposes of this paragraph, the provisions of section 5200 of the Revised Statutes, as amended, shall be deemed to apply to a State member bank as if such State member bank were a national banking association.

12 USC 84.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive, director, or person or which is controlled by such executive officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer, director, or person and to all companies controlled by such executive officer, director, or person and to all political or campaign committees the funds or services of which will benefit such executive officer, director, or person or which are controlled by such executive officer, director, or person, would exceed $25,000, unless such loan, line of credit, or extension of credit is approved in advance by a majority of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any

company controlled by such executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) No member bank may pay an overdraft on an account at such bank of an executive officer or director. Overdrafts.

"(5) For purposes of this subsection, an executive officer, director, or person shall be considered to have control of a company if such executive officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(6) For the purposes of this subsection— Definitions.

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act; 12 USC 371c.

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(F) the term 'executive officer' has the same meaning assigned such term under section 22(g) of this Act; and 12 USC 375a.

"(G) the term 'pay an overdraft on an account' means the payment by a member bank of an amount for an account holder in excess of the funds on deposit in the account and does not include a payment of funds by the member bank in accordance with either a written preauthorized, interest-bearing extension of credit specifying a method of repayment or a written preauthorized transfer of funds from another account of the account holder at that bank.

"(7) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of Rules and regulations.

Rules.

this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 105. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

Bank holding company, termination. Notice, hearing opportunity.

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

12 USC 1464 note.

Enforcement and jurisdiction.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

Savings and loan holding company, termination. Notice, hearing opportunity.

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the

Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.".

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.". Enforcement and jurisdiction.

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default. Insured institutions, default prevention and restoration.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

SEC. 106. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

12 USC 1848.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

12 USC 1844.

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(f) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience

Rules and regulations.

Misdemeanor.

to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order. Hearing opportunity.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Review. Certification.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph. Regulations.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the Notice of charges.

conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institu-

Notice of charges.

tion is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and further to take affirmative action to correct the conditions resulting from any such violation or practice.

12 USC 1726.

Hearing.

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent,

Notice of charges.

or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing.

Cease-and-desist order.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

Notice of charges.

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the

credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing.

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

"(3) This subsection and subsections (c) through (f) and (h) through (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a bank holding company, as those terms are defined in the Bank Holding Company Act of 1956, and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, in the same manner as they apply to a State member insured bank. Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

12 USC 1841 note.
12 USC 601-604a, 611-632.

(c)(1) Sections 8(c) (1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

Cease-and-desist order.

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injuction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injuction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

Cease-and-desist order.

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such

insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.". Injunction.

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order. Cease-and-desist order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary Injunction.

cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

Cease-and-desist order.

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

Injunction.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which consititutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or office has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office. Removal from office, notice of intent.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts con- Hearing.

stituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

Removal from office, notice of intent.

"(g) (1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personel dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which

resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

Removal from office, notice of intent.

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or a willful or continuing disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidence either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (3) through (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (3) through (4)), is amended to read as follows:

Suspension from office.

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct

of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

Hearing.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

Civil penalty.

"(2)(i) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.

"Violates."

"(ii) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the viola-

tion, the history of previous violations, and such other matters as justice may require.

"(iii) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order. Hearing opportunity.

"(iv) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Review. Certification.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph. Regulations.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730 (k)) is amended by adding a new paragraph (k)(3) to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the term of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forefit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues Hearing opportunity.

shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation.

Certification.

The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating section 5(d)(8) as 5(d)(8)(A) and by adding the following new paragraph:

Civil penalty.

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Review. Certification.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph. Regulations.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order. Hearing opportunity.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court Review.

Certification.

within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

Ante, p. 3644.

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its executive officers or directors or to any person who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to companies controlled by such an executive officer, director, or person, or to political or campaign committees the funds or services of which will benefit such an officer, director, or person or which are controlled by such an officer, director, or person and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

Civil penalty.

"(3)(A) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

12 USC 371c, *ante*, p. 3644.

Notice.

"Violates."

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(C) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing

all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

"(D) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Review. Certification.

"(E) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph. Regulations.

"(G) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 109. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment. 12 USC 93 note.

SEC. 110. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 111. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate Suspension from office.

review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Notification.

Rules.

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.". Misdemeanor.

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and

Notice of suspension from office.

Removal from office.

outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Notification.

Rules.

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(2) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a

Suspension from office.

threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their repective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Hearing.

Notification.

Rules.

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this subsection (d)" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(12)(A) of such Act (12 U.S.C. 1464(d)(12)(A)) is amended by striking "or 5(A)" and inserting in lieu thereof the following: "5(A), or 5(C)".

(4) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

Suspension from office.

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator.

Removal from office.

In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, committee member, or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time

as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's members or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Hearing.

Notification.

Rules.

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 112. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954," and inserting in lieu thereof the following: "The prohibitions in this section shall not apply to (i) any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code of 1954, or to any labor, agricultural, or horticultural organization to which all or substantially all of the assets of such company are hereafter transferred,".

26 USC 501.

SEC. 113. The third sentence of the second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking the

words "direct obligations of the United States" and inserting in lieu thereof the words "any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof".

TITLE II—INTERLOCKING DIRECTORS

Depository Institution Management Interlocks Act. Short title. 12 USC 3201 note.

SEC. 201. This title may be cited as the "Depository Institution Management Interlocks Act".

Definitions. 12 USC 3201.

SEC. 202. As used in this title—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

12 USC 1841.

(2) the term "depository holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

12 USC 1730a.

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company; or

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Corporation and chartered under State law, the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by per-

sons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depository institution means either a principal office or a branch.

Service in another institution, prohibition. 12 USC 3202.

SEC. 203. A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, except in the case of depository institutions with less than $20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

Service in another institution, prohibition. 12 USC 3203.

SEC. 204. If a depository institution or a depository holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

12 USC 3204.

SEC. 205. The prohibitions contained in sections 203 and 204 shall not apply in the case of any one or more of the following or subsidiary thereof:

39-194 O - 80 - pt. 3 -- 66 : QL. 3

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

12 USC 601-604a, 611-632.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

12 USC 3205.

SEC. 206. A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title.

15 USC 19.

Administration and enforcement. 12 USC 3206.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration, and

(6) Upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this title.

SEC. 208. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding at the end thereof the following new paragraph:

"Officer" and "director."

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.". "Officer" and "director."

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following: 12 USC 1730.

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.". "Officer" and "director."

SEC. 209. Rules and regulations to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by— Rules and regulations. 12 USC 3207.

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations are conducted". "Foreign branch."

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

Regulations.

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

Regulations.

"(l) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limit prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

Liabilities assumption.

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3)

the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.". "Affiliate" and "member bank." 12 USC 371c. 12 USC 221a.

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(l)(5) of this Act)". 12 USC 1813.

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.". Notification.

SEC. 309. The last sentence of section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended to read as follows:

Rules and regulations.

"Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).".

SEC. 310. (a) Section 7(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(4)) is amended by adding at the end thereof the following new sentence: "Deposits which are accumulated for the payment of personal loans and are assigned or pledged to assure payment of loans at maturity shall not be included in the total deposits in such reports, but shall be deducted from the loans for which such deposits are assigned or pledged to assure repayment.".

(b) Section 7(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(5)) is amended by striking out "deposits accumulated for the payment of personal loans," in the second sentence thereof.

(c) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended by striking out subparagraph (B), and redesignating subparagraphs (C) and (D) as (B) and (C), respectively.

12 USC 601 note.

SEC. 311. Section 9 of the International Banking Act of 1978 (P.L. 95-369) is amended by inserting "(a)" immediately after "SEC. 9." and by inserting at the end thereof the following new subsection:

Foreign bank operations.
12 USC 3106a.

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

Application approval.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

TITLE IV—AMERICAN ARTS GOLD MEDALLIONS

American Arts Gold Medallion Act.

SEC. 401. This title may be cited as the "American Arts Gold Medallion Act". Short title.

SEC. 402. The Secretary of the Treasury (hereinafter referred to as the "Secretary") shall, during each of the first five calendar years beginning after the date of enactment of this title, strike and sell to the general public, as provided by this title, gold medallions (hereinafter referred to as "medallions") containing, in the aggregate, not less than one million troy ounces of fine gold, and commemorating outstanding individuals in the American arts.

SEC. 403. (a) Medallions struck under authority of this title shall be minted in two sizes containing, respectively, one troy ounce and one-half troy ounce of fine gold. During the first year in which such medallions are struck, at least five hundred thousand troy ounces of fine gold shall be struck in each size of medallions authorized by this subsection. In succeeding years, the proportion of gold devoted to each size of medallions shall be determined by the Secretary on the basis of expected demand.

(b) Medallions struck under authority of this title shall be of such fineness that, of one thousand parts by weight, nine hundred shall be of fine gold and one hundred of alloy. Medallions shall not be struck from ingots which deviate from the standard of this subsection by more than one part per thousand.

(c) Medallions struck under the authority of this title shall bear such designs and inscriptions as the Secretary may approve subject to the following— Designs and inscriptions.

(1) during the first calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Grant Wood on the obverse side and one-half ounce medallions shall be struck with a picture of Marian Anderson on the obverse side;

(2) during the second calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Mark Twain on the obverse side and one-half ounce medallions shall be struck with a picture of Willa Cather on the obverse side;

(3) during the third calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Louis Armstrong on the obverse side and one-half ounce medallions shall be struck with a picture of Frank Lloyd Wright on the obverse side;

(4) during the fourth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Robert Frost on the obverse side and one-half ounce medallions shall be struck with a picture of Alexander Calder on the obverse side; and

(5) during the fifth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Helen Hayes on the obverse side and one-half ounce medallions shall be struck with a picture of John Steinbeck on the obverse side.

The reverse side of each medallion shall be of different design, shall be representative of the artistic achievements of the individual on the obverse side, and shall include the inscription "American Arts Commemorative Series".

Regulations.

SEC. 404. Dies for use in striking the medallions authorized by this title may be executed by the engraver, and the medallions struck by the Superintendent of coining department of the mint at Philadelphia, under such regulations as the Superintendent, with the approval of the Director of the Mint, may prescribe. In order to carry out this title, the Secretary may enter into contracts: *Provided*, That suitable precautions are maintained to secure against counterfeiting and against unauthorized issuance of medallions struck under authority of this title.

Contracts.

SEC. 405. For purposes of section 485 of title 18 of the United States Code, a coin of a denomination of higher than 5 cents shall be deemed to include any medallion struck under the authority of this title.

SEC. 406. (a) Medallions struck under authority of this title shall be sold to the general public at a competitive price equal to the free market value of the gold contained therein plus the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses including marketing costs. In order to carry out the purposes of this section, the Secretary shall enter into such arrangements with the Administrator of General Services (hereinafter referred to as the "Administrator") as may be appropriate.

Sale.

(b) The Administrator shall make such arrangements for the sale of medallions as will encourage broad public participation and will not preclude purchases of single pieces.

Rules and regulations.

(c) The Administrator may, after consultation with the Secretary, issue rules and regulations to carry out this section.

Effective date.

SEC. 407. This title shall take effect on October 1, 1979.

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

National Credit Union Administration. Establishment.

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

Membership.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

Term.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

Management. Rules.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the trans-

action of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

Quorum.

Report to President and Congress.

"(e) The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

Audit. Rules and regulations.

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended— 12 USC 1752.

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 5108(a) of title 5, United States Code, is amended by changing the number "3,301" in the first sentence to read "3,310".

(d) Section 5314 of title 5, United States Code, is amended by adding the following new paragraph:

"(66) Chairman, National Credit Union Administration Board.".

(e) Section 5315 (93) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

"Branch."

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 504. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 505. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"Member account."

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 506. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 507. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

Rules.

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 508. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 509. The amendments made by this title take effect upon the effective date of this Act, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

Effective date.
12 USC 1752 note.

TITLE VI—CHANGE IN BANK CONTROL ACT

Change in Bank Control Act of 1978.

SEC. 601. This title may be cited as the "Change in Bank Control Act of 1978".

Short title.
12 USC 1817 note.

SEC. 602. Subsection (j) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended to read as follows:

"(j)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured bank through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such insured bank unless the appropriate Federal banking agency has been given sixty days' prior written notice of such proposed acquisition and within that time period the agency has not issued a notice disapproving the proposed acquisition or extending for up to another thirty days the period during which such a disapproval may issue. The period for disapproval may be further extended only if the agency determines that any acquiring party has not furnished all the information required under section (j)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the agency issues written notice of its intent not to disapprove the action. For purposes of this subsection (j), the term 'insured bank' shall include any 'bank holding company', as that term is defined in section 2 of the Bank Holding Company Act, which has control of any such insured bank,

"Insured bank."

12 USC 1841.

and the appropriate Federal banking agency in the case of bank holding companies shall be the Board of Governors of the Federal Reserve System.

"(2) Upon receiving any notice under this subsection, the appropriate Federal banking agency shall forward a copy thereof to the appropriate State bank supervisory agency if the bank the voting shares of which are sought to be acquired is a State bank, and shall allow thirty days within which the views and recommendations of such State bank supervisory agency may be submitted. The appropriate Federal banking agency shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this section (j)(2), if the appropriate Federal banking agency determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the bank involved in the proposed acquisition, such Federal banking agency may dispense with the requirements of this subsection (j)(2) or, if a copy of the notice is forwarded to the State bank supervisory agency, such Federal banking agency may request that the views and recommendations of such State bank supervisory agency be submitted immediately in any form or by any means acceptable to such Federal banking agency.

Notification.

"(3) Within three days after its decision to disapprove any proposed acquisition, the appropriate Federal banking agency shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

Hearing.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the appropriate Federal banking agency. At the conclusion thereof, the appropriate Federal banking agency shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

Review.

"(5) Any person whose proposed acquisition is disapproved after agency hearings under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the bank to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the appropriate Federal banking agency shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

Certification.

"(6) Except as otherwise provided by regulation of the appropriate Federal banking agency, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular notice.

"(7) The appropriate Federal banking agency may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monoplize or to attempt to monopolize the business of banking in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank,

or in the interest of the public to permit such person to control the bank; or

"(E) any acquiring person neglects, fails, or refuses to furnish the appropriate Federal banking agency all the information required by the appropriate Federal banking agency.

"(8) For the purposes of this subsection, the term—

"Person." "(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"Control." "(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured bank or to vote 25 per centum or more of any class of voting securities of an insured bank.

"(9) Whenever any insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured bank, the president or other chief executive officer of the lending bank shall promptly report such fact to the appropriate Federal banking agency of the bank whose stock secures the loan or loans upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized bank prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular report.

"(11) The Federal banking agency receiving a notice or report filed pursuant to paragraph (1) or (9) shall immediately furnish to the other Federal banking agencies a copy of such notice or report.

"(12) Whenever such a change in control occurs, each insured bank shall report promptly to the appropriate Federal banking agency any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

Rules and regulations. "(13) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection.

Report to Congress. "(14) Within two years after the effective date of the Change in Bank Control Act of 1978, and each year thereafter in each appropriate Federal banking agency's annual report to the Congress, the appropriate Federal banking agency shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

Civil penalty. "(15) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The appropriate Federal banking agency shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil

Notice.

penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

"(16) This subsection shall not apply to a transaction subject to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or section 18 of this Act (12 U.S.C. 1828).".

TITLE VII—CHANGE IN SAVINGS AND LOAN CONTROL ACT

Change in Savings and Loan Control Act of 1978.

SEC. 701. This title may be cited as the "Change in Savings and Loan Control Act of 1978".

Short title. 12 USC 1730 note.

SEC. 702. Paragraph (6) of section 407(1) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended to read as follows:

"(6) As used in this subsection, the term 'stock' means rights, interests, or powers with respect to a mutual institution and the term 'insured institution' means a mutual insured institution.".

"Stock" and "insured institution."

SEC. 703. Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by redesignating section 407(q) as 407(r) and inserting immediately after "(p)" the following:

"(q)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured institution through a purchase assignment, transfer, pledge, or other disposition of voting stock of such insured institution unless the Corporation has been given sixty days' prior written notice of such proposed acquisition and within that time period the Corporation has not issued a notice disapproving the proposed acquisition or extending up to another thirty days the period during which a disapproval may issue. The period for disapproval may be further extended only if the Corporation determines that any acquiring party has not furnished all the information required under subsection (q)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Corporation issues written notice of its intent not to disapprove the action. For purposes of this subsection (q), the term 'insured institution' shall include any 'savings and loan holding company', as that term is defined in section 408 of the National Housing Act, which has control of any such insured institution.

"Insured institution."

12 USC 1730a.

"(2) Upon receiving any notice under this subsection, the Corporation shall forward a copy thereof to the appropriate State savings and loan association supervisory agency if the insured institution the voting shares of which are sought to be acquired is a State chartered institution, and shall allow thirty days within which the views and recommendations of such State supervisory agency may be submitted. The Corporation shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (q)(2), if the Corporation determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the institution involved in the proposed acquisition, the Corporation may dispense with the requirement of this subsection (1)(2) or, if a copy of the notice is forwarded to the State supervisory agency, the Corporation may request that the views and recommendations of such State supervisory agency be submitted immediately in any form or by any means acceptable to the Corporation.

Notification.

"(3) Within three days after its decision to disapprove any proposed acquisition, the Corporation shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

Hearing.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the Corporation. At the conclusion thereof, the Corporation shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

Review.

"(5) Any person whose proposed acquisition is disapproved after agency hearing under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the institution to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the Corporation shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

Certification.

"(6) Except as otherwise provided by regulation of the Corporation, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the institution, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the Corporation may require by regulation or by specific request in connection with any particular notice.

"(7) The Corporation may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution;

"(D) the competence, experience, or integrity of any acquiring person or any of the proposed management personnel indicates that it would not be in the interest of the depositors of the institution or in the interest of the public to permit such person to control the institution; or

"(E) any acquiring person neglects, fails, or refuses to furnish the Corporation all the information required by the Corporation.

"(8) For the purposes of this subsection, the term—

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein, and "Person."

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution. "Control."

"(9) Whenever any insured institution or an insured bank makes a loan, or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured institution, the president or other chief executive officer of the lending insured institution or insured bank shall promptly report such fact to the Corporation upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized institution prior to its opening. Report.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the Corporation may require by regulation or by specific request in connection with any particular report.

39-194 O - 80 - pt. 3 -- 67 : QL. 3

Report.

"(11) Whenever a change in control occurs, each insured institution shall report promptly to the Corporation any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

"(12) Without limitation by or on the foregoing provisions of this subsection, the Corporation may require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, as defined by the Corporation, to provide, in such manner as the Corporation may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

"Stock."

"(13) As used in this subsection, the term 'stock' means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto.

Rules and regulations.

"(14) The Corporation is authorized to issue rules and regulations to carry out this subsection.

Report to Congress.

"(15) Within two years after the effective date of the Change in Savings and Loan Control Act of 1978 and each year thereafter in the Corporation's annual report to the Congress, the Corporation shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the Corporation would be desirable.

Civil penalty.

"(16) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

"(17) This subsection shall not apply to a transaction subject to section 408 of this Act (12 U.S.C. 1730a).".

TITLE VIII—CORRESPONDENT ACCOUNTS

SEC. 801. Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) is amended by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, by inserting "(1)" immediately after "(b)", and by inserting at the end thereof the following new paragraph:

"(2)(A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting

securities of, such other bank unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(E) For purposes of this paragraph, the term 'extension of credit' shall have the same meaning given it in section 23A of the Federal Reserve Act and the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act. "Extension of credit" and "executive officer."

"(F)(i) Any bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such bank who violates any provision of section 106(b) (2) shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, or the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counselling, or aiding or abetting a violation. Civil penalty. Notice. "Violates."

"(ii) In determining the amount of the penalty the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good

faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(iii) The bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(iv) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be.

Certification.

The Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and apropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(vi) The Comptroller of the Currency, the Board and the Federal Deposit Insurance Corporation shall promulgate regulations establishing procedures necessary to implement this section.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

Report.

"(G)(i) Each executive officer and each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of an insured bank shall make a written report to the board of directors of such bank for any year during which such executive officer or shareholder has outstanding an extension of credit from a bank which maintains a corresponding account in the name of such bank. Such report shall include the following information:

"(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

"(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder;

"(3) the range of interest rates charged on such indebtedness of such executive officer or stockholder of record; and

"(4) the terms and conditions of such indebtedness of such executive officer or stockholder of record.

"(ii) Each insured bank shall compile the reports filed pursuant to subparagraph (G)(i) and forward such compilation to the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, and the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank. Reports compilation.

"(iii) Each insured bank shall include in the report required to be made under subsection (k)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)(1)) a list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank who files information required by subparagraph (G)(i) and the aggregate amount of all extensions of credit by correspondent banks to such executive officers or stockholders of record, any company controlled by such executive officers or stockholders, and any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.".

TITLE IX—DISCLOSURE OF MATERIAL FACTS

SEC. 901. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by adding at the end thereof the following new subsection:

"(k)(1) Each insured bank shall make to the appropriate Federal banking agency an annual report which shall contain the following information with respect to the preceding calendar year: Annual report.

"(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

"(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extensions of credit by such bank during such year to: (i) such executive officers or stockholders of record, (ii) any company controlled by such executive officers, or stockholders, or (iii) any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.

"(2) For purposes of this subsection, the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act. "Executive officer." 12 USC 375a.

"(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection, including authority to incorporate the information required to be filed by this Rules and regulations.

subsection in any other report required to be filed by all insured banks which would be available in its entirety to the public upon request.

"(4) Copies of any report required to be filed under this subsection shall be made available, by the appropriate Federal banking agency or by the bank, upon request, to the public.".

Federal Financial Institutions Examination Council Act of 1978.

TITLE X—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Short title.
12 USC 3301 note.

SEC. 1001. This title may be cited as the "Federal Financial Institutions Examination Council Act of 1978".

PURPOSE

12 USC 3301.

SEC. 1002. It is the purpose of this title to establish a Financial Institutions Examination Council which shall prescribe uniform principles and standards for the Federal examination of financial institutions by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration and make recommendations to promote uniformity in the supervision of these financial institutions. The Council's actions shall be designed to promote consistency in such examination and to insure progressive and vigilant supervision.

DEFINITIONS

12 USC 3302.

SEC. 1003. As used in this title—

(1) the term "Federal financial institutions regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration;

(2) the term "Council" means the Financial Institutions Examination Council; and

(3) the term "financial institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, or a credit union;

ESTABLISHMENT OF THE COUNCIL

Financial Institutions Examination Council.
12 USC 3303.

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Chairman of the Federal Home Loan Bank Board, and

(5) the Chairman of the National Credit Union Administration Board.

Members.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

Term.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-fifth of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary. 12 USC 3304.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of financial institutions which shall be applied by the Federal financial institutions regulatory agencies. Principles and standards. 12 USC 3305.

(b) (1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying financial institutions in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more financial institutions. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the financial institutions within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of financial institutions or their holding companies.

(2) When a recommendation of the Council is found unaccepted by one or more of the applicable Federal financial institutions regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised financial institutions, their holding companies, and nonfinancial institution subsidiaries of such institutions or holding companies. The authority to develop uniform reporting systems shall not restrict or amend the requirements of section 12(i) of the Securities Exchange Act of 1934. Reporting systems.

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal financial institutions regulatory agencies. Such schools shall be open to enrollment by employees of State financial institutions supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year. Annual report.

STATE LIAISON

Establishment.
12 USC 3306.

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

Allowance.

ADMINISTRATION

12 USC 3307.

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) in addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

Experts and consultants, services.

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

12 USC 3308.

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

AUDITS BY THE COMPTROLLER GENERAL

31 USC 67.

SEC. 1010. Section 117 of the Accounting and Auditing Act of 1950, as amended by the Federal Banking Agency Audit Act (Public Law 95-320), is further amended by:

(1) redesignating clauses (A), (B), and (C) of subsection (e)(1) as (B), (C), and (D), respectively, and inserting in subsection (e)(1) the clause "(A) of the Financial Institutions Examination Council;" immediately following "audits"; and

(2) striking out in subsection (e)(2) "and (C)" and inserting in lieu thereof "(C), and (D)".

TITLE XI—RIGHT TO FINANCIAL PRIVACY

Right to Financial Privacy Act of 1978.

SEC. 1100. This title may be cited as the "Right to Financial Privacy Act of 1978". Short title. 12 USC 3401 note.

DEFINITIONS

SEC. 1101. For the purpose of this title, the term— 12 USC 3401.

(1) "financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) "financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(3) "Government authority" means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) "person" means an individual or a partnership of five or fewer individuals;

(5) "customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name;

(6) "supervisory agency" means, with respect to any particular financial institution any of the following which has statutory authority to examine the financial condition or business operations of that institution—

(A) the Federal Deposit Insurance Corporation;

(B) the Federal Savings and Loan Insurance Corporation;

(C) the Federal Home Loan Bank Board;

(D) the National Credit Union Administration;

(E) the Board of Governors of the Federal Reserve System;

(F) the Comptroller of the Currency;

(G) the Securities and Exchange Commission;

(H) the Secretary of the Treasury, with respect to the Bank Secrecy Act and the Currency and Foreign Transactions Reporting Act (Public Law 91-508, title I and II); or 12 USC 1829b-1831, 1951-1959.

(I) any State banking or securities department or agency; and

(7) "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto. 31 USC 1051 note.

CONFIDENTIALITY OF RECORDS—GOVERNMENT AUTHORITIES

SEC. 1102. Except as provided by section 1103 (c) or (d), 1113, or 1114, no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer 12 USC 3402.

from a financial institution unless the financial records are reasonably described and—

(1) such customer has authorized such disclosure in accordance with section 1104;

(2) such financial records are disclosed in response to an administrative subpena or summons which meets the requirements of section 1105;

(3) such financial records are disclosed in response to a search warrant which meets the requirements of section 1106;

(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 1107; or

(5) such financial records are disclosed in response to a formal written request which meets the requirements of section 1108.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

12 USC 3403.

SEC. 1103. (a) No financial institution, or officer, employees, or agent of a financial institution, may provide to any Government authority access to or copies of, or the information contained in, the financial records of any customer except in accordance with the provisions of this title.

(b) A financial institution shall not release the financial records of a customer until the Government authority seeking such records certifies in writing to the financial institution that it has complied with the applicable provisions of this title.

(c) Nothing in this title shall preclude any financial institution, or any officer, employee, or agent of a financial institution, from notifying a Government authority that such institution, or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation.

(d)(1) Nothing in this title shall preclude a financial institution, as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary, from providing copies of any financial record to any court or Government authority.

(2) Nothing in this title shall preclude a financial institution, as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement, or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, from initiating contact with an appropriate Government authority for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement.

CUSTOMER AUTHORIZATIONS

12 USC 3404.

SEC. 1104. (a) A customer may authorize disclosure under section 1102(1) if he furnishes to the financial institution and to the Government authority seeking to obtain such disclosure a signed and dated statement which—

(1) authorizes such disclosure for a period not in excess of three months;

(2) states that the customer may revoke such authorization at any time before the financial records are disclosed;

(3) identifies the financial records which are authorized to be disclosed;

(4) specifies the purposes for which, and the Government authority to which, such records may be disclosed; and

(5) states the customer's rights under this title.

(b) No such authorization shall be required as a condition of doing business with any financial institution.

(c) The customer has the right, unless the Government authority obtains a court order as provided in section 1109, to obtain a copy of the record which the financial institution shall keep of all instances in which the customer's record is disclosed to a Government authority pursuant to this section, including the identity of the Government authority to which such disclosure is made.

(d) All financial institutions shall promptly notify all of their customers of their rights under this title. The Board of Governors of the Federal Reserve System shall prepare a statement of customers' rights under this title. Any financial institution that provides its customers a statement of customers' rights prepared by the Board shall be deemed to be in compliance with this subsection. Notification. Statement.

ADMINISTRATIVE SUBPENA AND SUMMONS

SEC. 1105. A Government authority may obtain financial records under section 1102(2) pursuant to an administrative subpena or summons otherwise authorized by law only if— Financial records. 12 USC 3405.

(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena or summons has been served upon the customer or mailed to his last known address on or before the date on which the subpena or summons was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached subpena or summons are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States district courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights. If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date

of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(3) ten days have expired from the date of service of the notice or fourteen days have expired from the date of mailing the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

SEARCH WARRANTS

Financial records.
12 USC 3406.
18 USC app.

SEC. 1106. (a) A Government authority may obtain financial records under section 1102(3) only if it obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

(b) No later than ninety days after the Government authority serves the search warrant, it shall mail to the customer's last known address a copy of the search warrant together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date) for the following purpose: . You may have rights under the Right to Financial Privacy Act of 1978.".

(c) Upon application of the Government authority, a court may grant a delay in the mailing of the notice required in subsection (b), which delay shall not exceed one hundred and eighty days following the service of the warrant, if the court makes the findings required in section 1109(a). If the court so finds, it shall enter an ex parte order granting the requested delay and an order prohibiting the financial institution from disclosing that records have been obtained or that a search warrant for such records has been executed. Additional delays of up to ninety days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay of notification of the customer, the following notice shall be mailed to the customer along with a copy of the search warrant:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date). Notification was delayed beyond the statutory ninety-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning . You may have rights under the Right to Financial Privacy Act of 1978.".

JUDICIAL SUBPENA

Financial records.
12 USC 3407.

SEC. 1107. A Government authority may obtain financial records under section 1102(4) pursuant to judicial subpena only if—

(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena has been served upon the customer or mailed to his last known address on or before the date on which the subpena was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached subpena are being sought by this (agency or department or authority) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of the Court.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to .

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights. If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(3) ten days have expired from the date of service or fourteen days from the date of mailing of the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

FORMAL WRITTEN REQUEST

Financial records.
12 USC 3408.

SEC. 1108. A Government authority may request financial records under section 1102(5) pursuant to a formal written request only if—

(1) no administrative summons or subpena authority reasonably appears to be available to that Government authority to obtain financial records for the purpose for which such records are sought;

(2) the request is authorized by regulations promulgated by the head of the agency or department;

(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and

(4)(A) a copy of the request has been served upon the customer or mailed to his last known address on or before the date on which the request was made to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached request are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose:

"If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein may be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(B) ten days have expired from the date of service or fourteen days from the date of mailing of the notice by the customer and within such time period the customer has not filed a sworn statement and an application to enjoin the Government authority in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

DELAYED NOTICE—PRESERVATION OF RECORDS

12 USC 3409.

SEC. 1109. (a) Upon application of the Government authority, the customer notice required under section 1104(c), 1105(2), 1106(c), 1107(2), 1108(4), or 1112(b) may be delayed by order of an appropriate court if the presiding judge or magistrate finds that—

(1) the investigation being conducted is within the lawful jurisdiction of the Government authority seeking the financial records;

(2) there is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and

(3) there is reason to believe that such notice will result in—

(A) endangering life or physical safety of any person;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same extent as the circumstances in the preceeding subparagraphs.

An application for delay must be made with reasonable specificity.

(b)(1) If the court makes the findings required in paragraphs (1), (2), and (3) of subsection (a), it shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution from disclosing that records have been obtained or that a request for records has been made, except that, if the records have been sought by a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (title II, Public Law 95-223), or section 5 of the United Nations Participation Act (22 U.S.C. 287c), and the court finds that there is reason to believe that such notice may endanger the lives or physical safety of a customer or group of customers, or any person or group of persons associated with a customer, the court may specify that the delay be indefinite. 50 USC 1701 note.

(2) Extensions of the delay of notice provided in paragraph (1) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection.

(3) Upon expiration of the period of delay of notification under paragraph (1) or (2), the customer shall be served with or mailed a copy of the process or request together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason). The purpose of the investigation or official proceeding was .".

(c) When access to financial records is obtained pursuant to section 1114(b) (emergency access), the Government authority shall, unless a court has authorized delay of notice pursuant to subsections (a) and (b), as soon as practicable after such records are obtained serve upon the customer, or mail by registered or certified mail to his last known address, a copy of the request to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records concerning your transactions held by the financial institution named in the attached request were obtained by (agency or department) under the Right to Financial Privacy Act of 1978 on (date) for the following purpose: Emergency access to such records was obtained on the grounds that (state grounds).".

(d) Any memorandum, affidavit, or other paper filed in connection with a request for delay in notification shall be preserved by the court. Upon petition by the customer to whom such records pertain, the court may order disclosure of such papers to the petitioner unless the court makes the findings required in subsection (a).

CUSTOMER CHALLENGE PROVISIONS

SEC. 1110. (a) Within ten days of service or within fourteen days of mailing of a subpena, summons, or formal written request, a customer may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request, with 12 USC 3410.

copies served upon the Government authority. A motion to quash a judicial subpena shall be filed in the court which issued the subpena. A motion to quash an administrative summons or an application to enjoin a Government authority from obtaining records pursuant to a formal written request shall be filed in the appropriate United States district court. Such motion or application shall contain an affidavit or sworn statement—

(1) stating that the applicant is a customer of the financial institution from which financial records pertaining to him have been sought; and

(2) stating the applicant's reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this title. For the purposes of this section, "delivery" has the meaning stated in rule 5(b) of the Federal Rules of Civil Procedure.

"Delivery."

28 USC app.

Sworn response filing.

(b) If the court finds that the customer has complied with subsection (a), it shall order the Government authority to file a sworn response, which may be filed in camera if the Government includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided within seven calendar days of the filing of the Government's response.

Motion or application denial.

(c) If the court finds that the applicant is not the customer to whom the financial records sought by the Government authority pertain, or that there is a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, it shall deny the motion or application, and, in the case of an administrative summons or court order other than a search warrant, order such process enforced. If the court finds that the applicant is the customer to whom the records sought by the Government authority pertain, and that there is not a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, or that there has not been substantial compliance with the provisions of this title, it shall order the process quashed or shall enjoin the Government authority's formal written request.

(d) A court ruling denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer. An appeal of a ruling denying a motion or application under this section may be taken by the customer (1) within such period of time as provided by law as part of any appeal from a final order in any legal proceeding initiated against him arising out of or based upon the financial records, or (2) within thirty days after a notification that no legal proceeding is contemplated against him. The Government authority obtaining the financial records shall promptly notify a customer when a determination has been made that no legal proceeding against him is contemplated. After one hundred and eighty days from the denial of the motion or application, if the Government authority obtaining the records has not initiated such

Notification.

Certification.

a proceeding, a supervisory official of the Government authority shall certify to the appropriate court that no such determination has been made. The court may require that such certifications be made, at reasonable intervals thereafter, until either notification to the customer has occurred or a legal proceeding is initiated as described in clause (A).

(e) The challenge procedures of this title constitute the sole judicial remedy available to a customer to oppose disclosure of financial records pursuant to this title.

(f) Nothing in this title shall enlarge or restrict any rights of a financial institution to challenge requests for records made by a Government authority under existing law. Nothing in this title shall entitle a customer to assert the rights of a financial institution.

DUTY OF FINANCIAL INSTITUTIONS

SEC. 1111. Upon receipt of a request for financial records made by a Government authority under section 1105 or 1107, the financial institution shall, unless otherwise provided by law, proceed to assemble the records requested and must be prepared to deliver the records to the Government authority upon receipt of the certificate required under section 1103(b). 12 USC 3411.

USE OF INFORMATION

SEC. 1112. (a) Financial records originally obtained pursuant to this title shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Transfer, certification. 12 USC 3412.

(b) When financial records subject to this title are transferred pursuant to subsection (a), the transferring agency or department shall, within fourteen days, send to the customer a copy of the certification made pursuant to subsection (a) and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: "Copies of, or information contained in, your financial records lawfully in possession of have been furnished to pursuant to the Right of Financial Privacy Act of 1978 for the following purpose: . If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974." Notice.

(c) Notwithstanding subsection (b), notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 1109 (a) and (b) and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to section 1109 (a) and (b). Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) above and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 1109 (a) and (b) shall serve to the customer the notice specified in section 1109(b).

(d) Nothing in this title prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this title prohibits the transfer of a customer's financial records needed by counsel for a Government

authority to defend an action brought by the customer. Nothing in this title shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

EXCEPTIONS

12 USC 3413.

SEC. 1113. (a) Nothing in this title prohibits the disclosure of any financial records or information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Nothing in this title prohibits examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(c) Nothing in this title prohibits the disclosure of financial records in accordance with procedures authorized by the Internal Revenue Code.

26 USC 1 *et seq.*

(d) Nothing in this title shall authorize the withholding of financial records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Nothing in this title shall apply when financial records are sought by a Government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties.

(f) Nothing in this title shall apply when financial records are sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and to which the Government authority and the customer are parties.

(g) The notice requirements of this title and sections 1110 and 1112 shall not apply when a Government authority by a means described in section 1102 and for a legitimate law enforcement inquiry is seeking only the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (title II, Public Law 95-223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c)).

50 USC 1701 note.

(h)(1) Nothing in this title (except sections 1103, 1117 and 1118) shall apply when financial records are sought by a Government authority—

(A) in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer; or

(B) in connection with the authority's consideration or administration of assistance to the customer in the form of a Government loan, loan guaranty, or loan insurance program.

Certification.

(2) When financial records are sought pursuant to this subsection, the Government authority shall submit to the financial institution the certificate required by section 1103(b). For access pursuant to paragraph (1)(B), no further certification shall be required for subse-

quent access by the certifying Government authority during the term of the loan, loan guaranty, or loan insurance agreement.

(3) After the effective date of this title, whenever a customer applies for participation in a Government loan, loan guaranty, or loan insurance program, the Government authority administering such program shall give the customer written notice of the authority's access rights under this subsection. No further notification shall be required for subsequent access by that authority during the term of the loan, loan guaranty, or loan insurance agreement. Notice.

(4) Financial records obtained pursuant to this subsection may be used only for the purpose for which they were originally obtained, and may be transferred to another agency or department only when the transfer is to facilitate a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records, or at a legal entity which is not a customer, except that—

(A) nothing in this paragraph prohibits the use or transfer of a customer's financial records needed by counsel representing a Government authority in a civil action arising from a Government loan, loan guaranty, or loan insurance agreement; and

(B) nothing in this paragraph prohibits a Government authority providing assistance to a customer in the form of a loan, loan guaranty, or loan insurance agreement from using or transferring financial records necessary to process, service or foreclose a loan, or to collect on an indebtedness to the Government resulting from a customer's default.

(5) Notification that financial records obtained pursuant to this subsection may relate to a potential civil, criminal, or regulatory violation by a customer may be given to an agency or department with jurisdiction over that violation, and such agency or department may then seek access to the records pursuant to the provisions of this title.

(6) Each financial institution shall keep a notation of each disclosure made pursuant to paragraph (1)(B) of this subsection, including the date of such disclosure and the Government authority to which it was made. The customer shall be entitled to inspect this information.

(i) Nothing in this title (except sections 1115 and 1120) shall apply to any subpena or court order issued in connection with proceedings before a grand jury.

(j) This title shall not apply when financial records are sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority. Audit.

SPECIAL PROCEDURES

SEC. 1114. (a)(1) Nothing in this title (except sections 1115, 1117, 1118, and 1121) shall apply to the production and disclosure of financial records pursuant to requests from— 12 USC 3414.

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90-331, as amended).

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority. Certification.

Disclosure, prohibition.

(3) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that a Government authority described in paragraph (1) has sought or obtained access to a customer's financial records.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

Obtaining financial records.

(b)(1) Nothing in this title shall prohibit a Government authority from obtaining financial records from a financial institution if the Government authority determines that delay in obtaining access to such records would create imminent danger of—

(A) physical injury to any person;

(B) serious property damage; or

(C) flight to avoid prosecution.

(2) In the instances specified in paragraph (1), the Government shall submit to the financial institution of the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) Within five days of obtaining access to financial records under this subsection, the Government authority shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the Government authority setting forth the grounds for the emergency access. The Government authority shall thereafter comply with the notice provisions of section 1109(c).

Annual tabulation.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

COST REIMBURSEMENT

12 USC 3415.

SEC. 1115. (a) Except for records obtained pursuant to section 1103(d) or 1113 (a) through (h), or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

Regulation.

Effective date.

(b) This section shall take effect on October 1, 1979.

JURISDICTION

12 USC 3416.

SEC. 1116. An action to enforce any provision of this title may be brought in any appropriate United States district court without regard to the amount in controversy within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

CIVIL PENALTIES

12 USC 3417.

SEC. 1117. (a) Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this title is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Whenever the court determines that any agency or department of the United States has violated any provision of this title and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Commission after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(c) Any financial institution or agent or employee thereof making a disclosure of financial records pursuant to this title in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure. Liability.

(d) The remedies and sanctions described in this title shall be the only authorized judicial remedies and sanctions for violations of this title.

INJUNCTIVE RELIEF

SEC. 1118. In addition to any other remedy contained in this title, injunctive relief shall be available to require that the procedures of this title are complied with. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered. 12 USC 3418.

SUSPENSION OF STATUTES OF LIMITATIONS

SEC. 1119. If any individual files a motion or application under this title which has the effect of delaying the access of a Government authority to financial records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided. 12 USC 3419.

GRAND JURY INFORMATION

SEC. 1120. Financial records about a customer obtained from a financial institution pursuant to a subpena issued under the authority of a Federal grand jury— 12 USC 3420.

(1) shall be returned and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure; 18 USC app.

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority

other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

18 USC app.

REPORTING REQUIREMENTS

Report to congressional committees.
12 USC 3421.

SEC. 1121. (a) In April of each year, the Director of the Administrative Office of the United States Courts shall send to the appropriate committees of Congress a report concerning the number of applications for delays of notice made pursuant to section 1109 and the number of customer challenges made pursuant to section 1110 during the preceding calendar year. Such report shall include: the identity of the Government authority requesting a delay of notice; the number of notice delays sought and the number granted under each subparagraph of section 1109(a)(3); the number of notice delay extensions sought and the number granted; and the number of customer challenges made and the number that are successful.

Report to congressional committees.

(b) In April of each year, each Government authority that requests access to financial records of any customer from a financial institution pursuant to section 1104, 1105, 1106, 1107, 1108, 1109, or 1114 shall send to the appropriate committees of Congress a report describing requests made during the preceding calendar year. Such report shall include the number of requests for records made pursuant to each section of this title listed in the preceding sentence and any other related information deemed relevant or useful by the Government authority.

12 USC 3422.

SEC. 1122. The Securities and Exchange Commission shall not be subject to the provisions of this title for a period of two years from the date of enactment of the title.

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 1201. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"Association."

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

SEC. 1202. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

Rules and regulations.

"SEC. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks, provided such conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may not convert from the mutual to the stock form of ownership. An association which was formerly organized as a savings bank

under State law may not convert from the mutual to the stock form of ownership." An association which was formally organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of an application for conversion and such an association which was formerly organized as a savings bank under State law shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a savings bank organized under such State law, provided that such an association: (1) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county or within thirty-five miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(1) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area,

"(2) pertaining to requirements imposed under the Consumer Credit Protection Act,

15 USC 1601 note.

if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

SEC. 1203. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 1204. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 1205. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

"SEC. 26. With respect to any State-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal savings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: One hundred per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion'

Indemnification. 12 USC 1831c.

for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

TITLE XIII—NOW ACCOUNTS

SEC. 1301. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting "New York," after "Vermont,".

Effective date. 12 USC 1832 note.

SEC. 1302. This title shall take effect upon enactment.

TITLE XIV—INSURANCE OF IRA AND KEOGH ACCOUNTS

SEC. 1401. (a) Section 11(a) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(a)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, time and savings deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

26 USC 401.

"Per account."

26 USC 408.

(b) Section 405(d) of the National Housing Act, as amended (12 U.S.C. 1728(d)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of deposit insurance available for any one account, funds invested in an insured institution pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in an insured institution in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

"Per account."

(c) Section 207(c) of the Federal Credit Union Act, as amended (12 U.S.C. 1787(c)), is amended by adding at the end thereof the following paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured

credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.". "Per account." 26 USC 401, 408.

SEC. 1402. This title shall take effect upon enactment. Effective date. 12 USC 1728 note.

TITLE XV—MISCELLANEOUS PROVISIONS

SEC. 1501. Paragraph (2) of section 3(c) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendment made by paragraph (1) shall cease to be effective on February 27, 1981.".

SEC. 1502. Section 803 of Public Law 95-128 (12 U.S.C. 2902) is amended by adding at the end thereof the following new subsection:

"(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity.". "Entire community."

SEC. 1503. The last sentence of section 245 of the National Housing Act is amended by inserting immediately before "limiting the amount of interest" "(1)" and by inserting immediately before the period at the end thereof the following: ", or (2) requiring a minimum amortization of principle or otherwise relating to the amortization of principle under the mortgage or loan". 12 USC 1715z-10.

SEC. 1504. Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following new sentence: "A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto."

SEC. 1505. This title shall take effect upon enactment. Effective date. 12 USC 27 note.

TITLE XVI—INTEREST RATE CONTROL

SEC. 1601. Section 7 of the Act of September 21, 1966 (Public Law 89-597) is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980". 12 USC 461 note.

SEC. 1602. Section 102 of Public Law 94-200 (12 U.S.C. 461 note) is amended by adding at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insur-

ance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), with respect to savings deposits or accounts from which automatic transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made as a normal practice, pursuant to a prearranged agreement with the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation may pay on such accounts.".

Effective date.
12 USC 461 note.

SEC. 1603. This title shall take effect upon enactment.

TITLE XVII—FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

SEC. 1701. With the exception of undesignated paragraph 15, 17, and 23, section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

Rules and regulations.

"(C) An association may, to such extent, and subject to such rules and regulations as the Board may prescribe from time to time invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Without limitation as a percentage of assets, the following are permitted:

"(A) SAVINGS ACCOUNT LOANS.—Loans on the security of its savings accounts.

"(B) SINGLE FAMILY AND MULTIFAMILY MORTGAGE LOANS.—Loans on the security of first liens upon residential real property within one hundred miles of its home office or within the State in which such home office is located; loans so secured shall not exceed $60,000 in principal amount (except that with respect to residential real estate in Alaska, Guam, and Hawaii the foregoing limitation may be increased by not to exceed 50 per centum) for each single family dwelling nor exceed such amount per room within the limits allowable (at the time of the loan) in section 207(c)(3) of the National Housing Act for any other dwelling unit covered by such lien.

12 USC 1713.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

12 USC 1454, 1455.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments

of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act. 12 USC 1721.

"(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

"(I) PURCHASE OF INSURED LOANS.—Purchase subject to all the provisions of paragraph (1)(B), except the area restriction, loans secured by first liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38 of the United States Code. 12 USC 1701. 38 USC 1801.

"(J) HOME IMPROVEMENT AND MOBILE HOME LOANS.—Loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of mobile home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor. 12 USC 1715z–5.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized. 12 USC 1425a.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership or joint venture formed pursuant to section 907(a) or 907(c) of that Act. 42 USC 3931. 42 USC 3937.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968 or under part B of the Urban Growth and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974 as now or hereafter in effect, or of a commitment or agreement therefor. 42 USC 3901. 42 USC 4511. 42 USC 1440.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

12 USC 1701.

"(2) LOANS OR INVESTMENTS LIMITED TO 20 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) OTHER REAL ESTATE LOANS.—Loans on security of first liens upon improved real estate; but the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under subparagraphs (1)(B) or (1)(I) shall be only the outstanding amount of such excess.

"(B) PARTICIPATION LOANS.—Without regard to the area restriction contained in subparagraph (1)(B), investments for the making or purchase of participation interests in first liens on residential real property.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) LAND ACQUISITION.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, subject to the area restriction contained in subparagraph (1)(B), loans to finance the acquisition and development of land for primary residential usage.

"(C) HOUSING FACILITIES FOR THE AGING.—Subject to the area restriction contained in subparagraph (1)(B), amortized loans which are secured by first liens upon improved real estate used to provide housing facilities for the aging.

"(D) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, as amended but no investment in real property may exceed an aggregate investment of 2 per centum of the assets of the association.

42 USC 5301.

"(E) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this section.

"(F) CONSTRUCTION LOANS, WITH OR WITHOUT SECURITY.—Subject to the area restriction of subparagraph (1)(B), investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party, and, in either case described in clause (i) or (ii), regardless of whether or not the association takes security; and investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of that State and by Federal associations having their home offices therein, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of the association.

"(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) acquire and hold investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or

22 USC 2181.
22 USC 2184.
22 USC 2181, 2182.

extended, or of any commitment or agreement for any such guaranty. Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this section. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.

"(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality): *Provided*, That the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate: *And provided further*, That the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus and undivided profits.

"(5) CONVERTED STATE-CHARTERED ASSOCIATIONS.—Any association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter.

"(6) DEFINITIONS.—As used in this section—

"(A) the terms 'residential real property' or 'residential real estate' include leaseholds and mean homes (including condominiums and cooperatives except that in connection with loans on individual cooperative units, the first lien requirement shall not apply but such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use;

"(B) the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

"(C) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.".

(b) Undesignated paragraph 15 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) and redesignated as subsection (m) of that section, undesignated paragraph 17 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 and redesignated as subsection (l) of that section, and undesignated paragraph 23 of such section 5(c) is transferred to the end of section 5(b) of the Home Owners' Loan Act of 1933 and redesignated as section 5(b)(3).

SEC. 1702. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding the following at the end thereof: "The term 'residential mortgage' is also deemed to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a 'residential mortgage' as defined under the first

"Residential mortgage."

sentence of this subsection. The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations. A 'secured loan or advance of credit' is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property.". "Secured loan or advance of credit."

SEC. 1703. This title shall take effect upon enactment. Effective date. 12 USC 1464 note.

TITLE XVIII—NATIONAL CREDIT UNION CENTRAL LIQUIDITY FACILITY

SEC. 1801. This title may be cited as the "National Credit Union Central Liquidity Facility Act". National Credit Union Central Liquidity Facility Act. Short title.

SEC. 1802. The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following new subchapter: 12 USC 1751 note.

"SUBCHAPTER III—CENTRAL LIQUIDITY FACILITY

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy. 12 USC 1795.

"DEFINITIONS

"SEC. 302. As used in this subchapter, the term— 12 USC 1795a.

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

"(2) 'Central Liquidity Facility' or 'Facility' means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus, and

"(4) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

12 USC 1795b.

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administration and be managed by the Administrator. The United States district court shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

12 USC 1795c.

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members;

Rules and regulations.

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation of natural persons in the affairs or such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

Stock subscriptions.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application and membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this subchapter.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intention to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 per centum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

Membership termination, hearing opportunity.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing, the Administrator determines a member has failed to comply with any provision of this subchapter or regulation issued pursuant thereto.

"CAPITAL STOCK

"SEC. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50. Subscriptions. 12 USC 1795d.

"(b) The capital stock of the Facility—

"(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any Agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this subchapter shall be transferred to the Facility. The remainder may be held by the member on call of the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

"SEC. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs. The Administrator shall approve or deny any such application within five working days after receiving it. The Administrator shall not approve an application for credit the intent of which is to expand credit union portfolios. Application. 12 USC 1795e.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator after giving due consideration to creditworthiness.

"(3) The Administrator shall not advance funds for the benefit of a credit union whose share or deposit accounts are insured by a State share or deposit guaranty credit union, insurance corporation, or guaranty association, without consultation with the appropriate State share or deposit guaranty credit union, insurance corporation, or guaranty association.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to $500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts. Certification.

"POWERS OF THE ADMINISTRATOR

12 USC 1795f.

"SEC. 307. The Administrator on behalf of the Facility shall have the ability to—

"(1) prescribe the manner in which the general business of the Facility shall be conducted;

Rules and regulations.

"(2) prescribe rules and regulations to carry out this subchapter;

"(3) determine the expenditures incurred by the Administration to carry out this subchapter, and the expenditures incurred by the Facility to carry out subchapters I and II of this chapter, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source, provided that the total face value of these obligations shall not exceed twelve times the subscribed capital stock and surplus of the Facility; and

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"(12) appoint officers and employees to assist in carrying out this subchapter, who shall be appointed subject to the provisions of title 5, United States Code;

"(13) conduct business, carry on operations, have offices, and exercise the powers granted by this subchapter in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated;

Contracts.

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts; and

"(16) advance funds on a fully secured basis to a State credit union share or deposit insurance corporation, guaranty credit union, or guaranty association. Such advance shall not exceed twelve months in maturity, shall be relent at an interest rate not exceeding that imposed by the Facility, and shall not be renewable.

"DEPOSITORIES, CUSTODIANS, AND FISCAL AGENTS

"SEC. 308. The Federal Reserve Banks are authorized to act as depositories, custodians and/or fiscal agents for the Central Liquidity Facility in the general performance of its powers conferred by this subchapter. Each Federal Reserve Bank when designated by the Administrator as fiscal agent for the Central Liquidity Facility, shall be entitled to be reimbursed for all expenses incurred as such fiscal agent. 12 USC 1795g.

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 309. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller may prescribe. Rules and regulations. 12 USC 1795h.

"ANNUAL REPORT

"SEC. 310. The annual report required by section 102(e) shall include a full report of the activities of the Facility.". 12 USC 1795i.

SEC. 1803. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of subchapter III," after "exceeding".

SEC. 1804. Section 709 of title 18 of the United States Code is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility', or the letters 'NCUA', 'NCUSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or". False advertising.

SEC. 1805. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended—

(1) by striking out "and" before "(8)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (9) the National Credit Union Administration Central Liquidity Facility".

Effective date. 12 USC 1795 note.

SEC. 1806. This title shall take effect on October 1, 1979.

TITLE XIX—EXPORT-IMPORT BANK ACT AMENDMENTS

Export-Import Bank Act Amendments of 1978. Short title. 12 USC 635 note.

SEC. 1901. That this title may be cited as the "Export-Import Bank Act Amendments of 1978".

PRENOTIFICATION

12 USC 635.

SEC. 1902. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.".

FRACTIONAL CHARGES

12 USC 635.

SEC. 1903. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

DENIAL OF EXPORT APPLICATIONS

12 USC 635.

SEC. 1904. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations".

AUTHORIZATION

SEC. 1905. Section 7(a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$40,000,000,000". 12 USC 635e.

EXTENSION OF AUTHORITY

SEC. 1906. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30, 1983". 12 USC 635f.

ENERGY POLICY

SEC. 1907. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following: 12 USC 635.

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.". *Ante*, p. 148. 22 USC 2151q.

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978, and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.". 12 USC 635g. *Supra.*

EXPORT CREDIT COMPETITION

SEC. 1908. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section. Negotiations. 12 USC 635a–l. Report to Congress.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

SEC. 1909. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph: 12 USC 635.

"(7) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-

supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under section 9(a) of this Act a description of the measures undertaken by it pursuant to this subsection.".

12 USC 635.

SEC. 1910. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by striking the words "goods and related services" in the first sentence and inserting in lieu thereof "manufactured goods, agricultural products, and other goods and services".

Regulations.
12 USC 635a-2.

SEC. 1911. The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any loan or financial guarantee is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous loans or financial guarantees and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment.

Inquiry.
12 USC 635a-3.

SEC. 1912. (a)(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "noncompetitive financing" is being offered.

(2) If the Secretary determines that such foreign "noncompetitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

Notification.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if he determines that:

(1) the availability of foreign official noncompetitive financing is likely to be a determining factor in the sale, and

(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.

(c) Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: *Provided, however*, That loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended.

SEC. 1913. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities. 42 USC 2153e–1.

SEC. 1914. Section 7(a) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following: "All spending authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.". 12 USC 635e.

SEC. 1915. Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting at the end thereof the following new paragraph:

"(8) In no event shall the Bank guarantee, insure, or extend credit or participate in the extension of credit (a) in support of any export which would contribute to enabling the Government of the Republic of South Africa to maintain or enforce apartheid; (b) in support of any export to the Government of the Republic of South Africa or its agencies unless the President determines that significant progress toward the elimination of apartheid has been made and transmits to the Congress a statement describing and explaining that determination; or (c) in support of any export to other purchasers in the Republic of South Africa unless the United States Secretary of State certifies that the purchaser has endorsed and has proceeded toward the implementation of the following principles: nonsegregation of the races in all work facilities; equal and fair employment for all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare nonwhite South Africans for supervisory, administrative, clerical, and technical jobs; increasing the number of nonwhites in management and supervisory positions; a willingness to engage in collective bargaining with labor unions; and improving the quality of life for employees in such areas as housing, transportation, schooling, recreation, and health facilities.". Government of the Republic of South Africa support, extension of credit prohibition.

SEC. 1916. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting after "in matters affecting small business concerns;" the following: "that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives;".

SEC. 1917. This title shall take effect upon enactment. Effective date. 12 USC 635 note.

TITLE XX—ELECTRONIC FUND TRANSFERS

SEC. 2001. The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

Electronic Fund Transfer Act.

"TITLE IX—ELECTRONIC FUND TRANSFERS

15 USC 1601 note.

"§ 901. Short title

"This title may be cited as the 'Electronic Fund Transfer Act'.

15 USC 1693.

"§ 902. Findings and purpose

"(a) The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

"(b) It is the purpose of this title to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective of this title, however, is the provision of individual consumer rights.

15 USC 1693a.

"§ 903. Definitions

"As used in this title—

"(1) the term 'accepted card or other means of access' means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

"(2) the term 'account' means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 103(i) of this Act), as described in regulations of the Board, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'business day' means any day on which the offices of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

"(5) the term 'consumer' means a natural person;

"(6) the term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions,

direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account:

"(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

"(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated;

as determined under regulations of the Board;

"(7) the term 'electronic terminal' means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

"(8) the term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer;

"(9) the term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

"(10) the term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

"(11) the term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

15 USC 1693b.

"§ 904. Regulations

"(a) The Board shall prescribe regulations to carry out the purposes of this title. In prescribing such regulations, the Board shall:

"(1) consult with the other agencies referred to in section 917 and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services,

"(2) prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers, including the extent to which additional documentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and small financial institutions and the availability of such services to different classes of consumers, particularly low income consumers,

"(3) to the extent practicable, the Board shall demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions, and

"(4) any proposed regulations and accompanying analyses shall be sent promptly to Congress by the Board.

"(b) The Board shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 905 and to aid consumers in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. With respect to the disclosures required by section 905(a) (3) and (4), the Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

Notice in Federal Register.

"(c) Regulations prescribed hereunder may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. The Board shall by regulation modify the requirements imposed by this title on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of this title.

"(d) In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.

15 USC 1693c.

"§ 905. Terms and conditions of transfers

"(a) The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Board. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

"(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the

advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

"(2) the telephone number and address of the person or office to be notified in the event the consumer believes than an unauthorized electronic fund transfer has been or may be effected;

"(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system, as determined by the Board;

"(4) any charges for electronic fund transfers or for the right to make such transfers;

"(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

"(6) the consumer's right to receive documentation of electronic fund transfers under section 906;

"(7) a summary, in a form prescribed by regulations of the Board, of the error resolution provisions of section 908 and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

"(8) the financial institution's liability to the consumer under section 910; and

"(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons.

"(b) A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a)(3), the Board shall require subsequent notification if such a change is made permanent. Notification.

"(c) For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this title, the information required to be disclosed to the consumer under subsection (a) shall be disclosed not later than the earlier of—

"(1) the first periodic statement required by section 906(c) after the effective date of this title; or

"(2) thirty days after the effective date of this title.

"§ 906. Documentation of transfers; periodic statements 15 USC 1693d.

"(a) For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

"(1) the amount involved and date the transfer is initiated;

"(2) the type of transfer;

"(3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;

"(4) the identity of any third party to whom or from whom funds are transferred; and

"(5) the location or identification of the electronic terminal involved.

"(b) For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Board. The means of notice elected shall be disclosed to the consumer in accordance with section 905.

"(c) A financial institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsections (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

"(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

"(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

"(3) the balances in the consumer's account at the beginning of the period and at the close of the period; and

"(4) the address and telephone number to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption 'Direct Inquiries To:' or other similar language indicating that the address and number are to be used for such inquiries or notices.

"(d) In the case of a consumer's passbook account which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, a financial institution may, in lieu of complying with the requirements of subsection (c), upon presentation of the passbook provide the consumer in writing with the amount and date of each such transfer involving the account since the passbook was last presented.

"(e) In the case of a consumer's account, other than a passbook account, which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, the financial institution may provide a periodic statement on a quarterly basis which otherwise complies with the requirements of subsection (c).

"(f) In any action involving a consumer, any documentation required by this section to be given to the consumer which indicates that an electronic fund transfer was made to another person shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

"§ 907. Preauthorized transfers 15 USC 1693e.

"(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

"(b) In the case of preauthorized transfers from a consumer's account to the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Board, of the amount to be transferred and the scheduled date of the transfer.

"§ 908. Error resolution 15 USC 1693f.

"(a) If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 906 (a), (c), or (d) or notification pursuant to section 906(b), receives oral or written notice in which the consumer—

"(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer;

"(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 906(b), the consumer's account, contains an error and the amount of such error; and

"(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred,

the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within ten business days of an oral notification of error if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent. A financial institution which requires written confirmation in accordance with the previous sentence need not provisionally recredit a consumer's account in accordance with subsection (c), nor shall the financial institution be liable under subsection (e) if the written confirmation is not received within the ten-day period referred to in the previous sentence.

"(b) If the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination, correct the error, subject to section 909, including the crediting of interest where applicable.

"(c) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than Investigation.

forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

"(d) If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

"(e) If in any action under section 915, the court finds that—

"(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

"(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation,

then the consumer shall be entitled to treble damages determined under section 915(a)(1).

"(f) For the purpose of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic fund transfer from or to the consumer's account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;

"(4) a computational error by the financial institution;

"(5) the consumer's receipt of an incorrect amount of money from an electronic terminal;

"(6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this title; or

"(7) any other error described in regulations of the Board.

15 USC 1693g.

"§ 909. Consumer liability for unauthorized transfers

"(a) A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or other meanas of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

"(1) $50; or

"(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the

consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 906. In addition, reimbursement need not be made to the consumer for losses which the financial institution establishes would not have occurred but for the failure of the consumer to report any loss or theft of a card or other means of access within two business days after the consumer learns of the loss or theft (or in extenuating circumstances such as extended travel or hospitalization, within a longer period which is reasonable under the circumstances), but the consumer's liability under this subsection in any such case may not exceed a total of $500, or the amount of unauthorized electronic fund transfers which occur following the close of two business days (or such longer period) after the consumer learns of the loss or theft but prior to notice to the financial institution under this subsection, whichever is less.

"(b) In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a) (1) and (2) were in fact made in accordance with such section.

"(c) In the event of a transaction which involves both an unauthorized electronic fund transfer and an extension of credit as defined in section 103(e) of this Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section. 15 USC 1602.

"(d) Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

"(e) Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

"§ 910. Liability of financial institutions 15 USC 1693h.

"(a) Subject to subsections (b) and (c), a financial institution shall be liable to a consumer for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

"(A) the consumer's account has insufficient funds;

"(B) the funds are subject to legal process or other encumbrance restricting such transfer;

"(C) such transfer would exceed an established credit limit;

"(D) an electronic terminal has insufficient cash to complete the transaction; or

"(E) as otherwise provided in regulations of the Board;

"(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financal institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer, and

"(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

"(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the case of a failure described in subsection (a) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

15 USC 1693i.

"§ 911. Issuance of cards or other means of access

"(a) No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the consumer may dispose of such code, card, or other means of access if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 912. Suspension of obligations 15 USC 1693j.

"If a system malfunction prevents the effectuation of an electronic fund transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electronic fund transfer.

"§ 913. Compulsory use of electronic fund transfers 15 USC 1693k.

"No person may—

"(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

"(2) require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit.

"§ 914. Waiver of rights 15 USC 1693*l*.

"No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection than contained in this title or a waiver given in settlement of a dispute or action.

"§ 915. Civil liability 15 USC 1693m.

"(a) Except as otherwise provided by this section and section 910, any person who fails to comply with any provision of this title with respect to any consumer, except for an error resolved in accordance with section 908, is liable to such consumer in an amount equal to the sum of—

"(1) any actual damage sustained by such consumer as a result of such failure;

"(2)(A) in the case of an individual action, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

"(c) Except as provided in section 910, a person may not be held liable in any action brought under this section for a violation of this title if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No provision of this section or section 916 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issued by the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(e) A person has no liability under this section for any failure to comply with any requirement under this title if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this title, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 910.

"(f) On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(g) Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

15 USC 1693n.

"§ 916. Criminal liability

"(a) Whoever knowingly and willfully—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title or any regulation issued thereunder; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'debit instrument' means a card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer. "Debit instrument."

"§ 917. Administrative enforcement 15 USC 1693o.

"(a) Compliance with the requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of— 12 USC 1818.

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings 12 USC 1464. 12 USC 1730. 12 USC 1426, 1437.

and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

12 USC 1751. "(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

49 USC 1301 note. "(4) the Federal Aviation Act of 1958, by the Civil Aeronautics Board, with respect to any air carrier or foreign air carrier subject to that Act; and

15 USC 78a. "(5) the Securities Exchange Act of 1934, by the Securities and Exchange Commission, with respect to any broker or dealer subject to that Act.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

15 USC 41 *et seq.*

15 USC 1693p. **"§ 918. Reports to Congress**

"(a) Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken under section 917 of this title. In such report, the Board shall particularly address the effects of this title on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection. The report of the Attorney General shall also contain an analysis of the impact of this title on the operation, workload, and efficiency of the Federal courts.

"(b) In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of persons subject to this title.

"§ 919. Relation to State laws 15 USC 1693q.

"This title does not annul, alter, or affect the laws of any State relating to electronic fund transfers, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. A State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection afforded by this title. The Board shall, upon its own motion or upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether a State requirement is inconsistent or affords greater protection. If the Board determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This title does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

"§ 920. Exemption for State regulation 15 USC 1693r.

"The Board shall by regulation exempt from the requirements of this title any class of electronic fund transfers within any State if the Board determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 921. Effective date 15 USC 1693 note.

"This title takes effect upon the expiration of eighteen months from the date of its enactment, except that sections 909 and 911 take effect upon the expiration of ninety days after the date of enactment.".

TITLE XXI—EFFECTIVE DATE

SEC. 2101. Except as otherwise provided herein, this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment. 12 USC 375b note.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1115 accompanying H.R. 12157, No. 95-1315 accompanying H.R. 13007, and No. 95-1383 accompanying H.R. 13471 all from (Comm. on Banking, Finance and Urban Affairs).

SENATE REPORTS: No. 95-323 accompanying S. 71, No. 95-844 accompanying S. 3077, No. 95-915 accompanying S. 3156, and No. 95-1273 accompanying S. 3499 all from (Comm. on Banking, Housing, and Urban Affairs) and No. 95-1039 accompanying S. 3077 (Comm. on Environmental and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 27, H.R. 12157 considered and passed House.
Aug. 5, S. 71 considered and passed Senate.
Aug. 11, H.R. 13007 considered and passed House.
Oct. 11, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments with amendments; Senate concurred in House amendments.

Public Law 95-631
95th Congress

An Act

Nov. 10, 1978
[S. 2796]

To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

Consumer Product Safety Act, amendment.
Appropriation authorization.

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

Commission Chairman.

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by striking out "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner." and inserting in lieu thereof the following: "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.".

(b) Section 4(i) of the Consumer Product Safety Act (15 U.S.C. 2053(i)) is amended by striking out "before January 1, 1978," in paragraph (1)(A) thereof and by striking out "before January 1, 1978" in paragraph (1)(B) thereof.

Consumer product safety standards, development proceedings.

SEC. 3. (a) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively;

(3) in subparagraph (C) as so redesignated in paragraph (2), by striking out "and" at the end thereof; and

(4) by striking out subparagraph (D), as so redesignated in paragraph (2), and the two sentences following subparagraph (D), and inserting in lieu thereof the following:

"(D) include—

"(i) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to submit to the Commission an existing standard as the proposed consumer product safety standard; and

"(ii)(I) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to offer to develop the proposed consumer product safety standard; or

"(II) a statement that the Commission intends to develop the proposed consumer product safety standard; and

"(E) specify the period of time in which the offeror of an accepted offer and the Commission, or the Commission acting by itself, is to develop the proposed standard.".

(b) Section 7(b) of the Consumer Product Safety Act, as amended in subsection (a) is further amended by adding at the end thereof the following new paragraph: 15 USC 2056.

"(2) After consultation with such interested parties as the Commission shall deem necessary, the Commission may develop a consumer product safety standard without making any invitation specified in paragraph (1)(D)(ii)(I) and may publish such standard as a proposed consumer product safety rule whenever the Commission determines, taking into account— Standards, consultation and publication.

"(i) the nature of the risk of injury associated with such product;

"(ii) the expertise of the Commission with respect to such risk of injury,

"(iii) the expertise of the Commission in developing consumer product safety standards, and

"(iv) the resources available to the Commission and the priorities established by the Commission,

that to develop a consumer product safety standard which would adequately protect the public from such risk of injury, it is more expeditious for the Commission to develop the standard than to proceed under paragraph (1)(D)(ii)(I) for its development. The Commission shall give interested persons opportunity to submit written comments to the Commission during the thirty-day period following publication of such determination under paragraph (1).". Comments.

SEC. 4. (a)(1) Section 7(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(1)) is amended by inserting "subsection(b)(2) and by" after "as provided by", by striking out "subsection (b)(4)(B)" and inserting in lieu thereof "subsection (b)(1)(D)(ii)(I)", and by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)(E)".

(2) the first sentence of section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended—

(A) by inserting "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e)," after "under this subsection";

(B) by inserting "or the person's cost with respect to such participation" after "safety standard"; and

(C) by inserting "or person" after "offeror".

(3) Section 7(d) of the Consumer Product Safety Act (15 U.S.C. 2056(d)) is amended by adding at the end thereof the following new paragraph: Regulations.

"(4) The Commission shall prescribe regulations governing the development of proposed consumer product safety rules by the Commission under subsection (b)(2) and subsection (e)(1). Such regulations shall include the requirements specified in subparagraphs (B), (C), and (D) of paragraph (3).".

(b) Section 7(e) of the Consumer Product Safety Act (15 U.S.C. 2056(e)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b)(1)(D)(ii)(I) for the development of a consumer product safety standard and if the Commission does not, within 30 days after

the date of publication of such notice, accept an offer to develop such a standard, then the Commission may develop a proposed consumer safety rule with respect to such product and publish such proposed rule.

"(2) If the Commission accepts an offer to develop a proposed consumer product safety standard under subsection (b)(1)(D)(ii)(I), the Commission may not develop a proposed consumer product safety rule or publish such proposed rule unless—

"(A) the development period specified in subsection (b)(1)(E) for such standard ends;

"(B) no offeror whose offer was accepted is making satisfactory progress in the development of such proposed standard; or

"(C) the sole offer accepted under subsection (b)(1)(D)(ii)(I) is that of an offeror which is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard.".

(c) Section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) and the Commission does not publish a proposed consumer product safety standard within forty-five days after the expiration of the period specified in subsection (b)(1)(E), the Commission shall—

Publication in Federal Register.

"(1) by notice published in the Federal Register, terminate the proceeding begun by such notice published pursuant to subsection (b); or

"(2) publish in the Federal Register the reasons for not publishing the proposed standard, and specify the time period within which either such standard will be published or the proceeding begun by such notice published pursuant to subsection (b) will be terminated without publication of such proposed standard.

The reasons referred to in paragraph (2) may include a statement that the Commission is considering other approaches (such as a voluntary consumer safety standard adopted by persons who would be subject to such proposed standard) to eliminate the unreasonable risk of injury that is the subject of such proceeding.".

(d) Paragraphs (1) and (2) of section 9(a) of the Consumer Product Safety Act (15 U.S.C. 2058(a)) are each amended by striking out "section 7(c), (e)(1), or (f) or section 8" and inserting in lieu thereof "section 7 or 8".

SEC. 5. Section 7(c) of the Consumer Product Safety Act (15 U.S.C. 2056(c)) is amended to read as follows:

"(c) If the Commission determines—

"(1) that any standard submitted to it pursuant to an invitation made under subsection (b)(1)(D)(i), or

"(2) that any standard (other than one submitted under subsection (b)(1)(D)(i)) issued, adopted, or proposed by any Federal department or agency (other than the Commission) or by any other qualified agency, organization, or institution,

if promulgated (in whole, in part, or in combination with any other standard described in paragraph (1) or (2) or any part of such a standard) as a consumer product safety rule, would eliminate or reduce an unreasonable risk of injury associated with a consumer product, the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule. In the case of a standard

described in paragraph (2), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule without making an invitation under subsection (b)(1)(D)(i).".

Exports.

SEC. 6. (a) Section 18 of the Consumer Product Safety Act (15 U.S.C. 2067) is amended—

(1) by inserting "(a)" after "SEC. 18.", by inserting "(A)" after "unless", and by inserting before ", and (2)" the following: ", or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States,"; and

(2) by adding at the end thereof the following new subsection:

Statement filing and notification to country.

"(b) Not less than thirty days before any person exports to a foreign country any product—

"(1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

"(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9,

15 USC 2058.

such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

Exemption, petition.

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended—

(1) in paragraph (8), by striking out "or";

(2) in paragraph (9), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (9) the following new paragraph:

"(10) fail to file a statement with the Commission pursuant to section 18(b).".

(c) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended in paragraph (1) by striking out "(8), or (9)" and inserting in lieu thereof "(8), (9), or (10)".

SEC. 7. (a) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following new subsection:

"(i) The failure to notify the Consumer Product Safety Commission with respect to exports, pursuant to section 14(d).".

Post, p. 3746.

(b) Clause (3) of section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1262(b)) is amended—

15 USC 1264.

(1) by striking out "in respect of" and inserting in lieu thereof "with respect to"; and

(2) by inserting before ", this clause" the following: "or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States".

(c) Section 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273) is amended—

(1) in the section heading by adding "AND EXPORTS" after "IMPORTS"; and

Statement, filing and notification to foreign country.

(2) by adding at the end thereof the following new subsection:

"(d) Not less than thirty days before any person exports to a foreign country any misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this Act. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

Exemption, petition.

SEC. 8. (a) Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended—

(1) in subsection (a) by inserting before "; except that" the following "; unless the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States";

(2) in subsection (b) by inserting before "; except that" the following ", unless the Commission determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States"; and

(3) by adding at the end the following new subsection:

Statement, filing and notification to foreign country.

"(c) Not less than thirty days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under this Act, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such fabric, related material, or product, the country and port of destination of such fabric, related material, or product, and the quantity of such fabric, related material, or product that will be exported, and shall contain such other information as the Com-

mission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.". Exemption, petition.

(b) Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended by inserting after "8(b) of this Act" the following: ", or who fails to comply with section 15(c) of this Act,". *Ante*, p. 3746.

SEC. 9. Section 2(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(1)) is amended to read as follows:

"(l)(1) The terms 'extremely flammable', 'flammable', and 'combustible' as applied to any substance, liquid, solid, or the content of a self-pressurized container shall be defined by regulations issued by the Commission. Definitions, regulations.

"(2) The test methods found by the Commission to be generally applicable for defining the flammability or combustibility characteristics of any such substance shall also be specified in such regulations.

"(3) In establishing definitions and test methods related to flammability and combustibility, the Commission shall consider the existing definitions and test methods of other Federal agencies involved in the regulation of flammable and combustible substances in storage, transportation and use; and to the extent possible, shall establish compatible definitions and test methods.

"(4) Until such time as the Commission issues a regulation under paragraph (1) defining the term 'combustible' as applied to liquids, such term shall apply to any liquid which has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue Open Cup Tester.".

SEC. 10. The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end thereof the following new section:

"TOXICOLOGICAL ADVISORY BOARD

"SEC. 20. (a)(1) Within 180 days after the date of the enactment of this section, the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') shall establish, in accordance with subsection (b), a Toxicological Advisory Board (hereinafter in this section referred to as the 'Board') to advise the Commission on precautionary labeling for hazardous substances. The Board shall provide scientific and technical advice to the Commission concerning— Establishment and functions. 15 USC 1275.

"(A) proper labeling under sections 2(p)(1) and 3(b), with special attention to— 15 USC 1261, 1262.

"(i) the description of precautionary measures required under section 2(p)(1)(F);

"(ii) the statement describing the hazards associated with a hazardous substance as required under section 2(p)(1)(E); and

"(iii) instructions for first-aid treatment under section 2(p)(1)(G); and

"(B) the exemption of certain substances from labeling requirements under this Act as permitted under section 3(c).

15 USC 1262.

Review and recommendations.

15 USC 1261.

"(2) In carrying out its duties under paragraph (1)(A), the Board shall review any labeling requirements or guidelines which have been established by the Commission under section 2(p)(1) or 3(b). Based upon its review the Board shall develop and submit to the Commission, within one year after the date that the Board is established, any recommendations for revisions in such labeling requirements or guidelines which the Board considers to be appropriate, including any general recommendations which may be of assistance to the Commission in carrying out its responsibilities under section 2(p)(1) or section 3(b). The Board shall periodically review the labeling requirements and guidelines established by the Commission under such sections to determine whether such requirements and guidelines reflect relevant changes in scientific knowledge and shall revise any general recommendations submitted to the Commission under this paragraph to reflect such changes.

Membership.

"(b)(1) The Board shall be composed of nine members appointed by the Commission. Each member of the Board shall be qualified by training and experience in one or more fields applicable to the duties of the Board, and at least three of the members of the Board shall be members of the American Board of Medical Toxicology. The Chairman of the Board shall be elected by the Board from among its members.

Chairman.

"(2) The members of the Board shall be appointed for terms of three years. Members of the Board may be reappointed.

Vacancies.

"(3) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term.

Meetings.

"(4) The Board shall meet at such times and places as may be designated by the Commission in consultation with the Chairman, but not less than two times each year.

Compensation.

"(5) Members of the Board who are not officers or employees of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of such title. Individuals serving as members on the Board shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

Travel allowances.

5 USC 5703.

Termination.

"(c) The Board shall terminate on the date six years after the date it is established under this section.".

SEC. 11. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"Rule."

"(m)(1) For purposes of this subsection, the term 'rule' means—

"(A) any rule prescribed by the Commission pursuant to section 9;

15 USC 2058.

"(B) any rule prescribed by the Commission pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(B));

"(C) any rule prescribed by the Commission under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472); and

"(D) any rule prescribed by the Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

"(2) Within 18 months after the effective date of this subsection, the Commission shall begin a study of all the rules which the Commission has issued and which are in effect on such effective date. At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress which shall, to the extent practicable and appropriate (taking into account the resources and priorities of the Commission)— Study. Report to Congress.

"(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendations; and

"(B) recommend the initiation of appropriate rulemaking proceedings under this Act to make changes or modifications in particular rules or portions of rules.

"(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of the Congress of such proposal at the time such proposal is published in the Federal Register. Notification to House and Senate.

"(4)(A) To the extent practicable and appropriate (taking into account the resources and priorities of the Commission), the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the effective date of this subsection—

"(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

"(ii) a paperwork impact analysis containing—

"(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records required to be kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(III) a description of steps being taken by the Commission to ensure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

"(iii) a judicial impact analysis showing the effect of such rule on the workload of the Federal courts; and

"(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

"(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this para-

graph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

Noncompliance, statement.

"(ii) if any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.".

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1164 accompanying H.R. 12442 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-889 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 4, considered and passed Senate.

Oct. 15, considered and passed House, amended; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 10, Presidential statement.

Public Law 95-632
95th Congress

An Act

To amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions.

Nov. 10, 1978
[S. 2899]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Endangered Species Act Amendments of 1978.

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

16 USC 1531 note. Definitions.

(1) by inserting before paragraph (1) thereof the following new paragraph:

"(1) The term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction.";

(2) by inserting after paragraph (4) as redesignated by paragraph (7) of this section the following new paragraph:

"(5)(A) The term 'critical habitat' for a threatened or endangered species means—

"(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

16 USC 1533.

"(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

"(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

"(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.";

(3) by inserting after paragraph (6), as redesignated by paragraph (7) of this section the following new paragraph:

"(7) The term 'Federal agency' means any department, agency, or instrumentality of the United States.";

(4) by inserting after paragraph (10), as redesignated by paragraph (7) of this section, the following new paragraphs:

"(11) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

Post, p. 3752.

"(12) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency for which exemption is sought under section 7, any person whose application to such agency for a permit or license has been denied primarily because of the application of section 7(a) to such agency action.";

Infra.

(5) by striking out paragraph (16), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(16) The term 'species' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.";

(6) by striking out paragraph (18), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(18) the term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State."; and

(7) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, by redesignating paragraph (4) as paragraph (6), by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively, and by redesignating paragraphs (8) through (16) as paragraphs (13) through (21), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

Review.

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and

16 USC 1533.

threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

"(b) SECRETARY'S OPINION.—Consultation under subsection (a) with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary.

Statement and summary.

Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. The Secretary shall suggest those reasonable and

prudent alternatives which he believes would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying the critical habitat of such species, and which can be taken by the Federal agency or the permit or license applicant in implementing the agency action.

"(c) BIOLOGICAL ASSESSMENT.—To facilitate compliance with the requirements of subsection (a), each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying or destroying the critical habitat of any such species.

"(e)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee'). Endangered Species Committee.

"(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application. Applications, review.

"(3) The Committee shall be composed of seven members as follows: Membership.

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council of Economic Advisors.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior.

"(F) The Administrator of the National Oceanic and Atmospheric Administration.

"(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the Presidential appointment.

application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

Travel allowance.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Quorum.

"(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

Chairman.

"(B) The Secretary of the Interior shall be the Chairman of the Committee.

Meetings.

"(C) The Committee shall meet at the call of the Chairman or five of its members.

"(D) All meetings and records of the Committee shall be open to the public.

"(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(7)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

5 USC 552a note.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

Rules and regulations.

"(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

Subpenas.

"(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(10) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any

person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

"(f) REGULATIONS.—Not later than 90 days after the date of enactment of the Endangered Species Act Amendments of 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include, but not be limited to— Applications, submittal.

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of the Federal agency and the Secretary; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(g) APPLICATION FOR EXEMPTION AND CONSIDERATION BY REVIEW BOARD.—(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a), the Secretary's opinion under subsection (b) indicates that the agency action may jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify the critical habitat of such species. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (h) after a report is made by the review board. The applicant for an exemption shall be referred to as the 'exemption applicant' in this section.

"(2)(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

"(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly notify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application. Notification.

"(3)(A) A review board shall be established for purposes of considering an application for exemption and submitting a report to the Endangered Species Committee under this subsection as follows: Review board, establishment.

"(i) One individual shall be appointed to the board by the Secretary not later than 15 days after an application is submitted pursuant to paragraph (2).

"(ii) One individual shall be appointed to the board by the President, not later than 30 days after an application is sub- Appointment.

mitted pursuant to paragraph (2) and after consideration of any recommendations received pursuant to paragraph (2)(B). An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

"(iii) One administrative law judge shall be selected to serve on the board by the Civil Service Commission in the same manner as administrative law judges are selected under section 3344 of title 5 of the United States Code to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

Compensation.

"(B) Members of a review board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

5 USC 5332 note.

Per diem and travel allowances.

"(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

Determination.

"(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (a), and within 60 days after its appointment or within such longer time as is mutually agreed upon between the exemption applicant and the Secretary, to make a determination, by a majority vote, (1) whether an irresolvable conflict exists and (2) whether such exemption applicant has—

"(A) carried out its consultation responsibilities as described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which will avoid jeopardizing the continued existence of an endangered or threatened species or result in the adverse modification or destruction of a critical habitat;

"(B) conducted any biological assessment required of it by subsection (c); and

"(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).

Any determination by the review board that an irresolvable conflict does not exist or that the exemption applicant has not met the requirements of subparagraph (A), (B), or (C) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

5 USC 701 *et seq.*

"(6) If the review board determines that an irresolvable conflict exists and makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to prepare the report to be submitted under paragraph (7).

"(7) Within 180 days after making the determinations under paragraph (6), the review board shall submit to the Committee a report discussing— Report to Committee.

"(A) the availability of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species or the critical habitat;

"(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

"(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee.

"(8) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5, United States Code.

"(9) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

"(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

"(B) subject to the Privacy Act of 1974, request of any Federal agency or applicant information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and 5 USC 552a note.

"(C) use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(10) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carry out its duties under this section.

"(11) The Administrator of the General Services Administration shall provide to a review board, on a reimbursable basis, such administrative support services as the review board may request.

"(12) All meetings and records of review boards shall be open to the public.

"(h) EXEMPTION.—(1) The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the report of the review board under subsection (g)(7). The Committee shall grant an exemption from the requirements of subsection (a) for an agency action if, by a vote of not less than five of its members voting in person— Determination.

"(A) it determines on the record, based on the report of the review board and on such other testimony or evidence as it may receive, that—

"(i) there are no reasonable and prudent alternatives to the agency action;

"(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(iii) the action is of regional or national significance; and

"(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

5 USC 701 *et seq.*

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under subsection (h) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action: *Provided*, That a biological assessment has been conducted under subsection (c).

"(B) An exemption shall not be permanent under subparagraph (A) if the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of the species. If the Secretary so finds, the Committee shall determine within 30 days after such finding whether to grant an exemption for the agency action notwithstanding the Secretary's finding.

Certification.

"(i) REVIEW BY SECRETARY OF STATE.—Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

Publication in Federal Register.

Exemption.

"(j) Notwithstanding any other provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

"(k) SPECIAL PROVISIONS.—An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

"(l) COMMITTEE ORDERS.—(1) If the Committee determines under subsection (h) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) which shall be carried out and paid for by the exemption applicant in implementing the agency

action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

"(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

Report to Council on Environmental Quality.

Report availability, publication in Federal Register.

"(m) NOTICE.—The 60-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a) of this section.

16 USC 1540.

"(n) JUDICIAL REVIEW.—Any person, as defined by section 3(13) of this Act, may obtain judicial review, under chapter 7 of title 5 of the United States Code, of any decision of the Endangered Species Committee under subsection (h) in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112, of title 28, United States Code. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

16 USC 1532.
5 USC 701 *et seq.*

"(o) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (h) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

16 USC 1533, 1538.

"(p) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding

42 USC 5121 note.

42 USC 5171, 5172.

any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

"(q) AUTHORIZATION.—There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for fiscal year 1979, and not to exceed $300,000 for the period beginning October 1, 1979, and ending March 31, 1980. The Chairman of the Committee shall report to the Congress before the end of fiscal year 1979 with respect to the adequacy of the budget authority contained in this subsection.".

Report to Congress.

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—" and by adding the following new paragraph:

"(2)(A) This section shall not apply to—

"(i) any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978; or

"(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

Regulation.

"(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN ANTIQUE ARTICLES.—(1) Sections 4(d), 9(a), and 9(c) do not apply to any article (other than scrimshaw) which—

16 USC 1533, 1538.

"(A) was made before 1830;

"(B) is composed in whole or in part of any endangered species or threatened species listed under section 4;

"(C) has not been repaired or modified with any part of any such species on or after the date of the enactment of this Act; and

"(D) is entered at a port designated under paragraph (3).

Documentation submittal, regulations.

"(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1)(A), (B), and (C).

Port designation, consultation.

"(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1)(A), (B), and (C) must be entered into the customs territory of the United States.

"(4) Any person who imported, after December 27, 1973, and on or before the date of the enactment of the Endangered Species Act Amendments of 1978, any article described in paragraph (1) which—

Ante, p. 3751.

"(A) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 4; 16 USC 1533.

"(B) was forfeited to the United States before such date of the enactment, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 11; and *Infra.*

"(C) is in the custody of the United States on such date of enactment;

may, before the close of the one-year period beginning on such date of enactment, make application to the Secretary for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary prescribes. If on the basis of any such application which is timely filed, the Secretary is satisfied that the requirements of this paragraph are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after the date of return, be deemed to be a lawful importation under this Act.

"(i)(1) TELLICO AND GRAYROCKS PROJECTS.—Notwithstanding any other provision of this Act, the Committee shall, within 30 days of the date of the enactment of the Endangered Species Act Amendments of 1978, proceed to consider the exemption of the Tellico Dam and Reservoir Project and the Grayrocks Dam and Reservoir Project from the requirements of section 7(a). For the purposes of such consideration, the Committee shall grant an exemption to such projects if the criteria of section 7(h)(1)(A)(i) and 7(h)(1)(A)(ii) are met. A decision on any such exemption shall be made within 90 days after the date of the enactment of the Endangered Species Act Amendments of 1978. If no decision is made within such 90-day period, such project shall be deemed to be exempted from the requirements of section 7(a). Exemption. *Ante,* p. 3752.

"(2) Following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration, the Secretary of the Interior, and the Secretary of the Army, shall require such modifications in the operation or design of the project as they may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species or result in the destruction or adverse modification of habitat of such species which is or has been determined to be critical by the Secretary of the Interior, after consultation as appropriate with the affected States.". Project modifications.

SEC. 6. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended— Civil penalties.

(1) in the first and second sentences of subsection (a)(1) by striking out "or who knowingly commits an act in the course of a commercial activity which violates" each place it appears and inserting in lieu thereof "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates";

(2) in the third sentence of subsection (a)(1) by striking out "$1,000" and inserting in lieu thereof "$500";

(3) in subsection (b)(1) by striking out "willfully commits an act which" each place it appears and inserting in lieu thereof "knowingly";

(4) in subsection (b)(2) by inserting "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" after "authorizing".

SEC. 7. Section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 8. Section 11(b) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.".

SEC. 9. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

16 USC 1535, *Ante*, p. 3752.

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1977, and the fiscal year September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, and not to exceed $12,500,000 for the period beginning October 1, 1979, and ending March 31, 1980.

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 10. Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c) COOPERATIVE AGREEMENTS.—";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

Cooperative agreement. 16 USC 1535.

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

Determination.

State program, annual reconfirmations.

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

Investigations.

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

Public participation.

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with

16 USC 1533, 1538.

respect to the taking of any resident endangered or threatened species.".

Regulation.

SEC. 11. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.";

Ante, p. 3751.

(2) by amending subsection (c)(1) by striking out "and shall", and by inserting immediately before the *final* period the following: ", and specify any critical habitat within such range";

(3) in subsection (c) by inserting at the end thereof the following new paragraph:

Review and determination.

"(4) The Secretary shall—

"(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

"(B) determine on the basis of such review whether any such species should—

"(i) be removed from such list;

"(ii) be changed in status from an endangered species to a threatened species; or

"(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b).".

(4) by amending subsection (f)—

(A) in paragraph (2)(A) by striking out "In" and inserting in lieu thereof "Except as provided in subparagraph (B), in";

(B) by inserting after subparagraph (A) of paragraph (2) the following new subparagraph:

Regulations.

"(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

Publication in Federal Register.

"(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

"(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

Notice.

"(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmen-

tal assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

"(iv) shall— Public meetings and hearing.

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation.";

(C) by redesignating subparagraph (B) of paragraph (2) as subparagraph (C), and by inserting "or (B)" after "Neither subparagraph (A)" in such subparagraph; and

(D) by adding at the end thereof the following new paragraphs: 16 USC 1533.

"(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation. Publication in Federal Register.

"(5) A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Regulations or withdrawal notice, publication in Federal Register.

Ante, p. 3751.

Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment."; and

16 USC 1533.

(5) by adding at the end thereof the following new subsection:

"(g) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.";

5 USC app.

(6) in subsection (c)(2)—

(A) by striking out "upon" and inserting in lieu thereof "within 90 days of the receipt of";

Publication in Federal Register.

(B) by inserting "and publish in the Federal Register" after "conduct";

(C) by inserting "the status of" after "a review of"; and

(D) by inserting at the end thereof the following: "Such review and finding shall be made and published prior to the initiation of any procedures under subsection (b)(1).".

Critical habitat determination, considerations.

(7) by adding at the end of subsection (b) the following new paragraph:

"(4) In determining the critical habitat of any endangered or threatened species, the Secretary shall consider the economic impact, and any other relevant impacts, of specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species.".

Establishment and implementation.

SEC. 12. That portion of subsection (a) of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534) which precedes paragraph (1) is amended to read as follows:

"(a) PROGRAM.—The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such a program, the appropriate Secretary—".

16 USC 1533.

Summary, publication in Federal Register.

SEC. 13. Paragraph (3) of section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended to read as follows:

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.".

Dr. Eugene L. Vickery, exception.

SEC. 14. Notwithstanding any provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any regulation promulgated

or policy established thereunder, the Secretary of the Interior is authorized and directed to release to Doctor Eugene L. Vickery of Lena, Illinois, a narwhale (Monodon monocerus) tusk cane contained in a shipment consigned to him that was seized by agents of the United States Fish and Wildlife Service at O'Hare International Airport, Chicago, Illinois, on November 30, 1977. For purposes of section 9 and section 11 of such Act, Doctor Vickery shall be considered not to have violated any provision of such Act with respect to the importation of such narwhale tusk cane.

Ante, pp. 3760, 3761.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1625 accompanying H.R. 14104 (Comm. on Merchant Marine and Fisheries) and No. 95-1804 (Comm. of Conference).
SENATE REPORT No. 95-874 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 17-19, considered and passed Senate.
Oct. 14, H.R. 14104 considered and passed House; passage vacated, and S. 2899, amended, passed in lieu.
Oct. 15, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 10, Presidential statement.

Public Law 95-633
95th Congress

An Act

Nov. 10, 1978
[S. 2399]

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Psychotropic Substances Act of 1978".

Psychotropic Substances Act of 1978.
21 USC 801 note.

TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

21 USC 801a.

SEC. 101. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Sec-

21 USC 801 note.

retary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 102. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health, Education, and Welfare who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health, Education, and Welfare shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

Publication in Federal Register.

"(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health, Education, and Welfare of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health, Education, and Welfare shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

Publication in Federal Register.

"(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first determine whether existing legal controls under this title applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

21 USC 301.

"(A) If such requirements are met by such existing controls but the Secretary of Health, Education, and Welfare nonetheless

believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

"(B) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

"(C) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

"(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

"(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

"(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

"(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

"(4)(A) If the Attorney General determines, after consultation with the Secretary of Health, Education, and Welfare, that proceedings initiated under recommendations made under paragraph (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issu-

Notice.

ance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

"(i) the decision is reversed, and

"(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

"(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 202(b) and without regard to the procedures prescribed by subsection (a) or (b) of this section.

"(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health, Education, and Welfare or the Attorney General through the

Ante, p. 3768.

Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"Convention on Psychotropic Substances."

"(29) The term 'Convention on Psychotropic Substances' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.".

21 USC 812 note.

(c) For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act.

21 USC 811, 812.

SEC. 103. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

SEC. 104. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) In addition to the reporting and recordkeeping requirements under any other provision of this title, each manufacturer registered under section 303 shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this title on manufacturers subject to the requirements of this subsection.".

21 USC 823.

SEC. 105. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention".

SEC. 106. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the

Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.".

SEC. 107 (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.". 21 USC 852.

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting— 21 USC 801 note.

"Sec. 412. Application of treaties and other international agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

SEC. 108. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

SEC. 109. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823(f)) is amended by adding at the end the following sentence: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 110. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827(c)) is amended by adding the following after and below paragraph (3): "Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.".

SEC. 111. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the fol-

lowing new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers.".

Effective date. 21 USC 801a note.

SEC. 112. This title and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States.

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by inserting ", except as provided in paragraphs (4) and (5) of this subsection," after "such person shall" in the first sentence of subsection (b)(1)(B);

(2) by adding after paragraph (4) of subsection (b) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense, except as authorized by this title, phencyclidine (as defined in section 310(c)(2)) shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) of this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment."; and

Post, p. 3775.

(3) by adding after subsection (c) the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, or

"(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this title,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both.".

SEC. 202. (a) Part C of the Controlled Substances Act is amended (1) by inserting "; PIPERIDINE REPORTING" at the end of its heading, and (2) by adding after section 309 (21 U.S.C. 829) the following new section:

"PIPERIDINE REPORTING

"SEC. 310. (a)(1) Except as provided under paragraph (3), any person who distributes, sells, or imports any piperidine shall report to the Attorney General such information, in such form and manner, and within such time period or periods (of not less than seven days), concerning the distribution, sale, or importation as the Attorney General may require by regulation, and the person shall preserve a copy of each such report for 2 years. The Attorney General may include in the information required to be reported the following: 21 USC 830.

"(A) The quantity, form, and manner in which, and date on which, the piperidine was distributed, sold, or imported.

"(B)(i) In the case of the distribution or sale of piperidine to an individual, the name, address, and age of the individual and the type of identification presented to confirm the identity of the individual.

"(ii) In the case of the distribution or sale of piperidine to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the piperidine and the type of identification presented to confirm the identity of the individual and of the entity.

"(2) Except as provided under paragraph (3), no person may distribute or sell piperidine unless the recipient or purchaser presents to the distributor or seller identification of such type, to confirm the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of piperidine between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of piperidine to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, sale, or importation of the piperidine to a third person, this subparagraph shall not relieve the distributor, seller, or importer from compliance with paragraph (1) or (2); or

"(C) any distribution, sale, or importation of piperidine with respect to which the Attorney General determines that the report required by paragraph (1) or the presentation of identification required by paragraph (2) is not necessary for the enforcement of this title.

"(b) Any information which is reported to or otherwise obtained by the Department of Justice under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III.

Definitions.
21 USC 841, 842.
21 USC 951.

"(c) For purposes of this section, section 401(d), and section 402(a)(9):

"(1) The term 'import' has the meaning given such term in section 1001(a)(1).

"(2) The term 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts, or any immediate precursor, homolog, analog, or derivative (or salt thereof) of 1-(1-phenylcyclohexyl) piperidine that is included in schedule I or II of part B of this title.

"(3) The term 'piperidine' includes its salts and acyl derivatives.".

(b)(1) Section 402(a) of such Act (21 U.S.C. 842(a)) is amended—

(A) by striking out "or" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(C) by adding after paragraph (8) the following new paragraph:

"(9) to distribute or sell piperidine in violation of regulations established under section 310(a)(2), respecting presentation of identification.".

Ante, p. 3775.

(2) Section 402(c)(2) of such Act (21 U.S.C. 842(c)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) with respect to a refusal or failure to make a report required under section 310(a) (relating to piperidine reporting).".

(3) Section 403(a)(4) of such Act (21 U.S.C. 843(a)(4)) is amended—

(A) by inserting "(A)" after "(4)", and

(B) by inserting before "; or" the following: ", or (B) to present false or fraudulent identification where the person is receiving or purchasing piperidine and the person is required to present identification under section 310(a)".

(c) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

21 USC 801 note.

(1) by inserting "; PIPERIDINE REPORTING" at the end of the item relating to part C, and

(2) by adding immediately after the item relating to section 309 the following new item:

21 USC 829.

"Sec. 310. Piperidine reporting.".

21 USC 830 note.

SEC. 203. (a)(1) Except as provided under paragraph (2), the amendments made by this title shall take effect on the date of the enactment of this Act.

(2) Any person required to submit a report under section 310(a)(1) of the Controlled Substances Act respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act may submit such report any time up to 97 days after such date of enactment.

(3) Until otherwise provided by the Attorney General by regulation, the information required to be reported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) with respect to the person's distribution, sale, or importation of piperidine shall—

(A) be the information described in subparagraphs (A) and (B) of such section, and

(B) except as provided in paragraph (2) of this subsection, be reported not later than seven days after the date of such distribution, sale, or importation.

(b) The Attorney General shall—

(1) first publish proposed interim regulations to carry out the requirements of section 310(a) of the Controlled Substances Act (as added by section 202(a)(2) of this title) not later than 30 days after the date of the enactment of this Act, and

(2) first promulgate final interim regulations to carry out such requirements not later than 75 days after the date of the enactment of this Act, such final interim regulations to be effective with respect to distributions, sales, and importations of piperidine on and after the ninety-first day after the date of the enactment of this Act.

(c) The Attorney General, after consultation with the Secretary of Health, Education, and Welfare, shall analyze and evaluate the impact and effectiveness of the amendments made by this title, including the impact on the illicit manufacture and use of phencyclidine and the impact of the requirements imposed by such amendments on legitimate distributions and uses of piperidine. Not later than March 1, 1980, the Attorney General shall report to the President and the Congress on such analysis and evaluation and shall include in such report such recommendations as the Attorney General deems appropriate.

Report to President and Congress.

(d) On January 1, 1981, section 310, subsection (d) of section 401, paragraph (9) of section 402(a), subparagraph (C) of section 402(c)(2), and clause (B) of section 403(a)(4) of the Controlled Substances Act (as added by this title) are repealed.

Repeals.

Ante, p. 3775, 3776.

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. (a) Section 511 of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 881) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this title, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this title, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(2) in subsection (e)(2) by striking out ", but the proceeds" and all that follows through "court costs"; and

(3) by adding at the end of subsection (e) the following new sentence:

"The proceeds from any sale under paragraph (2) and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such moneys and proceeds remaining after payment of such expenses.".

(b) The second sentence of section 1015 of such Act (21 U.S.C. 965) is amended by inserting "or 511" after "510" each place it appears.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1193 accompanying H.R. 12008 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-959 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 27, considered and passed Senate.

Sept. 18, considered and passed House, amended, in lieu of H.R. 12008.

Oct. 7, Senate concurred in House amendment with amendments.

Oct. 13, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 10, Presidential statement.